



GOVERNOR GREG ABBOTT

May 15, 2015

The Honorable Loretta E. Lynch
Attorney General
U.S. Department of Justice
950 Pennsylvania Avenue, N.W.
Washington, D.C. 20530-0001

Dear Attorney General Lynch:

The State of Texas has taken significant steps to eliminate prison rape. I cannot yet certify that the State is in full compliance with Prison Rape Elimination Act ("PREA") because our PREA audits are still ongoing. But every facility that has completed the PREA audit process has been certified as fully compliant. And I can assure you that we will fully implement DOJ's PREA standards wherever feasible.

A. Texas Department of Criminal Justice ("TDCJ")

1. We have 110 state jails and prisons in Texas. Ninety-four of them are owned and operated by the Texas Department of Criminal Justice; 15 are owned by TDCJ and privately operated; and 1 is privately owned and operated. As of May 13, 2015, the State has completed PREA audits for 32 of those units. Of those 32 audits, we have final reports for 28 units. And of the 28 units that have final audit reports, all of them have been certified as fully compliant with PREA. Moreover, TDCJ has scheduled audits for all of the remaining units that it owns and operates. The completed audits can be found at www.tdcj.state.tx.us/divisions/arm/arm_rev_stan_prea.html, and TDCJ's audit schedule is attached to this letter.

TDCJ is continuing to address the confinement of 17-year-old offenders. Texas law requires individuals who are 17 years of age or older to be tried as adults and confined in prisons along with other adults. *See* TEX. FAMILY CODE § 51.02(2); TEX. CODE CRIM. PROC. art. 4.18. That has been the law in our State since at least 1918. *See McLaren v. State*, 209 S.W. 669 (Tex. Crim. App. 1919). DOJ's PREA standards, by contrast, generally require States to segregate 17-year-old offenders from prisoners who are 18 years of age or older. *See* 28 C.F.R. § 115.5 (defining "youthful inmate" to include 17-year-olds); *id.* § 115.14 (prohibiting the State from placing a "youthful inmate" "in a housing unit in which the youthful inmate will have sight, sound, or physical contact with any adult inmate through use of a shared dayroom or other common space, shower area, or sleeping quarters").

TDCJ has three units that house 17 year olds with older offenders: Clemens (males), Travis (males), and Hilltop (females). As of March 31, 2015, TDCJ had 52 youthful male

inmates and 7 youthful female inmates in those three units. While TDCJ is confident that it has taken adequate measures to segregate those youthful offenders in accordance with DOJ's PREA standards, we will not know for sure until next year. That is because the audits for Clemens, Hilltop, and Travis will not be completed before February 2016, September 2016, and October 2016, respectively.

2. TDCJ also manages 28 community residential facilities that are owned and operated by private third-parties. Those 28 facilities include 7 halfway houses and 21 transitional treatment centers. Because TDCJ does not own or operate those facilities, it does not control their PREA audit schedules. But TDCJ has negotiated clauses in each of its contracts with those 28 community residential facilities that require them to comply with PREA. A list of those facilities is attached.

B. Texas Juvenile Justice Department ("TJJD")

1. The Texas Juvenile Justice Department owns and operates 14 residential facilities for juvenile offenders. Of those 14 facilities, audits have been completed for 9 and scheduled for 5. Of the 9 completed audits, 6 have been certified as fully compliant with PREA, and 3 expect to be certified but have not yet received their final auditor's report. The completed audits can be found at <http://www.tjjd.texas.gov/programs/prea.aspx>, and TJJD's audit schedule is attached to this letter.

2. TJJD also manages 8 juvenile residential facilities that are owned and operated by private third-parties. Of those 8 facilities, PREA applies to only 5. Of those 5 facilities, 1 has completed its audit and been certified as fully compliant; the other 4 have audits scheduled for 2016.

C. Texas Department of Public Safety ("DPS")

Finally, the Texas Department of Public Safety uses 120 "lockup" (or temporary confinement) facilities across the State. Many of those facilities are in driver's license offices and other places that the Texas Highway Patrol might utilize to temporarily detain or confine individuals. DPS is in the process of choosing a PREA coordinator and finalizing its PREA compliance standards. DPS reports that none of its lockup facilities are utilized to house detainees overnight, and therefore it need not conduct audits for those facilities. *See* 28 C.F.R. § 115.193. A complete list of DPS's lockup facilities is attached to this letter.

Please do not hesitate to contact me with any questions or concerns.

Sincerely,



Greg Abbott
Governor