

Congress of the United States

Washington, DC 20515

March 31, 2026

The Honorable Pam Bondi
Attorney General of the United States
U.S. Department of Justice
950 Pennsylvania Avenue NW
Washington, DC 20530

Dear Attorney General Bondi,

We write to you today with deep concern regarding a memo issued on December 2, 2025, from the Department of Justice (DOJ), instructing all DOJ-certified Prison Rape Elimination Act (PREA) auditors to stop using standards designed to protect transgender and intersex individuals from sexual violence when evaluating prisons and jails compliance with PREA.¹ This action undermines critical safeguards established to prevent sexual abuse in correctional facilities, places countless people at risk, and violates the PREA law.

The bipartisan Prison Rape Elimination Act was signed into law in 2003 in order to eradicate rape in correctional facilities.² At the time, experts conservatively estimated that at least 13% of people incarcerated in the U.S. have been sexually assaulted in prison.³ In passing PREA, Congress concluded that the high incidence of sexual violence within prisons involved potential and actual violations of the Constitution⁴ and made clear that its purpose was to “establish a zero-tolerance standard for the incidence of prison rape in prisons in the United States.”⁵

Pursuant to PREA’s requirement that the Attorney General publish national standards to address prison rape, DOJ issued a final rule in 2012, “National Standards To Prevent, Detect, and Respond to Prison Rape.”⁶ These standards specifically address the unique vulnerabilities of lesbian, gay, bisexual, transgender, intersex and gender nonconforming (LGBTI+) inmates.⁷ Among other provisions, they require agencies to consider housing for transgender and intersex inmates on a case-by-case basis in order to ensure their health and safety.

The national standards provisions relating to LGBTI+ inmates reflect the heightened risk LGBTI+ people in correctional facilities face of sexual violence.⁸ The Department of Justice’s own data found that non-heterosexual inmates in state and federal prisons were more than ten times as likely to be sexually victimized by fellow inmates (12.2%) compared to heterosexual inmates (1.2%).⁹ The same survey found that this number was

¹ Adam Rhodes, *Trump administration plans to end prison rape protections for trans and intersex people, memo says*, PRISM (Dec. 4, 2025), <https://prismreports.org/2025/12/04/prison-rape-elimination-act-trans-intersex-trump-doj/>.

² Public Law No. 108-79.

³ *Id.*

⁴ *Id.*

⁵ *Id.*

⁶ 77 FR 37106-232 (June 20, 2012), <https://www.govinfo.gov/content/pkg/FR-2012-06-20/pdf/2012-12427.pdf>.

⁷ *Id.*

⁸ See, e.g., Allen Beck, et al., *Sexual Victimization in Prisons and Jails Reported by Inmates, 2011-12*, DEP’T OF JUSTICE OFFICE OF JUSTICE PROGRAMS BUREAU OF JUSTICE STATISTICS (May 2013), <https://bjs.ojp.gov/content/pub/pdf/svpjri1112.pdf>; Allen Beck, *Sexual Victimization in Prisons and Jails Reported by Inmates, 2011-12: Supplemental Tables: Prevalence of Sexual Victimization Among Transgender Adult Inmates*, DEP’T OF JUSTICE OFFICE OF JUSTICE PROGRAMS BUREAU OF JUSTICE STATISTICS (DEC. 2014), https://bjs.ojp.gov/content/pub/pdf/svpjri1112_st.pdf; Jason Lydon, et al., *Coming out of Concrete Closets: Blank and Pink’s National LGBTQ Prisoner Survey*, BLACK AND PINK (OCT. 2015), <https://www.blackandpink.org/wp-content/uploads/2020/03/Coming-Out-of-Concrete-Closets-incorporated-Executive-summary102115.pdf>.

⁹ Beck 2013.

even higher for transgender inmates—a third of transgender inmates (33.2%) reported they had been sexually victimized by fellow inmates.¹⁰ Accordingly, the Department of Justice previously understood that the unique risks that LGBTI+ individuals face in prison require special standards and procedures to ensure these individuals’ rights, including under the U.S. Constitution, are upheld during their sentence.

Alarming, it appears the Department is abandoning the zero-tolerance policy PREA establishes for prison rape and its obligations under the U.S. Constitution to protect all prisoners, including transgender and intersex prisoners, from sexual violence. Earlier this year, in contradiction of the PREA regulations, the Bureau of Prisons began transferring transgender individuals to facilities based on their sex assigned at birth, without taking into account whether this would put them in danger of physical, including sexual, violence. Multiple judges have sided with transgender inmates who have sued to block these transfers.¹¹ Now, the Department’s latest action will further put transgender and intersex inmates at risk, by instructing PREA auditors to ignore existing national standards as they relate to transgender and intersex individuals when conducting compliance audits.

PREA clearly establishes that no one who is incarcerated should experience sexual violence, yet the Department of Justice is actively telling auditors to ignore regulations that help minimize the risk that transgender and intersex inmates experience sexual violence. This is in clear violation of PREA, which both establishes that the “national standards...shall apply to the Federal Bureau of Prisons immediately upon adoption of the final rule” and that organizations responsible for the accreditation of prisons and jails “shall...adopt accreditation standards consistent with the national standards adopted pursuant to such final rule.”¹² Despite the Department’s current plans to revise the regulations, no new regulations have been finalized and the 2012 regulations still have the force of law. Telling auditors to ignore these regulations will only put transgender and intersex prisoners at risk of higher rates of sexual violence.

Given these concerns, we urge you to rescind the Department’s December 2, 2025 memo and ensure that all covered facilities are fully complying with the 2012 regulations and doing everything in their power to protect against sexual victimization in prison facilities, including protecting transgender and intersex inmates. We also urge you to abandon any efforts to weaken the 2012 regulations, including as they relate to transgender, intersex, and other LGBTI+ prisoners.

You and the Department of Justice have a legal and moral obligation to ensure that all individuals in custody, regardless of gender identity or sex characteristics (including intersex traits), are protected from sexual abuse and are treated with dignity. We therefore request a briefing within 30 days of receipt of this letter on how the Department is ensuring it is fulfilling its legal obligations under PREA, including as relates to transgender, intersex, and other LGBTI+ prisoners. Specifically, we ask that the following questions be answered in this briefing:

1. Were any PREA auditors, correctional safety experts, medical professionals, or experts on sexual violence against transgender and intersex people consulted in drafting the December 2, 2025, memorandum? If so, who were they and how were these experts identified?
2. What legal authority does the Department rely on to instruct auditors to disregard provisions of the 2012 PREA regulations—which are legally binding—and how does the Department reconcile this directive with PREA’s statutory requirements?

¹⁰ Beck 2014.

¹¹ *E.g., Doe v. McHenry*, 1:25-cv-00286 (D.D.C. 2025); *Jones v. Trump*, 1:25-cv-00401 (D.D.C. 2025).

¹² Pub. Law. 108-79.

3. Given DOJ's own data showing dramatically higher rates of sexual victimization of transgender inmates, what specific measures, if any, has the Department put in place to prevent increased sexual abuse as a result of this memorandum?

Sincerely,



Raja Krishnamoorthi
Member of Congress



Lucy McBath
Member of Congress



Robert C. "Bobby" Scott
Member of Congress



Emily Randall
Member of Congress