

October 3, 2016

The Honorable Gary Herbert
Governor
350 North State Street, Suite 200
Salt Lake City, Utah 84114-2220
governor@utah.gov

Dear Governor Herbert,

You have the opportunity to ensure that young people involved in the criminal justice system in Utah are kept safe from harm by effectively implementing the Prison Rape Elimination Act (PREA). Specifically, we call on you to adopt best practices with respect to the treatment of youth in the adult criminal justice system by implementing the Youthful Inmate Standard¹ or by removing all youth from adult jails and prisons.

Passed unanimously by Congress in 2003, PREA restricts the placement of youth in adult jails and prisons. Regulations approved by the U.S. Department of Justice state that "as a matter of policy, the Department support(s) strong limitations on the confinement of adults with juveniles." Compliance with the Youthful Inmate Standard of the law calls on states to limit contact between youth and adults in adult facilities by banning the housing of youth in the general adult population, prohibiting contact between youth and adults in common areas, and ensuring youth are constantly supervised by staff. States must also limit the use of isolation which causes or exacerbates mental health problems for youth.

Research shows that youth are not safe in adult jails and prisons and are at the greatest risk of sexual victimization. According to research by the Bureau of Justice Statistics, of the youthful inmates aged 16 and 17 that reported sexual abuse, an estimated 78.6% reported experiencing physical force or threat of force and 65.5% reported being victimized more than once.² The National Prison Rape Elimination Commission found that "more than any other group of incarcerated persons, youth incarcerated with adults are probably at the highest risk for sexual abuse."³

¹ In PREA, a youthful inmate is defined as "any person under the age of 18 who is under adult court supervision and incarcerated or detained in a prison or jail." The standard requires three things: (1) youthful inmates are placed in a housing unit where they will not have contact with any adult inmates through the use of shared day rooms or common spaces, (2) outside of housing units, agencies must either maintain sight and sound separation between youthful inmates and adults or provide direct staff supervision when they are together, and (3) agencies must make their best effort to avoid placing youthful inmates in isolation to comply with the provision.

² Beck, A. (2013). Sexual Victimization in Prisons and Jails Reported by Inmates, 23, 2011-12. Washington, DC: U.S. Department of Justice, Bureau of Justice Statistics. <http://www.bjs.gov/content/pub/pdf/svpjri1112.pdf>

³ United States. (2009). National Prison Rape Elimination Commission Report. Washington, DC: National Prison Rape Elimination Commission.

Stakeholders from across the country have weighed in to support the full implementation of PREA, including removing children from adult jails and prisons. All of the major national stakeholder associations that deal with juvenile or adult detention or corrections, including the American Correctional Association⁴, Council of Juvenile Correctional Administrators⁵, National Juvenile Detention Association⁶, and the American Jail Association⁷ have policies that strongly back this recommendation.

And, the public agrees. Public opinion polling shows that a majority of Americans reject placement of youth in adult jails and prisons and strongly favors rehabilitation and treatment approaches, such as counseling, education, treatment, restitution, and community service.⁸

Youth must be removed from adult jails and prisons to fully comply with PREA and protect youth from sexual assault. The stakes are too high for noncompliance with PREA. On October 15th and in the coming year, you have the opportunity to keep youth in the justice system safe by removing them from adult jails and prisons.

Sincerely,

ACLU of Utah

Utah Juvenile Defender Resource Center

Voices for Utah Children

⁴ American Correctional Association (2009). Public Correctional Policy on Youthful Offenders Transferred to Adult Criminal Jurisdiction. <http://www.campaignforyouthjustice.org/documents/natlres/ACA%20-%20Public%20Correctional%20Policy%20on%20Youthful%20Offenders.pdf>

⁵ Council of Juvenile Correctional Administrators (2009). Waiver and Transfer of Youths to Adult Systems. <http://www.campaignforyouthjustice.org/documents/CJCA%20Waiver%20and%20Transfer%20%282009%29.pdf>

⁶ National Juvenile Detention Association. (1981). Resolution Opposing the use of Adult Jails for the Detention of Juveniles, <http://www.campaignforyouthjustice.org/documents/natlres/NJDA%20Resolution%20Opposing%20the%20Use%20of%20Adult%20Jails%20for%20the%20Detention%20of%20Juveniles.pdf>

⁷ American Jail Association. (2008). Juveniles in Jails. <http://www.campaignforyouthjustice.org/documents/natlres/AJA%20-%20Juveniles%20in%20Jails.pdf>

⁸ Campaign for Youth Justice. (2012) Keeping Youth Out of Adult Jails & Prisons. http://www.campaignforyouthjustice.org/documents/KYOAJP_102012.pdf