''SEC. 4. CYBERCRIME REPORTING.

''(a) IN GENERAL.—Not later than 2 years after the date of enactment of this Act, the Attorney General shall establish a category in the National Incident-Based Reporting System, or any successor system, for the collection of cybercrime and cyber-enabled crime reports from Federal, State, and local officials.

''(b) RECOMMENDATIONS.—In establishing the category required under subsection (a), the Attorney General shall, as appropriate, incorporate recommendations from the taxonomy developed under section 3(a).

''SEC. 5. NATIONAL CRIME VICTIMIZATION SURVEY.

''(a) IN GENERAL.—Not later than 540 days after the date of enactment of this Act, the Director of the Bureau of Justice Statistics, in coordination with the Director of the Bureau of the Census, shall include questions relating to cybercrime victimization in the National Crime Victimization Survey.

''(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section $2,000,000.

''SEC. 6. GAO STUDY ON CYBERCRIME METRICS.

''Not later than 180 days after the date of enactment of this Act, the Comptroller General of the United States shall submit to Congress a report that assesses—

''(1) the effectiveness of reporting mechanisms for cybercrime and cyber-enabled crime in the United States; and

''(2) disparities in reporting data between—

''(A) data relating to cybercrime and cyber-enabled crime; and

''(B) other types of crime data.''

DEFINITIONS

For definitions of terms used in this section, see section 12291 of this title, as made applicable by section 2(b) of div. W of Pub. L. 117–103, which is set out as a note under section 12291 of this title.

§ 30110. Improved investigative and forensic resources for enforcement of laws related to cybercrimes against individuals

Subject to the availability of appropriations to carry out this section, the Attorney General, in consultation with the Director of the Federal Bureau of Investigation and the Secretary of Homeland Security, including the Executive Associate Director of Homeland Security Investigations, shall, with respect to cybercrimes against individuals—

(1) ensure that there are not fewer than 10 additional operational agents of the Federal Bureau of Investigation designated to support the Criminal Division of the Department of Justice in the investigation and coordination of cybercrimes against individuals;

(2) ensure that each office of a United States Attorney designates at least 1 Assistant United States Attorney as responsible for investigating and prosecuting cybercrimes against individuals; and

(3) ensure the implementation of a regular and comprehensive training program—

(A) the purpose of which is to train agents of the Federal Bureau of Investigation in the investigation and prosecution of such crimes and the enforcement of laws related to cybercrimes against individuals; and

(B) that includes relevant forensic training related to investigating and prosecuting cybercrimes against individuals.

(Pub. L. 117–347, title III, § 321, Jan. 5, 2023, 136 Stat. 6206.)

Statutory Notes and Related Subsidiaries

DEFINITIONS

For definition of ''cybercrime against individuals'' as used in this section, see section 30107(a) of this title, as made applicable by section 3 of Pub. L. 117–347, which is set out as a note under section 20145 of this title.

§ 30111. Training and technical assistance for States

The Attorney General, in consultation with the Secretary of Homeland Security, the Director of the United States Secret Service, the Executive Associate Director of Homeland Security Investigations, and nongovernmental and survivor stakeholders, shall create, compile, evaluate, and disseminate materials and information, and provide the necessary training and technical assistance, to assist States and units of local government in—

(1) investigating, prosecuting, pursuing, preventing, understanding, and mitigating the impact of—

(A) physical, sexual, and psychological abuse of cybercrime victims, including victims of human trafficking that is facilitated by interactive computer services;

(B) exploitation of cybercrime victims; and

(C) deprioritization of cybercrime; and

(2) assessing, addressing, and mitigating the physical and psychological trauma to victims of cybercrime.

(Pub. L. 117–347, title III, § 324, Jan. 5, 2023, 136 Stat. 6207.)

Statutory Notes and Related Subsidiaries

DEFINITIONS

For definition of ''computer'' as used in this section, see section 3 of Pub. L. 117–347, set out as a note under section 20145 of this title.

CHAPTER 303—PRISON RAPE ELIMINATION

Sec.
30301. Findings.
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30304. Prison rape prevention and prosecution.
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30306. National Prison Rape Elimination Commission.
30307. Adoption and effect of national standards.
30308. Requirement that accreditation organizations adopt accreditation standards.
30309. Definitions.

§ 30301. Findings

Congress makes the following findings:

(1) 2,100,146 persons were incarcerated in the United States at the end of 2001: 1,324,465 in Federal and State prisons and 631,240 in county and local jails. In 1999, there were more than 10,000,000 separate admissions to and discharges from prisons and jails.

(2) Insufficient research has been conducted and insufficient data reported on the extent of prison rape. However, experts have conservatively estimated that at least 13 percent of the inmates in the United States have been

sexually assaulted in prison. Many inmates have suffered repeated assaults. Under this estimate, nearly 200,000 inmates now incarcerated have been or will be the victims of prison rape. The total number of inmates who have been sexually assaulted in the past 20 years likely exceeds 1,000,000.

(3) Inmates with mental illness are at increased risk of sexual victimization. America's jails and prisons house more mentally ill individuals than all of the Nation's psychiatric hospitals combined. As many as 16 percent of inmates in State prisons and jails, and 7 percent of Federal inmates, suffer from mental illness.

(4) Young first-time offenders are at increased risk of sexual victimization. Juveniles are 5 times more likely to be sexually assaulted in adult rather than juvenile facilities—often within the first 48 hours of incarceration.

(5) Most prison staff are not adequately trained or prepared to prevent, report, or treat inmate sexual assaults.

(6) Prison rape often goes unreported, and inmate victims often receive inadequate treatment for the severe physical and psychological effects of sexual assault—if they receive treatment at all.

(7) HIV and AIDS are major public health problems within America's correctional facilities. In 2000, 25,088 inmates in Federal and State prisons were known to be infected with HIV/AIDS. In 2000, HIV/AIDS accounted for more than 6 percent of all deaths in Federal and State prisons. Infection rates for other sexually transmitted diseases, tuberculosis, and hepatitis B and C are also far greater for prisoners than for the American population as a whole. Prison rape undermines the public health by contributing to the spread of these diseases, and often giving a potential death sentence to its victims.

(8) Prison rape endangers the public safety by making brutalized inmates more likely to commit crimes when they are released—as 600,000 inmates are each year.

(9) The frequently interracial character of prison sexual assaults significantly exacerbates interracial tensions, both within prison and, upon release of perpetrators and victims from prison, in the community at large.

(10) Prison rape increases the level of homicides and other violence against inmates and staff, and the risk of insurrections and riots.

(11) Victims of prison rape suffer severe physical and psychological effects that hinder their ability to integrate into the community and maintain stable employment upon their release from prison. They are thus more likely to become homeless and/or require government assistance.

(12) Members of the public and government officials are largely unaware of the epidemic character of prison rape and the day-to-day horror experienced by victimized inmates.

(13) The high incidence of sexual assault within prisons involves actual and potential violations of the United States Constitution. In Farmer v. Brennan, 511 U.S. 825 (1994), the Supreme Court ruled that deliberate indifference to the substantial risk of sexual assault violates prisoners' rights under the Cruel and Unusual Punishments Clause of the Eighth Amendment. The Eighth Amendment rights of State and local prisoners are protected through the Due Process Clause of the Fourteenth Amendment. Pursuant to the power of Congress under Section Five of the Fourteenth Amendment, Congress may take action to enforce those rights in States where officials have demonstrated such indifference. States that do not take basic steps to abate prison rape by adopting standards that do not generate significant additional expenditures demonstrate such indifference. Therefore, such States are not entitled to the same level of Federal benefits as other States.

(14) The high incidence of prison rape undermines the effectiveness and efficiency of United States Government expenditures through grant programs such as those dealing with health care; mental health care; disease prevention; crime prevention, investigation, and prosecution; prison construction, maintenance, and operation; race relations; poverty; unemployment and homelessness. The effectiveness and efficiency of these federally funded grant programs are compromised by the failure of State officials to adopt policies and procedures that reduce the incidence of prison rape in that the high incidence of prison rape—

(A) increases the costs incurred by Federal, State, and local jurisdictions to administer their prison systems;

(B) increases the levels of violence, directed at inmates and at staff, within prisons;

(C) increases health care expenditures, both inside and outside of prison systems, and reduces the effectiveness of disease prevention programs by substantially increasing the incidence and spread of HIV, AIDS, tuberculosis, hepatitis B and C, and other diseases;

(D) increases mental health care expenditures, both inside and outside of prison systems, by substantially increasing the rate of post-traumatic stress disorder, depression, suicide, and the exacerbation of existing mental illnesses among current and former inmates;

(E) increases the risks of recidivism, civil strife, and violent crime by individuals who have been brutalized by prison rape; and

(F) increases the level of interracial tensions and strife within prisons and, upon release of perpetrators and victims, in the community at large.

(15) The high incidence of prison rape has a significant effect on interstate commerce because it increases substantially—

(A) the costs incurred by Federal, State, and local jurisdictions to administer their prison systems;

(B) the incidence and spread of HIV, AIDS, tuberculosis, hepatitis B and C, and other diseases, contributing to increased health and medical expenditures throughout the Nation;

(C) the rate of post-traumatic stress disorder, depression, suicide, and the exacer-

bation of existing mental illnesses among current and former inmates, contributing to increased health and medical expenditures throughout the Nation; and

(D) the risk of recidivism, civil strife, and violent crime by individuals who have been brutalized by prison rape.

(Pub. L. 108–79, § 2, Sept. 4, 2003, 117 Stat. 972.)

Editorial Notes

CODIFICATION

Section was formerly classified to section 15601 of Title 42, The Public Health and Welfare, prior to editorial reclassification and renumbering as this section.

Statutory Notes and Related Subsidiaries

SHORT TITLE

For short title of Pub. L. 108–79, which is classified to this chapter, as the ''Prison Rape Elimination Act of 2003'', see section 1(a) of Pub. L. 108–79, set out as a Short Title of 2003 Act note under section 10101 of this title.

Executive Documents

IMPLEMENTING THE PRISON RAPE ELIMINATION ACT

Memorandum of President of the United States, May 17, 2012, 77 F.R. 30873, provided:

Memorandum for the Heads of Executive Departments and Agencies

Sexual violence, against any victim, is an assault on human dignity and an affront to American values. The Prison Rape Elimination Act of 2003 (PREA) was enacted with bipartisan support and established a ''zero-tolerance standard'' for rape in prisons in the United States. 42 U.S.C. 15602(1) [now 34 U.S.C. 30301(1)].

My Administration, with leadership from the Department of Justice, has worked diligently to implement the principles set out in PREA. Today, the Attorney General finalized a rule adopting national standards to prevent, detect, and respond to prison rape. This rule expresses my Administration's conclusion that PREA applies to all Federal confinement facilities, including those operated by executive departments and agencies (agencies) other than the Department of Justice, whether administered by the Federal Government or by a private organization on behalf of the Federal Government.

Each agency is responsible for, and must be accountable for, the operations of its own confinement facilities, and each agency has extensive expertise regarding its own facilities, particularly those housing unique populations. Thus, each agency is best positioned to determine how to implement the Federal laws and rules that govern its own operations, the conduct of its own employees, and the safety of persons in its custody. To advance the goals of PREA, we must ensure that all agencies that operate confinement facilities adopt high standards to prevent, detect, and respond to sexual abuse. In addition to adopting such standards, the success of PREA in combating sexual abuse in confinement facilities will depend on effective agency and facility leadership and the development of an agency culture that prioritizes efforts to combat sexual abuse.

In order to implement PREA comprehensively across the Federal Government, I hereby direct all agencies with Federal confinement facilities that are not already subject to the Department of Justice's final rule to work with the Attorney General to propose, within 120 days of the date of this memorandum, any rules or procedures necessary to satisfy the requirements of PREA and to finalize any such rules or procedures within 240 days of their proposal.

This memorandum shall be implemented consistent with the requirements of Executive Order 13175 of November 6, 2000 (Consultation and Coordination With Indian Tribal Governments).

This memorandum is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

The Director of the Office of Management and Budget is hereby authorized and directed to publish this memorandum in the Federal Register.

BARACK OBAMA.

§ 30302. Purposes

The purposes of this chapter are to—

(1) establish a zero-tolerance standard for the incidence of prison rape in prisons in the United States;

(2) make the prevention of prison rape a top priority in each prison system;

(3) develop and implement national standards for the detection, prevention, reduction, and punishment of prison rape;

(4) increase the available data and information on the incidence of prison rape, consequently improving the management and administration of correctional facilities;

(5) standardize the definitions used for collecting data on the incidence of prison rape;

(6) increase the accountability of prison officials who fail to detect, prevent, reduce, and punish prison rape;

(7) protect the Eighth Amendment rights of Federal, State, and local prisoners;

(8) increase the efficiency and effectiveness of Federal expenditures through grant programs such as those dealing with health care; mental health care; disease prevention; crime prevention, investigation, and prosecution; prison construction, maintenance, and operation; race relations; poverty; unemployment; and homelessness; and

(9) reduce the costs that prison rape imposes on interstate commerce.

(Pub. L. 108–79, § 3, Sept. 4, 2003, 117 Stat. 974.)

Editorial Notes

CODIFICATION

Section was formerly classified to section 15602 of Title 42, The Public Health and Welfare, prior to editorial reclassification and renumbering as this section.

§ 30303. National prison rape statistics, data, and research

(a) Annual comprehensive statistical review

(1) In general

The Bureau of Justice Statistics of the Department of Justice (in this section referred to as the ''Bureau'') shall carry out, for each calendar year, a comprehensive statistical review and analysis of the incidence and effects of prison rape. The statistical review and analysis shall include, but not be limited to the identification of the common characteristics of—

(A) both victims and perpetrators of prison rape; and

(B) prisons and prison systems with a high incidence of prison rape.

(2) Considerations

In carrying out paragraph (1), the Bureau shall consider—

(A) how rape should be defined for the purposes of the statistical review and analysis;

(B) how the Bureau should collect information about staff-on-inmate sexual assault;

(C) how the Bureau should collect information beyond inmate self-reports of prison rape;

(D) how the Bureau should adjust the data in order to account for differences among prisons as required by subsection (c)(3);

(E) the categorization of prisons as required by subsection (c)(4); and

(F) whether a preliminary study of prison rape should be conducted to inform the methodology of the comprehensive statistical review.

(3) Solicitation of views

The Bureau of Justice Statistics shall solicit views from representatives of the following: State departments of correction; county and municipal jails; juvenile correctional facilities; former inmates; victim advocates; researchers; and other experts in the area of sexual assault.

(4) Sampling techniques

The review and analysis under paragraph (1) shall be based on a random sample, or other scientifically appropriate sample, of not less than 10 percent of all Federal, State, and county prisons, and a representative sample of municipal prisons. The selection shall include at least one prison from each State. The selection of facilities for sampling shall be made at the latest practicable date prior to conducting the surveys and shall not be disclosed to any facility or prison system official prior to the time period studied in the survey. Selection of a facility for sampling during any year shall not preclude its selection for sampling in any subsequent year.

(5) Surveys

In carrying out the review and analysis under paragraph (1), the Bureau shall, in addition to such other methods as the Bureau considers appropriate, use surveys and other statistical studies of current and former inmates from a sample of Federal, State, county, and municipal prisons. The Bureau shall ensure the confidentiality of each survey participant, except as authorized in paragraph (7).

(6) Participation in survey

Federal, State, or local officials or facility administrators that receive a request from the Bureau under subsection (a)(4) or (5) will be required to participate in the national survey and provide access to any inmates under their legal custody.

(7) Reporting on child abuse and neglect

Nothing in section 10134 or 10231 of this title or any other provision of law, including paragraph (5), shall prevent the Bureau (including its agents), in carrying out the review and analysis under paragraph (1), from reporting to the designated public officials such information (and only such information) regarding child abuse or child neglect with respect to which the statutes or regulations of a State (or a political subdivision thereof) require prompt reporting.

(b) Review Panel on Prison Rape

(1) Establishment

To assist the Bureau in carrying out the review and analysis under subsection (a), there is established, within the Department of Justice, the Review Panel on Prison Rape (in this section referred to as the ''Panel'').

(2) Membership

(A) Composition

The Panel shall be composed of 3 members, each of whom shall be appointed by the Attorney General, in consultation with the Secretary of Health and Human Services.

(B) Qualifications

Members of the Panel shall be selected from among individuals with knowledge or expertise in matters to be studied by the Panel.

(3) Public hearings

(A) In general

The duty of the Panel shall be to carry out, for each calendar year, public hearings concerning the operation of the three prisons with the highest incidence of prison rape and the two prisons with the lowest incidence of prison rape in each category of facilities identified under subsection (c)(4). The Panel shall hold a separate hearing regarding the three Federal or State prisons with the highest incidence of prison rape. The purpose of these hearings shall be to collect evidence to aid in the identification of common characteristics of both victims and perpetrators of prison rape, and the identification of common characteristics of prisons and prison systems with a high incidence of prison rape, and the identification of common characteristics of prisons and prison systems that appear to have been successful in deterring prison rape.

(B) Testimony at hearings

(i) Public officials

In carrying out the hearings required under subparagraph (A), the Panel shall request the public testimony of Federal, State, and local officials (and organizations that represent such officials), including the warden or director of each prison, who bears responsibility for the prevention, detection, and punishment of prison rape at each entity, and the head of the prison system encompassing such prison.

(ii) Victims

The Panel may request the testimony of prison rape victims, organizations representing such victims, and other appropriate individuals and organizations.

(C) Subpoenas

(i) Issuance

The Panel may issue subpoenas for the attendance of witnesses and the production of written or other matter.

(ii) Enforcement

In the case of contumacy or refusal to obey a subpoena, the Attorney General

may in a Federal court of appropriate jurisdiction obtain an appropriate order to enforce the subpoena.

(c) Reports

(1) In general

Not later than June 30 of each year, the Attorney General shall submit a report on the activities of the Bureau and the Review Panel, with respect to prison rape, for the preceding calendar year to—

(A) Congress; and

(B) the Secretary of Health and Human Services.

(2) Contents

The report required under paragraph (1) shall include—

(A) with respect to the effects of prison rape, statistical, sociological, and psychological data;

(B) with respect to the incidence of prison rape—

(i) statistical data aggregated at the Federal, State, prison system, and prison levels;

(ii) a listing of those institutions in the representative sample, separated into each category identified under subsection (c)(4) and ranked according to the incidence of prison rape in each institution; and

(iii) an identification of those institutions in the representative sample that appear to have been successful in deterring prison rape; and

(C) a listing of any prisons in the representative sample that did not cooperate with the survey conducted pursuant to this section.

(3) Data adjustments

In preparing the information specified in paragraph (2), the Attorney General shall use established statistical methods to adjust the data as necessary to account for differences among institutions in the representative sample, which are not related to the detection, prevention, reduction and punishment of prison rape, or which are outside the control of the State, prison, or prison system, in order to provide an accurate comparison among prisons. Such differences may include the mission, security level, size, and jurisdiction under which the prison operates. For each such adjustment made, the Attorney General shall identify and explain such adjustment in the report.

(4) Categorization of prisons

The report shall divide the prisons surveyed into three categories. One category shall be composed of all Federal and State prisons. The other two categories shall be defined by the Attorney General in order to compare similar institutions.

(d) Contracts and grants

In carrying out its duties under this section, the Attorney General may—

(1) provide grants for research through the National Institute of Justice; and

(2) contract with or provide grants to any other entity the Attorney General deems appropriate.

(e) Authorization of appropriations

There are authorized to be appropriated $15,000,000 for each of fiscal years 2004 through 2010 to carry out this section.

(Pub. L. 108–79, § 4, Sept. 4, 2003, 117 Stat. 975; Pub. L. 109–108, title I, § 113(a), Nov. 22, 2005, 119 Stat. 2305.)

Editorial Notes

CODIFICATION

Section was formerly classified to section 15603 of Title 42, The Public Health and Welfare, prior to editorial reclassification and renumbering as this section.

AMENDMENTS

2005—Subsec. (a)(5). Pub. L. 109–108, § 113(a)(1), inserted ‘‘, except as authorized in paragraph (7)’’ before period at end.

Subsec. (a)(7). Pub. L. 109–108, § 113(a)(2), added par. (7).

§ 30304. Prison rape prevention and prosecution

(a) Information and assistance

(1) National clearinghouse

There is established within the National Institute of Corrections a national clearinghouse for the provision of information and assistance to Federal, State, and local authorities responsible for the prevention, investigation, and punishment of instances of prison rape.

(2) Training and education

The National Institute of Corrections shall conduct periodic training and education programs for Federal, State, and local authorities responsible for the prevention, investigation, and punishment of instances of prison rape.

(b) Reports

(1) In general

Not later than September 30 of each year, the National Institute of Corrections shall submit a report to Congress and the Secretary of Health and Human Services. This report shall be available to the Director of the Bureau of Justice Statistics.

(2) Contents

The report required under paragraph (1) shall summarize the activities of the Department of Justice regarding prison rape abatement for the preceding calendar year.

(c) Authorization of appropriations

There are authorized to be appropriated $5,000,000 for each of fiscal years 2004 through 2010 to carry out this section.

(Pub. L. 108–79, § 5, Sept. 4, 2003, 117 Stat. 978.)

Editorial Notes

CODIFICATION

Section was formerly classified to section 15604 of Title 42, The Public Health and Welfare, prior to editorial reclassification and renumbering as this section.

§ 30305. Grants to protect inmates and safeguard communities

(a) Grants authorized

From amounts made available for grants under this section, the Attorney General shall

make grants to States to assist those States in ensuring that budgetary circumstances (such as reduced State and local spending on prisons) do not compromise efforts to protect inmates (particularly from prison rape) and to safeguard the communities to which inmates return. The purpose of grants under this section shall be to provide funds for personnel, training, technical assistance, data collection, and equipment to prevent and prosecute prisoner rape.

(b) Use of grant amounts

Amounts received by a grantee under this section may be used by the grantee, directly or through subgrants, only for one or more of the following activities:

(1) Protecting inmates

Protecting inmates by—

(A) undertaking efforts to more effectively prevent prison rape;

(B) investigating incidents of prison rape; or

(C) prosecuting incidents of prison rape.

(2) Safeguarding communities

Safeguarding communities by—

(A) making available, to officials of State and local governments who are considering reductions to prison budgets, training and technical assistance in successful methods for moderating the growth of prison populations without compromising public safety, including successful methods used by other jurisdictions;

(B) developing and utilizing analyses of prison populations and risk assessment instruments that will improve State and local governments' understanding of risks to the community regarding release of inmates in the prison population;

(C) preparing maps demonstrating the concentration, on a community-by-community basis, of inmates who have been released, to facilitate the efficient and effective—

(i) deployment of law enforcement resources (including probation and parole resources); and

(ii) delivery of services (such as job training and substance abuse treatment) to those released inmates;

(D) promoting collaborative efforts, among officials of State and local governments and leaders of appropriate communities, to understand and address the effects on a community of the presence of a disproportionate number of released inmates in that community; or

(E) developing policies and programs that reduce spending on prisons by effectively reducing rates of parole and probation revocation without compromising public safety.

(c) Grant requirements

(1) Period

A grant under this section shall be made for a period of not more than 2 years.

(2) Maximum

The amount of a grant under this section may not exceed $1,000,000.

(3) Matching

The Federal share of a grant under this section may not exceed 50 percent of the total costs of the project described in the application submitted under subsection (d) for the fiscal year for which the grant was made under this section.

(d) Applications

(1) In general

To request a grant under this section, the chief executive of a State shall submit an application to the Attorney General at such time, in such manner, and accompanied by such information as the Attorney General may require.

(2) Contents

Each application required by paragraph (1) shall—

(A)(i) include the certification of the chief executive that the State receiving such grant has adopted all national prison rape standards that, as of the date on which the application was submitted, have been promulgated under this chapter; or

(ii) demonstrate to the Attorney General, in such manner as the Attorney General shall require, that the State receiving such grant is actively working to adopt and achieve full compliance with the national prison rape standards described in clause (i);

(B) specify with particularity the preventative, prosecutorial, or administrative activities to be undertaken by the State with the amounts received under the grant; and

(C) in the case of an application for a grant for one or more activities specified in paragraph (2) of subsection (b)—

(i) review the extent of the budgetary circumstances affecting the State generally and describe how those circumstances relate to the State's prisons;

(ii) describe the rate of growth of the State's prison population over the preceding 10 years and explain why the State may have difficulty sustaining that rate of growth; and

(iii) explain the extent to which officials (including law enforcement officials) of State and local governments and victims of crime will be consulted regarding decisions whether, or how, to moderate the growth of the State's prison population.

(e) Reports by grantee

(1) In general

The Attorney General shall require each grantee to submit, not later than 90 days after the end of the period for which the grant was made under this section, a report on the activities carried out under the grant. The report shall identify and describe those activities and shall contain an evaluation of the effect of those activities on—

(A) the number of incidents of prison rape, and the grantee's response to such incidents; and

(B) the safety of the prisons, and the safety of the communities in which released inmates are present.

(2) Dissemination

The Attorney General shall ensure that each report submitted under paragraph (1) is made

available under the national clearinghouse established under section 30304 of this title.

(f) State defined

In this section, the term ''State'' includes the District of Columbia, the Commonwealth of Puerto Rico, and any other territory or possession of the United States.

(g) Authorization of appropriations

(1) In general

There are authorized to be appropriated for grants under this section $40,000,000 for each of fiscal years 2004 through 2010.

(2) Limitation

Of amounts made available for grants under this section, not less than 50 percent shall be available only for activities specified in paragraph (1) of subsection (b).

(Pub. L. 108–79, § 6, Sept. 4, 2003, 117 Stat. 978; Pub. L. 114–324, § 7(1), Dec. 16, 2016, 130 Stat. 1951.)

Editorial Notes

CODIFICATION

Section was formerly classified to section 15605 of Title 42, The Public Health and Welfare, prior to editorial reclassification and renumbering as this section.

AMENDMENTS

2016—Subsec. (d)(2)(A). Pub. L. 114–324 added subpar. (A) and struck out former subpar. (A) which read as follows: ''include the certification of the chief executive that the State receiving such grant—

''(i) has adopted all national prison rape standards that, as of the date on which the application was submitted, have been promulgated under this chapter; and

''(ii) will consider adopting all national prison rape standards that are promulgated under this chapter after such date;''.

§ 30306. National Prison Rape Elimination Commission

(a) Establishment

There is established a commission to be known as the National Prison Rape Elimination Commission (in this section referred to as the ''Commission'').

(b) Members

(1) In general

The Commission shall be composed of 9 members, of whom—

(A) 3 shall be appointed by the President;

(B) 2 shall be appointed by the Speaker of the House of Representatives, unless the Speaker is of the same party as the President, in which case 1 shall be appointed by the Speaker of the House of Representatives and 1 shall be appointed by the minority leader of the House of Representatives;

(C) 1 shall be appointed by the minority leader of the House of Representatives (in addition to any appointment made under subparagraph (B));

(D) 2 shall be appointed by the majority leader of the Senate, unless the majority leader is of the same party as the President, in which case 1 shall be appointed by the majority leader of the Senate and 1 shall be appointed by the minority leader of the Senate; and

(E) 1 member appointed by the minority leader of the Senate (in addition to any appointment made under subparagraph (D)).

(2) Persons eligible

Each member of the Commission shall be an individual who has knowledge or expertise in matters to be studied by the Commission.

(3) Consultation required

The President, the Speaker and minority leader of the House of Representatives, and the majority leader and minority leader of the Senate shall consult with one another prior to the appointment of the members of the Commission to achieve, to the maximum extent possible, fair and equitable representation of various points of view with respect to the matters to be studied by the Commission.

(4) Term

Each member shall be appointed for the life of the Commission.

(5) Time for initial appointments

The appointment of the members shall be made not later than 60 days after September 4, 2003.

(6) Vacancies

A vacancy in the Commission shall be filled in the manner in which the original appointment was made, and shall be made not later than 60 days after the date on which the vacancy occurred.

(c) Operation

(1) Chairperson

Not later than 15 days after appointments of all the members are made, the President shall appoint a chairperson for the Commission from among its members.

(2) Meetings

The Commission shall meet at the call of the chairperson. The initial meeting of the Commission shall take place not later than 30 days after the initial appointment of the members is completed.

(3) Quorum

A majority of the members of the Commission shall constitute a quorum to conduct business, but the Commission may establish a lesser quorum for conducting hearings scheduled by the Commission.

(4) Rules

The Commission may establish by majority vote any other rules for the conduct of Commission business, if such rules are not inconsistent with this chapter or other applicable law.

(d) Comprehensive study of the impacts of prison rape

(1) In general

The Commission shall carry out a comprehensive legal and factual study of the penalogical, physical, mental, medical, social, and economic impacts of prison rape in the United States on—

(A) Federal, State, and local governments; and

(B) communities and social institutions generally, including individuals, families, and businesses within such communities and social institutions.

(2) Matters included

The study under paragraph (1) shall include—

(A) a review of existing Federal, State, and local government policies and practices with respect to the prevention, detection, and punishment of prison rape;

(B) an assessment of the relationship between prison rape and prison conditions, and of existing monitoring, regulatory, and enforcement practices that are intended to address any such relationship;

(C) an assessment of pathological or social causes of prison rape;

(D) an assessment of the extent to which the incidence of prison rape contributes to the spread of sexually transmitted diseases and to the transmission of HIV;

(E) an assessment of the characteristics of inmates most likely to commit prison rape and the effectiveness of various types of treatment or programs to reduce such likelihood;

(F) an assessment of the characteristics of inmates most likely to be victims of prison rape and the effectiveness of various types of treatment or programs to reduce such likelihood;

(G) an assessment of the impacts of prison rape on individuals, families, social institutions and the economy generally, including an assessment of the extent to which the incidence of prison rape contributes to recidivism and to increased incidence of sexual assault;

(H) an examination of the feasibility and cost of conducting surveillance, undercover activities, or both, to reduce the incidence of prison rape;

(I) an assessment of the safety and security of prison facilities and the relationship of prison facility construction and design to the incidence of prison rape;

(J) an assessment of the feasibility and cost of any particular proposals for prison reform;

(K) an identification of the need for additional scientific and social science research on the prevalence of prison rape in Federal, State, and local prisons;

(L) an assessment of the general relationship between prison rape and prison violence;

(M) an assessment of the relationship between prison rape and levels of training, supervision, and discipline of prison staff; and

(N) an assessment of existing Federal and State systems for reporting incidents of prison rape, including an assessment of whether existing systems provide an adequate assurance of confidentiality, impartiality and the absence of reprisal.

(3) Report

(A) Distribution

Not later than 5 years after the date of the initial meeting of the Commission, the Commission shall submit a report on the study carried out under this subsection to—

(i) the President;

(ii) the Congress;

(iii) the Attorney General;

(iv) the Secretary of Health and Human Services;

(v) the Director of the Federal Bureau of Prisons;

(vi) the chief executive of each State; and

(vii) the head of the department of corrections of each State.

(B) Contents

The report under subparagraph (A) shall include—

(i) the findings and conclusions of the Commission;

(ii) recommended national standards for reducing prison rape;

(iii) recommended protocols for preserving evidence and treating victims of prison rape; and

(iv) a summary of the materials relied on by the Commission in the preparation of the report.

(e) Recommendations

(1) In general

In conjunction with the report submitted under subsection (d)(3), the Commission shall provide the Attorney General and the Secretary of Health and Human Services with recommended national standards for enhancing the detection, prevention, reduction, and punishment of prison rape.

(2) Matters included

The information provided under paragraph (1) shall include recommended national standards relating to—

(A) the classification and assignment of prisoners, using proven standardized instruments and protocols, in a manner that limits the occurrence of prison rape;

(B) the investigation and resolution of rape complaints by responsible prison authorities, local and State police, and Federal and State prosecution authorities;

(C) the preservation of physical and testimonial evidence for use in an investigation of the circumstances relating to the rape;

(D) acute-term trauma care for rape victims, including standards relating to—

(i) the manner and extent of physical examination and treatment to be provided to any rape victim; and

(ii) the manner and extent of any psychological examination, psychiatric care, medication, and mental health counseling to be provided to any rape victim;

(E) referrals for long-term continuity of care for rape victims;

(F) educational and medical testing measures for reducing the incidence of HIV transmission due to prison rape;

(G) post-rape prophylactic medical measures for reducing the incidence of transmission of sexual diseases;

(H) the training of correctional staff sufficient to ensure that they understand and ap-

preciate the significance of prison rape and the necessity of its eradication;

(I) the timely and comprehensive investigation of staff sexual misconduct involving rape or other sexual assault on inmates;

(J) ensuring the confidentiality of prison rape complaints and protecting inmates who make complaints of prison rape;

(K) creating a system for reporting incidents of prison rape that will ensure the confidentiality of prison rape complaints, protect inmates who make prison rape complaints from retaliation, and assure the impartial resolution of prison rape complaints;

(L) data collection and reporting of—

(i) prison rape;

(ii) prison staff sexual misconduct; and

(iii) the resolution of prison rape complaints by prison officials and Federal, State, and local investigation and prosecution authorities; and

(M) such other matters as may reasonably be related to the detection, prevention, reduction, and punishment of prison rape.

(3) Limitation

The Commission shall not propose a recommended standard that would impose substantial additional costs compared to the costs presently expended by Federal, State, and local prison authorities.

(f) Consultation with accreditation organizations

In developing recommended national standards for enhancing the detection, prevention, reduction, and punishment of prison rape, the Commission shall consider any standards that have already been developed, or are being developed simultaneously to the deliberations of the Commission. The Commission shall consult with accreditation organizations responsible for the accreditation of Federal, State, local or private prisons, that have developed or are currently developing standards related to prison rape. The Commission will also consult with national associations representing the corrections profession that have developed or are currently developing standards related to prison rape.

(g) Hearings

(1) In general

The Commission shall hold public hearings. The Commission may hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence as the Commission considers advisable to carry out its duties under this section.

(2) Witness expenses

Witnesses requested to appear before the Commission shall be paid the same fees as are paid to witnesses under section 1821 of title 28. The per diem and mileage allowances for witnesses shall be paid from funds appropriated to the Commission.

(h) Information from Federal or State agencies

The Commission may secure directly from any Federal department or agency such information as the Commission considers necessary to carry out its duties under this section. The Commission may request the head of any State or local department or agency to furnish such information to the Commission.

(i) Personnel matters

(1) Travel expenses

The members of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5 while away from their homes or regular places of business in the performance of service for the Commission.

(2) Detail of Federal employees

With the affirmative vote of ⅔ of the Commission, any Federal Government employee, with the approval of the head of the appropriate Federal agency, may be detailed to the Commission without reimbursement, and such detail shall be without interruption or loss of civil service status, benefits, or privileges.

(3) Procurement of temporary and intermittent services

Upon the request of the Commission, the Attorney General shall provide reasonable and appropriate office space, supplies, and administrative assistance.

(j) Contracts for research

(1) National Institute of Justice

With a ⅔ affirmative vote, the Commission may select nongovernmental researchers and experts to assist the Commission in carrying out its duties under this chapter. The National Institute of Justice shall contract with the researchers and experts selected by the Commission to provide funding in exchange for their services.

(2) Other organizations

Nothing in this subsection shall be construed to limit the ability of the Commission to enter into contracts with other entities or organizations for research necessary to carry out the duties of the Commission under this section.

(k) Subpoenas

(1) Issuance

The Commission may issue subpoenas for the attendance of witnesses and the production of written or other matter.

(2) Enforcement

In the case of contumacy or refusal to obey a subpoena, the Attorney General may in a Federal court of appropriate jurisdiction obtain an appropriate order to enforce the subpoena.

(3) Confidentiality of documentary evidence

Documents provided to the Commission pursuant to a subpoena issued under this subsection shall not be released publicly without the affirmative vote of ⅔ of the Commission.

(*l*) Authorization of appropriations

There are authorized to be appropriated such sums as may be necessary to carry out this section.

(m) Termination

The Commission shall terminate on the date that is 60 days after the date on which the Com-

mission submits the reports required by this section.

(n) Exemption

The Commission shall be exempt from chapter 10 of title 5.

(Pub. L. 108–79, § 7, Sept. 4, 2003, 117 Stat. 980; Pub. L. 108–447, div. B, title I, § 123(1), Dec. 8, 2004, 118 Stat. 2871; Pub. L. 109–108, title I, § 113(b), Nov. 22, 2005, 119 Stat. 2305; Pub. L. 109–162, title XI, § 1181, Jan. 5, 2006, 119 Stat. 3126; Pub. L. 110–199, title II, § 261, Apr. 9, 2008, 122 Stat. 694; Pub. L. 117–286, § 4(a)(212), Dec. 27, 2022, 136 Stat. 4329.)

Editorial Notes

CODIFICATION

Section was formerly classified to section 15606 of Title 42, The Public Health and Welfare, prior to editorial reclassification and renumbering as this section.

AMENDMENTS

2022—Subsec. (n). Pub. L. 117–286 substituted ''chapter 10 of title 5.'' for ''the Federal Advisory Committee Act.''

2008—Subsec. (d)(3)(A). Pub. L. 110–199 substituted ''5 years'' for ''3 years'' in introductory provisions.

2006—Subsec. (d)(3)(A). Pub. L. 109–162 made amendment identical to that made by Pub. L. 109–108. See 2005 Amendment note below.

2005—Subsec. (d)(3)(A). Pub. L. 109–108 substituted ''3 years'' for ''2 years''.

2004—Pub. L. 108–447 substituted ''Elimination'' for ''Reduction'' in section catchline and in text of subsec. (a).

Statutory Notes and Related Subsidiaries

CONSTRUCTION OF 2008 AMENDMENT

For construction of amendments by Pub. L. 110–199 and requirements for grants made under such amendments, see section 60504 of this title.

§ 30307. Adoption and effect of national standards

(a) Publication of proposed standards

(1) Final rule

Not later than 1 year after receiving the report specified in section 30306(d)(3) of this title, the Attorney General shall publish a final rule adopting national standards for the detection, prevention, reduction, and punishment of prison rape.

(2) Independent judgment

The standards referred to in paragraph (1) shall be based upon the independent judgment of the Attorney General, after giving due consideration to the recommended national standards provided by the Commission under section 30306(e) of this title, and being informed by such data, opinions, and proposals that the Attorney General determines to be appropriate to consider.

(3) Limitation

The Attorney General shall not establish a national standard under this section that would impose substantial additional costs compared to the costs presently expended by Federal, State, and local prison authorities. The Attorney General may, however, provide a list of improvements for consideration by correctional facilities.

(4) Transmission to States

Within 90 days of publishing the final rule under paragraph (1), the Attorney General shall transmit the national standards adopted under such paragraph to the chief executive of each State, the head of the department of corrections of each State, and to the appropriate authorities in those units of local government who oversee operations in one or more prisons.

(b) Applicability to Federal Bureau of Prisons

The national standards referred to in subsection (a) shall apply to the Federal Bureau of Prisons immediately upon adoption of the final rule under subsection (a)(4).

(c) Applicability to detention facilities operated by the Department of Homeland Security

(1) In general

Not later than 180 days after March 7, 2013, the Secretary of Homeland Security shall publish a final rule adopting national standards for the detection, prevention, reduction, and punishment of rape and sexual assault in facilities that maintain custody of aliens detained for a violation of the immigrations laws of the United States.

(2) Applicability

The standards adopted under paragraph (1) shall apply to detention facilities operated by the Department of Homeland Security and to detention facilities operated under contract with the Department.

(3) Compliance

The Secretary of Homeland Security shall—

(A) assess compliance with the standards adopted under paragraph (1) on a regular basis; and

(B) include the results of the assessments in performance evaluations of facilities completed by the Department of Homeland Security.

(4) Considerations

In adopting standards under paragraph (1), the Secretary of Homeland Security shall give due consideration to the recommended national standards provided by the Commission under section 30306(e) of this title.

(5) Definition

As used in this section, the term ''detention facilities operated under contract with the Department'' includes, but is not limited to contract detention facilities and detention facilities operated through an intergovernmental service agreement with the Department of Homeland Security.

(d) Applicability to custodial facilities operated by the Department of Health and Human Services

(1) In general

Not later than 180 days after March 7, 2013, the Secretary of Health and Human Services shall publish a final rule adopting national standards for the detection, prevention, reduction, and punishment of rape and sexual as-

sault in facilities that maintain custody of unaccompanied alien children (as defined in section 279(g) of title 6).

(2) Applicability

The standards adopted under paragraph (1) shall apply to facilities operated by the Department of Health and Human Services and to facilities operated under contract with the Department.

(3) Compliance

The Secretary of Health and Human Services shall—

(A) assess compliance with the standards adopted under paragraph (1) on a regular basis; and

(B) include the results of the assessments in performance evaluations of facilities completed by the Department of Health and Human Services.

(4) Considerations

In adopting standards under paragraph (1), the Secretary of Health and Human Services shall give due consideration to the recommended national standards provided by the Commission under section 30306(e) of this title.

(e) Eligibility for Federal funds

(1) Covered programs

(A) In general

For purposes of this subsection, a grant program is covered by this subsection if, and only if—

(i) the program is carried out by or under the authority of the Attorney General;

(ii) the program may provide amounts to States for prison purposes; and

(iii) the program is not administered by the Office on Violence Against Women of the Department of Justice.

(B) List

For each fiscal year, the Attorney General shall prepare a list identifying each program that meets the criteria of subparagraph (A) and provide that list to each State.

(2) Adoption of national standards

(A) In general

For each fiscal year, any amount that a State would otherwise receive for prison purposes for that fiscal year under a grant program covered by this subsection shall be reduced by 5 percent, unless the chief executive officer of the State submits to the Attorney General proof of compliance with this chapter through—

(i) a certification that the State has adopted, and is in full compliance with, the national standards described in subsection (a); or

(ii) an assurance that the State intends to adopt and achieve full compliance with those national standards so as to ensure that a certification under clause (i) may be submitted in future years, which includes—

(I) a commitment that not less than 5 percent of such amount shall be used for this purpose; or

(II) a request that the Attorney General hold 5 percent of such amount in abeyance pursuant to the requirements of subparagraph (E).

(B) Rules for certification

(i) In general

A chief executive officer of a State who submits a certification under this paragraph shall also provide the Attorney General with—

(I) a list of the prisons under the operational control of the executive branch of the State;

(II) a list of the prisons listed under subclause (I) that were audited during the most recently concluded audit year;

(III) all final audit reports for prisons listed under subclause (I) that were completed during the most recently concluded audit year; and

(IV) a proposed schedule for completing an audit of all the prisons listed under subclause (I) during the following 3 audit years.

(ii) Audit appeal exception

Beginning on the date that is 3 years after December 16, 2016, a chief executive officer of a State may submit a certification that the State is in full compliance pursuant to subparagraph (A)(i) even if a prison under the operational control of the executive branch of the State has an audit appeal pending.

(C) Rules for assurances

(i) In general

A chief executive officer of a State who submits an assurance under subparagraph (A)(ii) shall also provide the Attorney General with—

(I) a list of the prisons under the operational control of the executive branch of the State;

(II) a list of the prisons listed under subclause (I) that were audited during the most recently concluded audit year;

(III) an explanation of any barriers the State faces to completing required audits;

(IV) all final audit reports for prisons listed under subclause (I) that were completed during the most recently concluded audit year;

(V) a proposed schedule for completing an audit of all prisons under the operational control of the executive branch of the State during the following 3 audit years; and

(VI) an explanation of the State's current degree of implementation of the national standards.

(ii) Additional requirement

A chief executive officer of a State who submits an assurance under subparagraph (A)(ii)(I) shall, before receiving the applicable funds described in subparagraph (A)(ii)(I), also provide the Attorney General with a proposed plan for the expenditure of the funds during the applicable grant period.

(iii) Accounting of funds

A chief executive officer of a State who submits an assurance under subparagraph (A)(ii)(I) shall, in a manner consistent with the applicable grant reporting requirements, submit to the Attorney General a detailed accounting of how the funds described in subparagraph (A) were used.

(D) Sunset of assurance option

(i) In general

On the date that is 3 years after December 16, 2016, subclause (II) of subparagraph (A)(ii) shall cease to have effect.

(ii) Additional sunset

On the date that is 6 years after December 16, 2016, clause (ii) of subparagraph (A) shall cease to have effect.

(iii) Emergency assurances

(I) Request

Notwithstanding clause (ii), during the 2-year period beginning 6 years after December 16, 2016, a chief executive officer of a State who certifies that the State has audited not less than 90 percent of prisons under the operational control of the executive branch of the State may request that the Attorney General allow the chief executive officer to submit an emergency assurance in accordance with subparagraph (A)(ii) as in effect on the day before the date on which that subparagraph ceased to have effect under clause (ii) of this subparagraph.

(II) Grant of request

The Attorney General shall grant a request submitted under subclause (I) within 60 days upon a showing of good cause.

(E) Disposition of funds held in abeyance

(i) In general

If the chief executive officer of a State who has submitted an assurance under subparagraph (A)(ii)(II) subsequently submits a certification under subparagraph (A)(i) during the 3-year period beginning on December 16, 2016, the Attorney General will release all funds held in abeyance under subparagraph (A)(ii)(II) to be used by the State in accordance with the conditions of the grant program for which the funds were provided.

(ii) Release of funds

If the chief executive officer of a State who has submitted an assurance under subparagraph (A)(ii)(II) is unable to submit a certification during the 3-year period beginning on December 16, 2016, but does assure the Attorney General that ⅔ of prisons under the operational control of the executive branch of the State have been audited at least once, the Attorney General shall release all of the funds of the State held in abeyance to be used in adopting and achieving full compliance with the national standards, if the State agrees to comply with the applicable requirements in clauses (ii) and (iii) of subparagraph (C).

(iii) Redistribution of funds

If the chief executive officer of a State who has submitted an assurance under subparagraph (A)(ii)(II) is unable to submit a certification during the 3-year period beginning on December 16, 2016, and does not assure the Attorney General that ⅔ of prisons under the operational control of the executive branch of the State have been audited at least once, the Attorney General shall redistribute the funds of the State held in abeyance to other States to be used in accordance with the conditions of the grant program for which the funds were provided.

(F) Publication of audit results

Not later than 1 year after December 16, 2016, the Attorney General shall request from each State, and make available on an appropriate Internet website, all final audit reports completed to date for prisons under the operational control of the executive branch of each State. The Attorney General shall update such website annually with reports received from States under subparagraphs (B)(i) and (C)(i).

(G) Report on implementation of national standards

Not later than 2 years after December 16, 2016, the Attorney General shall issue a report to the Committee on the Judiciary of the Senate and the Committee on the Judiciary of the House of Representatives on the status of implementation of the national standards and the steps the Department, in conjunction with the States and other key stakeholders, is taking to address any unresolved implementation issues.

(3) Report on noncompliance

Not later than September 30 of each year, the Attorney General shall publish a report listing each grantee that is not in compliance with the national standards adopted pursuant to subsection (a).

(4) Cooperation with survey

For each fiscal year, any amount that a State receives for that fiscal year under a grant program covered by this subsection shall not be used for prison purposes (and shall be returned to the grant program if no other authorized use is available), unless the chief executive of the State submits to the Attorney General a certification that neither the State, nor any political subdivision or unit of local government within the State, is listed in a report issued by the Attorney General pursuant to section 30303(c)(2)(C) of this title.

(5) Redistribution of amounts

Amounts under a grant program not granted by reason of a reduction under paragraph (2), or returned by reason of the prohibition in paragraph (4), shall be granted to one or more entities not subject to such reduction or such prohibition, subject to the other laws governing that program.

(6) Implementation

The Attorney General shall establish procedures to implement this subsection, including

procedures for effectively applying this subsection to discretionary grant programs.

(7) Effective date

(A) Requirement of adoption of standards

The first grants to which paragraph (2) applies are grants for the second fiscal year beginning after the date on which the national standards under subsection (a) are finalized.

(B) Requirement for cooperation

The first grants to which paragraph (4) applies are grants for the fiscal year beginning after September 4, 2003.

(8) Standards for auditors

(A) In general

(i) Background checks for auditors

An individual seeking certification by the Department of Justice to serve as an auditor of prison compliance with the national standards described in subsection (a) shall, upon request, submit fingerprints in the manner determined by the Attorney General for criminal history record checks of the applicable State and Federal Bureau of Investigation repositories.

(ii) Certification agreements

Each auditor certified under this paragraph shall sign a certification agreement that includes the provisions of, or provisions that are substantially similar to, the Bureau of Justice Assistance's Auditor Certification Agreement in use in April 2018.

(iii) Auditor evaluation

The PREA Management Office of the Bureau of Justice Assistance shall evaluate all auditors based on the criteria contained in the certification agreement. In the case that an auditor fails to comply with a certification agreement or to conduct audits in accordance with the PREA Auditor Handbook, audit methodology, and instrument approved by the PREA Management Office, the Office may take remedial or disciplinary action, as appropriate, including decertifying the auditor in accordance with subparagraph (B).

(B) Auditor decertification

(i) In general

The PREA Management Office may suspend an auditor's certification during an evaluation of an auditor's performance under subparagraph (A)(iii). The PREA Management Office shall promptly publish the names of auditors who have been decertified, and the reason for decertification. Auditors who have been decertified or are on suspension may not participate in audits described in subsection (a), including as an agent of a certified auditor.

(ii) Notification

In the case that an auditor is decertified, the PREA Management Office shall inform each facility or agency at which the auditor performed an audit during the relevant 3-year audit cycle, and may recommend that the agency repeat any affected audits, if appropriate.

(C) Audit assignments

The PREA Management Office shall establish a system, to be administered by the Office, for assigning certified auditors to Federal, State, and local facilities.

(D) Disclosure of documentation

The Director of the Bureau of Prisons shall comply with each request for documentation necessary to conduct an audit under subsection (a), which is made by a certified auditor in accordance with the provisions of the certification agreement described in subparagraph (A)(ii). The Director of the Bureau of Prisons may require an auditor to sign a confidentiality agreement or other agreement designed to address the auditor's use of personally identifiable information, except that such an agreement may not limit an auditor's ability to provide all such documentation to the Department of Justice, as required under section 115.401(j) of title 28, Code of Federal Regulations.

(Pub. L. 108–79, § 8, Sept. 4, 2003, 117 Stat. 985; Pub. L. 113–4, title XI, § 1101(c), Mar. 7, 2013, 127 Stat. 134; Pub. L. 114–324, §§ 5, 7(2), Dec. 16, 2016, 130 Stat. 1950, 1951; Pub. L. 115–274, § 4, Oct. 31, 2018, 132 Stat. 4161.)

Editorial Notes

CODIFICATION

Section was formerly classified to section 15607 of Title 42, The Public Health and Welfare, prior to editorial reclassification and renumbering as this section.

AMENDMENTS

2018—Subsec. (e)(8). Pub. L. 115–274 amended par. (8) generally. Prior to amendment, text read as follows: ''An individual seeking certification by the Department of Justice to serve as an auditor of prison compliance with the national standards described in subsection (a) shall, upon request, submit fingerprints in the manner determined by the Attorney General for criminal history record checks of the applicable State and Federal Bureau of Investigation repositories.''

2016—Subsec. (e)(1)(A)(iii). Pub. L. 114–324, § 5, added cl. (iii).

Subsec. (e)(2). Pub. L. 114–324, § 7(2)(A), added par. (2) and struck out former par. (2) which read as follows: ''For each fiscal year, any amount that a State would otherwise receive for prison purposes for that fiscal year under a grant program covered by this subsection shall be reduced by 5 percent, unless the chief executive of the State submits to the Attorney General—

''(A) a certification that the State has adopted, and is in full compliance with, the national standards described in subsection (a); or

''(B) an assurance that not less than 5 percent of such amount shall be used only for the purpose of enabling the State to adopt, and achieve full compliance with, those national standards, so as to ensure that a certification under subparagraph (A) may be submitted in future years.''

Subsec. (e)(8). Pub. L. 114–324, § 7(2)(B), added par. (8).

2013—Subsecs. (c) to (e). Pub. L. 113–4 added subsecs. (c) and (d) and redesignated former subsec. (c) as (e).

§ 30308. Requirement that accreditation organizations adopt accreditation standards

(a) Eligibility for Federal grants

Notwithstanding any other provision of law, an organization responsible for the accredita-

tion of Federal, State, local, or private prisons, jails, or other penal facilities may not receive any new Federal grants during any period in which such organization fails to meet any of the requirements of subsection (b).

(b) Requirements

To be eligible to receive Federal grants, an accreditation organization referred to in subsection (a) must meet the following requirements:

(1) At all times after 90 days after September 4, 2003, the organization shall have in effect, for each facility that it is responsible for accrediting, accreditation standards for the detection, prevention, reduction, and punishment of prison rape.

(2) At all times after 1 year after the date of the adoption of the final rule under section 30307(a)(4) of this title, the organization shall, in addition to any other such standards that it may promulgate relevant to the detection, prevention, reduction, and punishment of prison rape, adopt accreditation standards consistent with the national standards adopted pursuant to such final rule.

(Pub. L. 108–79, § 9, Sept. 4, 2003, 117 Stat. 987.)

Editorial Notes

CODIFICATION

Section was formerly classified to section 15608 of Title 42, The Public Health and Welfare, prior to editorial reclassification and renumbering as this section.

§ 30309. Definitions

In this chapter, the following definitions shall apply:

(1) Carnal knowledge

The term ''carnal knowledge'' means contact between the penis and the vulva or the penis and the anus, including penetration of any sort, however slight.

(2) Inmate

The term ''inmate'' means any person incarcerated or detained in any facility who is accused of, convicted of, sentenced for, or adjudicated delinquent for, violations of criminal law or the terms and conditions of parole, probation, pretrial release, or diversionary program.

(3) Jail

The term ''jail'' means a confinement facility of a Federal, State, or local law enforcement agency to hold—

(A) persons pending adjudication of criminal charges; or

(B) persons committed to confinement after adjudication of criminal charges for sentences of 1 year or less.

(4) HIV

The term ''HIV'' means the human immunodeficiency virus.

(5) Oral sodomy

The term ''oral sodomy'' means contact between the mouth and the penis, the mouth and the vulva, or the mouth and the anus.

(6) Police lockup

The term ''police lockup'' means a temporary holding facility of a Federal, State, or local law enforcement agency to hold—

(A) inmates pending bail or transport to jail;

(B) inebriates until ready for release; or

(C) juveniles pending parental custody or shelter placement.

(7) Prison

The term ''prison'' means any confinement facility of a Federal, State, or local government, whether administered by such government or by a private organization on behalf of such government, and includes—

(A) any local jail or police lockup; and

(B) any juvenile facility used for the custody or care of juvenile inmates.

(8) Prison rape

The term ''prison rape'' includes the rape of an inmate in the actual or constructive control of prison officials.

(9) Rape

The term ''rape'' means—

(A) the carnal knowledge, oral sodomy, sexual assault with an object, or sexual fondling of a person, forcibly or against that person's will;

(B) the carnal knowledge, oral sodomy, sexual assault with an object, or sexual fondling of a person not forcibly or against the person's will, where the victim is incapable of giving consent because of his or her youth or his or her temporary or permanent mental or physical incapacity; or

(C) the carnal knowledge, oral sodomy, sexual assault with an object, or sexual fondling of a person achieved through the exploitation of the fear or threat of physical violence or bodily injury.

(10) Sexual assault with an object

The term ''sexual assault with an object'' means the use of any hand, finger, object, or other instrument to penetrate, however slightly, the genital or anal opening of the body of another person.

(11) Sexual fondling

The term ''sexual fondling'' means the touching of the private body parts of another person (including the genitalia, anus, groin, breast, inner thigh, or buttocks) for the purpose of sexual gratification.

(12) Exclusions

The terms and conditions described in paragraphs (9) and (10) shall not apply to—

(A) custodial or medical personnel gathering physical evidence, or engaged in other legitimate medical treatment, in the course of investigating prison rape;

(B) the use of a health care provider's hands or fingers or the use of medical devices in the course of appropriate medical treatment unrelated to prison rape; or

(C) the use of a health care provider's hands or fingers and the use of instruments to perform body cavity searches in order to maintain security and safety within the

prison or detention facility, provided that the search is conducted in a manner consistent with constitutional requirements.

(Pub. L. 108–79, § 10, Sept. 4, 2003, 117 Stat. 987.)

Editorial Notes

CODIFICATION

Section was formerly classified to section 15609 of Title 42, The Public Health and Welfare, prior to editorial reclassification and renumbering as this section.

CHAPTER 305—HATE CRIMES

Sec.
30501. Findings.
30502. Definitions.
30503. Support for criminal investigations and prosecutions by State, local, and tribal law enforcement officials.
30504. Grant program.
30505. Severability.
30506. Rule of construction.
30507. Jabara-Heyer NO HATE Act.

§ 30501. Findings

Congress makes the following findings:

(1) The incidence of violence motivated by the actual or perceived race, color, religion, national origin, gender, sexual orientation, gender identity, or disability of the victim poses a serious national problem.

(2) Such violence disrupts the tranquility and safety of communities and is deeply divisive.

(3) State and local authorities are now and will continue to be responsible for prosecuting the overwhelming majority of violent crimes in the United States, including violent crimes motivated by bias. These authorities can carry out their responsibilities more effectively with greater Federal assistance.

(4) Existing Federal law is inadequate to address this problem.

(5) A prominent characteristic of a violent crime motivated by bias is that it devastates not just the actual victim and the family and friends of the victim, but frequently savages the community sharing the traits that caused the victim to be selected.

(6) Such violence substantially affects interstate commerce in many ways, including the following:

(A) The movement of members of targeted groups is impeded, and members of such groups are forced to move across State lines to escape the incidence or risk of such violence.

(B) Members of targeted groups are prevented from purchasing goods and services, obtaining or sustaining employment, or participating in other commercial activity.

(C) Perpetrators cross State lines to commit such violence.

(D) Channels, facilities, and instrumentalities of interstate commerce are used to facilitate the commission of such violence.

(E) Such violence is committed using articles that have traveled in interstate commerce.

(7) For generations, the institutions of slavery and involuntary servitude were defined by the race, color, and ancestry of those held in bondage. Slavery and involuntary servitude were enforced, both prior to and after the adoption of the 13th amendment to the Constitution of the United States, through widespread public and private violence directed at persons because of their race, color, or ancestry, or perceived race, color, or ancestry. Accordingly, eliminating racially motivated violence is an important means of eliminating, to the extent possible, the badges, incidents, and relics of slavery and involuntary servitude.

(8) Both at the time when the 13th, 14th, and 15th amendments to the Constitution of the United States were adopted, and continuing to date, members of certain religious and national origin groups were and are perceived to be distinct ''races''. Thus, in order to eliminate, to the extent possible, the badges, incidents, and relics of slavery, it is necessary to prohibit assaults on the basis of real or perceived religions or national origins, at least to the extent such religions or national origins were regarded as races at the time of the adoption of the 13th, 14th, and 15th amendments to the Constitution of the United States.

(9) Federal jurisdiction over certain violent crimes motivated by bias enables Federal, State, and local authorities to work together as partners in the investigation and prosecution of such crimes.

(10) The problem of crimes motivated by bias is sufficiently serious, widespread, and interstate in nature as to warrant Federal assistance to States, local jurisdictions, and Indian tribes.

(Pub. L. 111–84, div. E, § 4702, Oct. 28, 2009, 123 Stat. 2835.)

Editorial Notes

CODIFICATION

Section was formerly classified as a note under section 249 of Title 18, Crimes and Criminal Procedure, prior to editorial reclassification and renumbering as this section.

Statutory Notes and Related Subsidiaries

FINDINGS

Pub. L. 117–13, § 2, May 20, 2021, 135 Stat. 265, provided that: ''Congress finds the following:

''(1) Following the spread of COVID–19 in 2020, there has been a dramatic increase in hate crimes and violence against Asian-Americans and Pacific Islanders.

''(2) According to a recent report, there were nearly 3,800 reported cases of anti-Asian discrimination and incidents related to COVID–19 between March 19, 2020, and February 28, 2021, in all 50 States and the District of Columbia.

''(3) During this time frame, race has been cited as the primary reason for discrimination, making up over 90 percent of incidents, and the United States condemns and denounces any and all anti-Asian and Pacific Islander sentiment in any form.

''(4) Roughly 36 percent of these incidents took place at a business and more than 2,000,000 Asian-American businesses have contributed to the diverse fabric of American life.

''(5) More than 1,900,000 Asian-American and Pacific Islander older adults, particularly those older adults who are recent immigrants or have limited English proficiency, may face even greater challenges in dealing with the COVID–19 pandemic, including discrimination, economic insecurity, and language isolation.