

NOW THAT DOJ HAS REVISED RAPE STATS, WILL THEY FINALLY DO SOMETHING ABOUT PRISON RAPE?

DOJ has rolled out a new definition of rape today, designed to reflect both that men can be raped and that people of both sexes get raped at times they are unable to consent.

Attorney General Eric Holder today announced revisions to the Uniform Crime Report's (UCR) definition of rape, which will lead to a more comprehensive statistical reporting of rape nationwide. The new definition is more inclusive, better reflects state criminal codes and focuses on the various forms of sexual penetration understood to be rape. **The new definition of rape is: "The penetration, no matter how slight, of the vagina or anus with any body part or object, or oral penetration by a sex organ of another person, without the consent of the victim."** The definition is used by the FBI to collect information from local law enforcement agencies about reported rapes.

[snip]

The revised definition includes any gender of victim or perpetrator, and includes instances in which the victim is incapable of giving consent because of temporary or permanent mental or physical incapacity, including due to the influence of drugs or alcohol or because of age. The ability of the victim to give consent must be determined in accordance with state

statute. Physical resistance from the victim is not required to demonstrate lack of consent. The new definition does not change federal or state criminal codes or impact charging and prosecution on the local level.

“The revised definition of rape sends an important message to the broad range of rape victims that they are supported and to perpetrators that they will be held accountable,” said Justice Department Director of the Office on Violence Against Women Susan B. Carbon. “We are grateful for the dedicated work of all those involved in making and implementing the changes that reflect more accurately the devastating crime of rape.”

The longstanding, narrow definition of forcible rape, first established in 1927, is “the carnal knowledge of a female, forcibly and against her will.” It thus included only forcible male penile penetration of a female vagina and **excluded oral and anal penetration; rape of males; penetration of the vagina and anus with an object or body part other than the penis; rape of females by females; and non-forcible rape.** [my emphasis]

Kudos to DOJ for making this long overdue change. It’s an important step, both for the administration tracking that relies on it, and for victims who have before now been legally called something else.

But there’s one more thing that is also long overdue: guidelines and auditing techniques that will address the long-standing problem of prison rape—guidelines that were mandated by Congress in 2003. As I understand it, those guidelines will finally be implemented in the coming weeks (though it sounds like months, not weeks). But one outstanding issue pertains to whether

immigration deportation detainees will get the same protections that those actually convicted of crime will get.

DOJ has stalled on this issue—and watered down independently derived guidelines—to save money. And DHS has balked at adhering to the same rules as corrections facilities will implement.

But now that FBI has updated its definition of rape, isn't it time to treat the rape that happens in US government custody as the rape it is?