

PREVENTING AND ADDRESSING SEXUAL ABUSE IN TRIBAL DETENTION FACILITIES

THE IMPACT OF THE PRISON RAPE ELIMINATION ACT (PREA)

PARTICIPANT MANUAL



**A Force for Positive
CHANGE**

This project is supported by Award No. 2006-RP-BX-K001, awarded by the Bureau of Justice Assistance, Office of Justice Programs, U.S. Department of Justice. The Bureau of Justice Assistance is a component of the Office of Justice Programs, which also includes the Bureau of Justice Statistics, the National Institute of Justice, the Office of Juvenile Justice and Delinquency Prevention, the Office for Victims of Crime, and the Office of Sex Offender Sentencing, Monitoring, Apprehending, Registering, and Tracking. Points of view in this document are those of the author and do not necessarily represent the official policies of the U.S. Department of Justice.

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ACKNOWLEDGMENTS

This curriculum draws on the ideas and expertise of many individuals across the country who graciously committed their time and efforts to assist in its development. It would be impossible to acknowledge individually all who contributed. The American Probation and Parole Association (APPA) would like to express special appreciation, however, to the members of the Working Group on the Prison Rape Elimination Act in Indian Country, each of whom greatly contributed to the drafting and review of the curriculum, as well as other products supported through this project. Their willingness to share their experience and expertise is gratefully acknowledged and appreciated. The working group members and their organizational affiliation at the time of their service are listed below.

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Special thanks go to Elizabeth Layman (Price-Layman, Inc.), project consultant, who shared her expertise on the prevention and response to corrections-based sexual abuse as the author of this training curriculum. Her invaluable insights on this challenging topic and thoughtful approach to the creation of this training program are forever appreciated.

Others who provided key input into the development of this guide and related products include Frank Hecht, Corrections Administrator for the Tohono O'Odham Nation, and Darwin Long, Administrator of the Oglala Sioux Tribal Jail.

Andie Moss (The Moss Group), Brenda Smith and Jaime Yarussi (WCL/Project on Addressing Prison Rape), and Dee Halley (National Institute of Corrections) provided helpful comments, advice, and guidance throughout the project. Their leadership in addressing corrections-based sexual abuse issues has been integral to national efforts to safeguard America's correctional environments.

Project staff is also grateful for the guidance of APPA's Executive Director, Carl Wicklund, during the process of developing this document. In addition, APPA senior research associate Matthew DeMichele provided critical assistance in the initial research that formed the basis for this guide as well as in reviewing final products. Together, their contributions to this project have been invaluable.

Special thanks go to Gary Dennis and Julius Dupree of the Bureau of Justice Assistance for their role in steering the project, and for their assistance to project staff in the preparation and review of this document. Their input was vital to the development of this guide.

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Ms. Layman holds a Bachelor of Science in Sociology from Virginia Tech.

TABLE OF CONTENTS

MODULE 1: DEFINING THE ISSUE AND UNDERSTANDING THE PRISON RAPE ELIMINATION ACT (PREA).....	1
MODULE 2: DYNAMICS OF SEXUAL ABUSE, VIOLENCE AND MISCONDUCT IN CUSTODIAL FACILITIES.....	14
MODULE 3: INVESTIGATIONS AND LEGAL CONCERNS.....	24
MODULE 4: REVIEW OF PREA STANDARDS	35
MODULE 5: PUTTING INTO PRACTICE WHAT WE KNOW	40
RESOURCES.....	49
PRISON RAPE ELIMINATION ACT - THE FULL TEXT OF THE LAW	52
RELEVANT STATISTICS.....	66
THE DAILY DOZEN.....	68
IDENTIFY MY AGENCY CULTURE	69

MODULE I

DEFINING THE ISSUE AND UNDERSTANDING THE PRISON RAPE ELIMINATION ACT (PREA)

AFTER COMPLETING THIS MODULE, PARTICIPANTS WILL BE ABLE TO:

- Describe The Prison Rape Elimination Act (PREA) – content and purpose of the law;
- Define prohibited behaviors - for employees, inmates, and others;
- List benefits of PREA - to the agency, employees, and public safety; and
- Discuss the myths and realities of the issue.



CLASS EXERCISE:

What Do You Know? QUIZ

What is PREA?

The Prison Rape Elimination Act (PREA) was passed by Congress and signed into law by President George W. Bush in 2003.

What is the purpose and intent of PREA?

The main purposes of PREA are to:

- Establish zero tolerance for sexual assault, rape, and sexual misconduct in correctional systems, including jails, prisons, juvenile facilities, inmate transport, and lock-ups.
- Develop national standards of accountability and compliance
- Collect data on the incidence of inmate-on-inmate sexual violence, and staff-on-inmate sexual misconduct.
- Increase accountability for officials who fail to detect, prevent, reduce and punish prison rape.

To whom does the law apply?

In the law, the term “prison” applies to all federal, state, local and private prisons, jails, police lock-ups, temporary holding cells, juvenile facilities, and community corrections facilities such as half-way houses and residential facilities.

Why is there a new law now?

As far back as 1980, with the passage of the Civil Rights Act of Institutionalized Persons, abusive conditions of confinement have become a major issue. National attention was raised even higher by a number of key court cases that brought to light the widespread abuse of prisoners, mainly women, in our prisons and jails. Professional corrections associations passed resolutions that expressed zero tolerance for sexual abuse of prisoners, while advocacy and independent research groups began to collect and publish statistics and details of the scope of this issue. In July 2002, Congress began holding hearings concerning an effort to reduce prisoner rape, and by September 4, 2003, Congress unanimously passed The Prison Rape Elimination Act.

Keep in mind that we have ALWAYS had the moral and ethical responsibility to protect those in our care, custody and control. This includes the protection against sexual abuse and violence. Even though PREA the law is new, it only emphasizes our responsibilities in this area.

National Standards - why do we need them?

As Congress reviewed more than 20 years of reports, court cases, and available information they discovered:

1. inconsistencies in how agencies responded to allegations
2. lack of preventive measures
3. the need for strong policies, procedures and practices

This led to a mandate in PREA the law to develop a set of national standards that would support the elimination, detection and prevention of these acts in all custodial facilities across the United States.

How do they affect my agency?

PREA does not carry any kind of Federal criminal penalty for failure to comply with the standards. The impact on agencies that do not comply includes:

- Loss of 5% of Federal funding during any year of non-compliance
- Increased civil liability

How do these standards impact Tribal Detention Facilities?

There are legal and jurisdictional questions that are still being considered by the U.S. Attorney General. However, the Indian Civil Rights Act does have an impact on the general application of rights for someone in custody in Tribal Detention. These include the right to be free from cruel and unusual punishment, which applies to the right to be free from unwanted sexual abuse and violence, even while in custody.

How do they impact my job?

Agencies that work toward compliance with National Standards will most likely review and revise existing policies and procedures, which could result in changes that might impact daily operations. In addition, agencies will be reporting data on each allegation that is covered under PREA.



CLASS EXERCISE:

“My Words, Your Words” - are we all on the same page?

Since data reporting will be required under PREA, it is important that agencies are prepared. That means that we need to use the same definitions of prohibited and reportable behaviors. Once the National Standards are issued and the data reporting process begins, there will be specific guidelines for defining behaviors. There are however, a number of sources to consider when each agency includes definitions in their policies and procedures. These include:

- The Bureau of Justice Statistics
- PREA Standards – Glossary of Terms
- Tribal Law
- State Law

We have included in an appendix the definitions used by BJS and the PREA Glossary. It is recommended that agencies also consider the definitions of terms used in each tribe's laws and state's laws.



CLASS DISCUSSION:

How do YOU define sexual abuse, sexual violence and sexual misconduct?

In your own words, what is sexual abuse?
Be specific.

How would you define sexual harassment?
Be specific.

How would you define staff sexual misconduct with inmates?

Can you give examples?



CLASS EXERCISE:

Why do I care about this issue? What are the benefits?

In summary, the benefits of creating a custodial environment free from sexual abuse, sexual violence and sexual misconduct, include at least the following:

- Creates a *safer environment* for employees and inmates;
- Creates a *high level of professionalism* among employees;
- Protects the *safety and security* of the facility;
- Preserves *integrity and respect* of corrections professionals;
- Reduces *embarrassment* for families and friends;
- Reduces *liability* exposure to lawsuits;
- Preserves *public safety* (reducing the number of inmates who have been sexually assaulted reduces the incidence of PTSD and potential violence)
- Preserves *public health* (reduces incidence of sexually transmitted diseases)

MYTHS AND REALITIES

There are many assumptions about sexual abuse and violence in prisons and jails. These inaccurate assumptions undermine an agency's ability to protect inmates in their custody, to provide a safe and professional work environment for staff, and therefore increase their liability.

MYTH #1

We have no reports of this kind of activity in our facility, so we don't have this problem.

REALITY

Virtually no public or private institution has escaped this problem – churches, schools, the military, Congress, even our families. If an agency has no reports of these types of allegations, it means one thing – that there are no reports. It does NOT mean that this behavior is not taking place. It only means that there are significant barriers for both employees and inmates when it comes to reporting.

MYTH # 2

Our jail is very small, so this kind of activity does not occur.

REALITY

Small jails are certainly more isolated. At one time, those in jails in isolated areas were from the local community and perhaps less likely to be involved in this activity. However, today, jail population is comprised of persons from areas outside of the local community. In fact, many persons in a local jail may have been incarcerated elsewhere, such as state prisons or larger facilities in another tribal area. These persons bring with them behaviors learned in other places. It is much more likely in this day of transience for inmates to be influenced by outside events and experiences. They have more opportunity to have been victimized, or to learn predatory behavior. In addition, current statistics have shown that it is the increase of mental health problems among inmates that is one of the strongest risk factors for sexual abuse – both as a victim and a predator.

MYTH #3

Inmates consent to these relationships with staff.

REALITY

The courts have made it clear – there is no such thing as “consensual sex” with staff in a custodial environment. All 50 states have laws making staff sexual misconduct with inmates a felony punishable by prison terms. No state has allowed consent as a defense to these acts with staff. The basic principles of the imbalance of power place the responsibility for refraining from this behavior squarely on the shoulders of those who have authority over the custody of inmates.

MYTH # 4

Inmates are inmates, and they will act like inmates no matter what.

REALITY

Inmates are human beings, and have human nature just like everyone else. They may display behavior in response to their incarceration that is not typical of what goes on in the free world. However, they do not deserve to be abused or victimized. And, they do not have the right to be predators and victimizers just because they are incarcerated. Those responsible for inmate custody are just as responsible for inmate care and safety. It is the responsibility of the custodial agency and its employees to be diligent and dedicated about preventing abuses among inmates. It is critical to provide sufficient supervision, careful observation, safe facilities, and information and education to both staff and inmates, that will protect them from abuse.

MYTH # 5

Employees are very clear about their professional boundaries.

REALITY

Research has shown that one person’s definition of professional boundaries can be completely different than another’s. There is a clear gap between what employees understand about their professional boundaries, and what management expects. Many employees are unclear about the

proper way to respond to situations involving inmates, even when it comes to simple every day conversations. It is imperative that training cover this area on an ongoing basis, so that employees develop the interpersonal skills necessary to handle the challenging inmate population.

MYTH # 6

It is the rookie employee who is most likely to get involved with misconduct.

REALITY

Statistics have shown that is the experienced employee, who has many years on the job, who is most likely to be involved in misconduct. These employees have a false sense of confidence about handling situations with inmates, and have become comfortable in their jobs. The conduct is often unchallenged by peers and supervisors.

MYTH # 7

The real victims of incidents of staff sexual misconduct are the employees who are manipulated by the inmates.

REALITY

Inmate manipulation is a reality. In most cases, finding ways to manipulate their situation has become a routine for inmates. The fact is, it not the action of the inmate that carries consequences – it the response by the employee that determines whether the manipulation is successful or not. It is our professional responsibility to respond in such a way that we do not succumb to attempts at manipulation. If we follow policy and procedure, if we know the rules, if we understand and maintain our professional boundaries, we cannot be manipulated.

MYTH # 8

Activities between inmates, including some unwanted sexual behavior, are part of what happens normally in jails. Inmates should expect this to happen.

REALITY

Being victims of abuse and unwanted sexual behavior is NOT part of the sentence of an inmate. It is unfortunate that this behavior does occur, but it is not ethically or morally right. Inmates have a right to expect to be free from abuse and to be housed in a safe and secure environment while in our custody. We have that moral and ethical responsibility to not only protect inmates in our custody, but to also inform them of their rights to be free from abuse.

SUMMARY OF MODULE I

- The Prison Rape Elimination Act (PREA) was passed by Congress and signed by the President in 2003.
- The law, which does not carry a criminal penalty, but can have an impact on Federal funding and civil liability, is intended to address the problem of sexual abuse in prisons, jails, and all other custodial facilities.
- PREA also created a set of national standards of performance and response that is meant to guide all those covered by the law as they work to eliminate sexual abuse in their facilities.
- PREA also has created a mechanism that requires annual reporting to the Bureau of Justice Statistics of details on all allegations of sexual abuse that occur.
- PREA benefits everyone – employees have a safer workplace; the agency enhances their professional reputation; the inmates are less hostile due to a safer environment; there is better mental health stability when victimization is not part of the environment; the spread of sexually transmitted diseases is reduced; the community bears less expense for medical and mental health interventions for victims, and the fact that inmates have fewer sexually transmitted diseases when released.
- PREA provides an excellent guideline for agencies to achieve the goal of reduced sexual abuse and violence in facilities, and strengthens the mission to provide a safe and secure environment for employees and inmates.

APPENDIX A

HOW SEXUAL ABUSE IS DEFINED

The definition of “rape” under the Prison Rape Elimination Act of 2003 was composed by disaggregating sexual violence into two categories of inmate-on-inmate [arrestee-on-arrestee] sexual acts, and two categories of staff sexual misconduct. When annual data-reporting becomes required (after the signing of the PREA standards by the U.S. Attorney General), the official definitions to be used for reporting purposes will be outlined in the final standards.

Included here are two sets of definitions that are detailed, clear and concise. Agencies will be advised which set of definitions will become the official set for data-reporting.

The following definitions are utilized by the U.S. Department of Justice, Bureau of Justice Statistics, in their current gathering of statistics.

Sexual Victimization

All types of sexual activity, e.g., oral, anal or vaginal penetration; hand jobs; touching of the inmate’s buttocks, thighs, penis, breasts or vagina in a sexual way; abusive sexual contacts; and, both willing and unwilling sexual activity with staff.

Nonconsensual sexual acts

Unwanted contacts with another inmate or any contacts with staff that involved oral, anal, vaginal penetration, hand jobs, and other sexual acts.

Abusive sexual contacts

Unwanted contacts with another inmate or any contacts with staff that involved touching of the inmate’s buttocks, thigh, penis, breasts, or vagina in a sexual way.

Unwilling activity

Incidents of unwanted sexual contacts with another inmate or staff.

Willing activity

Incidents of willing activity with staff. These contacts are characterized by the reporting of inmates as willing; however, all sexual contacts between staff and inmates are legally nonconsensual.

Staff sexual misconduct

Includes all incidents of willing and unwilling sexual contact with facility staff and all

incidents of sexual activity that involved oral, anal, vaginal penetration, hand jobs, blow jobs, and other sexual acts with facility staff.

The following definitions are contained in the Definitions of § 115.6 of the U.S Attorney General’s proposed rule on “National Standards to Prevent, Detect, and Respond to Prison Rape.”

Sexual abuse includes:

1. Sexual abuse by another inmate, detainee, or resident, and
2. Sexual abuse of an inmate by a staff member, contractor or volunteer.

Sexual abuse by another inmate, detainee or resident includes any of the following acts, if the victim does not consent, is coerced into such act by overt or implied threats of violence, or is unable to consent or refuse:

1. Contact between the penis and the vulva or the penis and the anus, including penetration, however slight;
2. Contact between the mouth and the penis, vulva, or anus;
3. Penetration of the anal or genital opening of another person, however slight, by a hand, finger, object or other instrument; and
4. Any other intentional touching, either directly or through the clothing, of the genitalia, anus, groin, breast, inner thigh, or the buttocks of another person, excluding incidents in which the intent of the sexual contact is solely to harm or debilitate rather than to sexually exploit.

Sexual abuse by a staff member, contractor or volunteer includes

1. Sexual touching by a staff member, contract or volunteer;
2. Any attempted, threatened, or requested sexual touching by a staff member, contractor or volunteer;
3. Indecent exposure by a staff member, contractor or volunteer;
4. Voyeurism by a staff member, contractor or volunteer.

Sexual touching by a staff member, contractor or volunteer includes any of the following acts with or without consent;

1. Contact between the penis and the vulva or the penis and the anus, including penetration, however slight;
2. Contact between the mouth and the penis, vulva or anus;
3. Penetration of the anal or genital opening of another person, however slight, by a hand, finger, object, or other instrument; and
4. Any other intentional touching, either directly or through the clothing, of the genitalia, anus, groin, breast, inner thigh, or the buttocks of another person, excluding incidents in which the intent to abuse, arouse, or gratify sexual desire.

Indecent exposure by a staff member, contractor or volunteer means the display by a staff member, contractor, or volunteer of his or her uncovered genitalia, buttocks, or breast in the presence of an inmate.

Sexual harassment includes

1. Repeated and unwelcome sexual advances, requests for sexual favors, or verbal comments, gestures, or actions of a derogatory or offensive sexual nature by one inmate, detainee, or resident directed toward another; and
2. Repeated verbal comments or gestures of a sexual nature to an inmate, detainee, or resident by a staff member, contractor, or volunteer, including demeaning references to gender, sexually suggestive or derogatory comments about body or clothing, or obscene language or gestures.

Voyeurism by a staff member, contractor, or volunteer

Voyeurism by a staff member, contractor, or volunteer means an invasion of an inmate's privacy by staff for reasons unrelated to official duties, such as peering at an inmate who is using a toilet in his or her cell to perform bodily functions; requiring an inmate to expose his or her buttocks, genitals or breasts; or taking images of all or part of an inmate's naked body or of an inmate performing bodily functions, and distributing or publishing them.

MODULE 2

DYNAMICS OF SEXUAL ABUSE, VIOLENCE AND MISCONDUCT IN CUSTODIAL FACILITIES

AFTER COMPLETING THIS MODULE, PARTICIPANTS WILL BE ABLE TO:

- Describe why people get involved;
- Identify the risk factors for being a victim and/or a predator;
- Identify the impact of victimization on inmates and staff;
- Identify red flags that indicate there might be a problem;
- Demonstrate skills to protect themselves from being manipulated;
- Discuss the impact of agency culture on behavior; and
- Describe how ethics and professional boundaries protect staff.

What do we know about inmates that helps explain the tendency to this behavior?

In reality, most staff and inmates will never become involved in sexual abuse, violence harassment or misconduct. However, there is a certain faction of those we work with and those in our custody who will. So what is the difference between those who will and those who will not get involved? Certain characteristics tend to indicate risk factors for both predatory behavior and being a victim.

What does a victim look like?

They look just like everyone else. But there are certain factors that create a higher risk for victimization. The major factors include:

Mental Health Issues:

- More than half of all inmates in prisons and jails have a mental health problem (64% for jails).¹
- There are more mentally ill persons in prisons and jails than in hospitals.²

History of Victimization Prior to Incarceration:

- Inmates who reported prior sexual victimization were nearly 6 times more likely to be victimized or display predatory behavior while in custody.³

Sexual Orientation:

- Non-heterosexual inmates were at least twice as likely to be victimized as heterosexual.⁴

Tribal Detention and Related Statistics:

- While American Indians and Alaska Natives accounted for 1% of the total population of the United States, they account for 1.2% of the incarcerated population.⁵
- About 40% of inmates confined in Tribal Jails are incarcerated for violent offenses.⁶
- The chance of being a victim of violent crime in Indian Country is more than double the national average.⁷
- More than 1 in 3 American Indian and Alaska Native women will be raped during their lifetime.⁸

¹ U.S. Department of Justice, Bureau of Justice Statistics, "Mental Health Problems of Prison and Jail Inmates". Doris James. September 2006. NCJ 213600

² Torrey, E. Fuller M.D. et al, "More Mentally Ill Persons in Jails and Prisons Than Hospitals: A Survey of States", National Sheriff's Association and the Treatment Advocacy Center. May 2010

³ U.S. Department of Justice, Bureau of Justice Statistics, "Sexual Victimization in Prisons and Jails Reported by Inmates, 2008-09", by Allen J. Beck, PhD and Paige M. Harrison. August 2010, NCJ 231169

⁴ Ibid.

⁵ U.S. Department of Justice, Bureau of Justice Statistics Bulletin. "Jails in Indian Country 2008". By Todd D. Minton. December 2009, NCJ 228271.

⁶ Ibid.

⁷ U.S. Department of Justice, Bureau of Justice Statistics. "American Indians and Crime" by Lawrence Greenfield. February 1999. NCJ 173386.

⁸ Ibid.

The Cycle of Violence – victims and victimizers

Inmates in our custody come to us with a list of emotional and mental health issues that make some significantly more vulnerable to being victims of sexual abuse and violence, and it makes some more likely to display predatory behavior while in custody. By understanding the characteristics of those in custody, we have knowledge that will help us know how to manage and deal with them. We can better protect them and ourselves from inappropriate, harmful and dangerous activity.

Those with a history of mental illness or traumatic events such as abuse:

- Are typically less equipped to handle stressful situations;
- Have a pessimistic and hopeless view of the world;
- Are more at risk for further victimization;
- Are less able to distinguish between healthy relationships and exploitation;
- Suffer from Post-Traumatic Stress Disorder (PTSD) which can create for them a false sense of reality and time;
- Tend to believe that being a victim is their 'lot' in life;
- May lie about their abusers to protect them;¹⁰
- May use the unhealthy methods they have learned to try to manage their situation – such as manipulating those around them, and using sexual favors, as a way to get what they want.

“A very strong bond is created between victim and victimizer – so strong that... abused children and wives have lied about their injuries to protect their abusers.”

Dutton, D., and S.L.Painter. 1981.

The psychological effects of violence can be demonstrated in ways that we may see as manipulation or hostility, depression and submission. It is critical for corrections staff to understand how these effects appear in the corrections setting.

⁹ Dutton, D., and S.L. Painter, 1981. Traumatic Bonding: The development of emotional attachments in battered women and other relationships of intermittent abuse. *Victimology* 6:139-55.

¹⁰ Dutton, D., and S.L. Painter, 1981. Traumatic Bonding: The development of emotional attachments in battered women and other relationships of intermittent abuse. *Victimology* 6:139-55.

Red Flags – Identifying Potential Problems

So what do we do with all of this information about inmates, victims and predators? We observe and act. It is critical for us to become aware of what is going on around us, if we are to protect ourselves and others.

How many of us have heard about someone who got in trouble for something at work, and said to ourselves, “I knew something was going on,” or “I had a feeling something wasn’t right”?

At work, many of us tend not to trust our instincts. There are a lot of reasons for this: perhaps we don’t want to get someone in trouble if we aren’t certain about what we saw; perhaps we don’t want to make waves; or perhaps we simply don’t recognize the meaning of small observations we have.

Our ‘sixth sense’ about things is often valid. This exercise is intended to help us be comfortable with observing what is going on around us, and recognizing when there might be a potential problem.



CLASS EXERCISE:

Red Flags: Knowing and Understanding What We Observe

We do not want to be considered a tattletale, and certainly do not want to accuse someone of something that may not be true. But, by responding appropriately to things we observe, we could actually be saving the career and reputation of a co-worker, or saving someone from serious physical harm. If we allow the small infractions or suspicions to go unnoticed and unattended to, then we share the responsibility when things escalate to a dangerous and unsafe place.

Our ultimate goal is to maintain a professional, secure workplace, where our co-workers and inmates are safe from harm. To achieve this goal, we must be willing to act professionally ourselves. This means that we expect the same level of professional behavior and respect from others that we expect from ourselves.

There are many reasons that staff and inmates do not report their suspicions and allegations. Let’s examine some of these reasons.

What do I do when I see or suspect inappropriate behaviors?



CLASS EXERCISE:

Now What Do I Do With This Information?

So, now that we understand what we observe, now that we are aware of what to look for, what do we do when we see these 'red flags'? How would we respond? Do we know who to go to, who to talk to about this?



CLASS EXERCISE:

Code of Silence –Why Inmates and Staff Don't Report

I know what I'm looking at now, so how do I protect myself from manipulative inmates?

Manipulative inmates are a fact of life in our workplaces. We hear stories over and over about inmates who have successfully manipulated someone into doing something for them. With time on their hands, inmates can become keenly observant of staff and other inmates. Since they cannot control their situation as they would when they are not incarcerated, they can become very creative and determined to find a way to get something they want. Unfortunately, this is a relatively normal response to incarceration. It is part of the “fight or flight” response that is present in all of us. Since they cannot extricate themselves from the situation, they may choose to fight in the form of non-physical actions – or, manipulation.

What should we do to protect ourselves from these situations? Our best defense?

- Know the rules and follow them
- Recognize attempts at manipulation
- Maintain a high level of professionalism and clear boundaries at all times.

Agency Culture – how we do business and how it affects behaviors

What is agency culture? It is how we do business. It is the total of the attitudes, behaviors, beliefs, traditions and practices of present and past employees. It includes the ethics and professionalism of staff and leadership, both past and present. Agency culture determines what is acceptable and unacceptable in the workplace, regardless of what the written policies and procedures say.

For example:

- If there is mutual respect between line employees and administration, employees feel appreciated and heard and will be more inclined to follow the rules and treat each other and inmates with respect.
- If leadership walks the walk, not just talks the talk, employees will be more committed to the mission of the agency.
- If employees are permitted to talk disrespectfully to each other with no consequences, then inmates will observe this and be disrespectful to staff and other inmates.
- If leadership does not expect employees to behave with dignity and integrity while off-duty, then behavior at work will also lack dignity and integrity.

Agency culture has a major impact on sexual violence and sexual misconduct in the workplace.

- Where respect is lacking in how to talk to each other and treat other, inappropriate behavior becomes an acceptable aspect of everyday life;
- Where investigations into allegations of misconduct and abuse are incompetent, then the lack of trust in the process creates a barrier to reporting;
- Where inmates are considered to be unworthy of human rights and protections, abuse will occur;
- Where there is a lack of training and dialogue about the issue of abuse, abuse will occur without consequences.

While changing the culture of an agency is a long and tough process, it can be achieved with proper leadership and employee expectations. Your handouts contain a checklist and scorecard to assess the culture in your own agency.

Ethics and Ethical Decision-Making

What are Ethics?

**“I would prefer
to fail with
honor than to
win by cheating.”**

--Sophocles

According to the American Heritage Dictionary, ethics is/are:

- Principles of right or good conduct;
- A system of moral principles or values;
- The rules or standards governing conduct of a profession.

Sounds simple and basic. But it's not. Clearly what one person thinks is ethical, another may not. Through experience we know that things are not always divided along clear lines of right and wrong. There are a lot of gray areas.

Why are ethics something we care about, something important? Because:

- Most of us want to naturally do the right thing.
- Ethical behavior is good for business.
- Behaving unethically has dire consequences.
- Without basic ethics the world and our lives would be chaotic and dangerous.

In our jobs, especially in corrections, we are faced with a barrage of decisions every day. Some are easy, because we know the rules of the agency. Some are not easy, and require us to make an evaluation or judgment of the situation before we respond.

Are there basic steps to making ethical decisions?¹¹ Yes. See the following:

1. Define the problem or issue you are facing.
2. Get the information you need to make a decision.
3. Consider the pros and cons.
4. Consider if your decision supports the agency mission.
5. Consider the agency rules and regulations.
6. Consider the consequences of your choices.
7. Remember that once you act, you must live with your decision.

¹¹ Bly, Robert W. *Doing the Right Thing: Ethics in the Workplace*. American Media Publishing, West Des Moines, IA. 1999.

There are a few questions we can ask ourselves about our decisions, to help us determine what is right.

- If I asked permission to do this, would I get it?
- Is what I choose to do legal?
- What would the co-workers I trust and respect say?
- What would a supervisor I trust and admire say?
- Does it fit what I consider to be fundamental beliefs about morality, and right and wrong?
- If I had to explain it to my grandmother, my parents, and my siblings, would they approve?

In a recent class of jail officers, one participant indicated that when an inmate uses foul language toward her, she just gives it right back. Another classmate said to her, “Well, you might think that was a good decision, but consider this...would you have been proud of yourself if your grandmother had been listening?”



CLASS EXERCISE:

Is it Ethical? Case studies in ethical decision making.

SUMMARY OF MODULE 2

- There are certain characteristics of inmates that make them more vulnerable to victimization, such as mental health issues, a history of prior abuse, alcohol and drug abuse.
- Corrections professional have the ethical and moral responsibility to protect those in their custody, care and control, from being abused.
- There are a variety of reasons that inmates and staff do not report allegations, such as fear of retaliation, breaking the code of silence, and distrust of the investigative process.
- Red flags – things we observe – may indicate that there is some sort of inappropriate relationship or activity occurring. It is our responsibility to be aware of these and respond accordingly.
- Inmates will try to manipulate those around them. Corrections professionals cannot prevent inmates from trying, but the response to these attempts determines whether inmates are successful or not.
- Agency culture impacts the frequency and likelihood that sexual abuse – between inmates and between staff and inmates – occurs in our facilities.
- We can practice the steps for making ethical decisions in our jobs on a daily basis.

MODULE 3

INVESTIGATIONS AND LEGAL CONCERNS

AFTER COMPLETING THIS MODULE, PARTICIPANTS WILL BE ABLE TO:

- Describe the unique nature of investigations into sexual abuse, violence and misconduct;
- List the responsibilities of being a first responder to these situations;
- Identify the rights and responsibilities of those under investigation; and
- Discuss the legal concerns and consequences of involvement in prohibited behaviors.

Investigations are critical to prevention

Investigating allegations of all types of sexual abuse in prisons and jails is one of the most critical aspects of effectively addressing these incidents. Without competent, fair, timely, and consistent investigations by competent, specially trained investigators, incidents of this nature will continue unchecked. Finding the truth to these allegations, with fair and consistent sanctions, has a major impact on the prevention of sexual abuse.

The unique nature of investigations into allegations of sexual abuse, violence & misconduct

There is a big difference among the different types of investigations that may occur in a correctional setting. Dealing with a victim who has just been sexually assaulted is not the same as finding out who brought drugs into the facility.

*The Need for Special Investigators:
The issues mentioned here, which are just a short list of unique concerns about these investigations, require specific skills and competency from those conducting them. Assigning an employee without this special training to these types of investigations is unfair to that employee, to the person accused, to the victim, and the entire agency. Unless these investigations are completed in a competent manner by those who are trained to handle them, the only thing we will accomplish is to further any distrust of the process, and assure that these behaviors will continue unchecked*

The biggest differences in investigating allegations of a sexual and/or violent nature include:

- The mental and physical state of the victim;
- Dealing with a sensitive and personal issue;
- The issues of safety for victims and suspects;
- Psychological influences on victims responses;
- Embarrassment of those involved;
- The danger and threat of retaliation to those who report allegations;
- The seriousness of charges against employees who are accused;
- The complicated process of collecting physical evidence;
- The amount of special training needed to conduct interviews and collect evidence;
- The need for medical and mental health intervention.

First Responders – What We Need to Do

Everyone working in a corrections setting will be the first responder to situations of this nature. So what do we need to do as First Responders?

1. Render Aid. First and foremost always is to render aid to the victim. This includes their physical condition AND their mental state. Physical injuries after a sexual assault may not always be as evident as other kinds of assault. We must be able to ask gently if the victim is injured in areas not immediately visible. Victims may also be in a state of shock or trauma. It is critical that they are provided with the best available mental health intervention as soon as possible. We previously talked about the effect that being a victim of prior abuse could have in these situations. So, we must remember that this could affect the way that victims answer our questions, the type of information they give, and the way that respond to additional abuse.

2. Preserve Safety and Security. If inmates or staff need to moved immediately to preserve the safety and security of staff, inmates and the facility, do so as soon as possible and according to standard policy and procedure.

3. Preserve Evidence. If there is any possibility that physical evidence might be present, either on the person of the victim or in the area of the crime, we must make sure that no one touches anything, that no one has access to the area unless it's an investigator or someone who SHOULD be there, and that the victim is instructed not to wash or change clothes if there is any possibility that physical evidence is fresh.

Preserving evidence also means protecting statements that might be needed from victims and witnesses. It is only the person assigned to the investigation who should be questioning victims and witnesses. If first responders start asking unnecessary questions – anything that is not necessary to preserve physical evidence, render aid, or preserve the immediate safety and security of the victim, staff and facility – critical information can be contaminated and will compromise the integrity of the investigation.

Most incidents of this nature turn out to be unprosecuted or unsanctioned because of a lack of evidence or the contamination and mishandling of evidence that did exist.

The same level of competence, special skill and training, and thoroughness of investigations into sexual assaults that we expect when our next door neighbor, or family member are victims in the free world, should be applied to those victimized while incarcerated.

First Responders – What We Need to Do

4. **Make Appropriate Notifications.** Immediately notify a supervisor or the person designated by policy of what has occurred. Be sure that an investigator will be notified.
5. **Assist investigators and supervisors.** When supervisors and investigators arrive, be sure to pass along any kind of information that you have. Even things that might not seem significant at the time could turn out to be crucial. Try not to interfere or interrupt, but be sure it is known that you are there to help if needed.
6. **Document everything you have heard and seen.** No one can remember every single detail of an event. It is important to take notes and document everything you observed, heard or did as the first responder.
7. **Be observant.** Keep a watchful eye over everyone and everything immediately following an incident. You might observe something significant that could assist with the investigation; even it is hours or days later.
8. **Be prepared.** Know policy and procedure. Stay informed about what is going on around you at all times. Do your own reading and research into what it means to be a first responder.



CLASS EXERCISE:

What Do I Do Now? Real Events for First Responders

Uh-oh – I’m under investigation! What’s going to happen now?

If we are in this profession long enough, there will only be two categories of employees: those who have been the subject of an internal investigation, and those who eventually WILL be the subject of an internal investigation. It is just the nature of this job that somewhere along the line, someone will file a complaint against us. However, statistics show that 90% of all allegations are found to be untrue. So why is it that being the subject of an investigation is the most stressful and terrifying thing that will probably happen to us in our jobs?

Because we have no idea what the investigation entails!

We have entered a world of the unknown. We don’t know what we are supposed to do, what we have the right to do, how long the investigation will take, what happens to us during the investigation, who has access to information, and so on, and so on. It is all a big mystery. But it should NOT be a mystery. Leadership has a responsibility to make sure that employees are informed about the investigative process. This does not mean sharing confidential information about specific investigations. It means simply knowing what the steps are in the process of an investigation, what your rights and protections are, what the agency expectations are, and what will happen at the end of the investigation.

“The number one reason that people are disciplined if they are subject of an internal investigation is NOT because they are guilty of the allegation. It’s because they LIED to investigators. And generally, they lie because they have no idea how the investigative process works. Basically, they are just terrified of the unknown”

Lt. Jim Layman, Broward Sheriff’s Office,
Internal Affairs Investigator (Ret.)



CLASS EXERCISE:

The Path of an Investigation - Do I Know What Happens?

What are my rights and protections if I am under investigation?

Administrative Investigations

Notification: At a certain point, you must be notified that you are the subject of an investigation. There may be a period of time where allegations are ‘checked-out’ on a preliminary level to determine if there is enough to open an investigation. But once an investigation is formally opened, subjects have a right to know. Best practice is to notify subjects in writing.

Questioning by investigators: During questioning by investigators, you have certain rights guaranteed under the Indian Civil Rights Act. These include the right to due process of law, and the right to be free from making incriminating statements that can be used to convict you in a court of law.

Two significant U.S. Supreme Court Decisions interpreted the U.S. Constitution Bill of Rights, Fifth Amendment. The Indian Civil Rights Act extended the same protection to Native Americans.

- *Miranda v. Arizona*, 384 U.S. 436(1966). This case provides a guarantee to a right to counsel, and the right to NOT make incriminating statements without legal representation. Miranda applies when an investigation involves allegations that can lead to criminal prosecution.
- *Garrity v. New Jersey*, 385 U.S. 493(1967). This case established that an employee cannot be compelled to make an incriminating statement or action that will be used in a criminal prosecution.

This means that if you are forced to make a statement to investigators under threat of being fired for failure to make a statement, anything you say cannot be used in a criminal prosecution. It can be used in an administrative action for violating policy and procedure. An employer does have the right to fire an employee if they refuse to make a statement, or if they knowingly make an untrue statement.

Time Frames: Most agencies include time frames for completing internal investigations. If your agency has such a time frame, you have the right to know what that frame is, and request information if that time frame passes without the investigation being complete. There are circumstances which give an agency the right to extend the time frames for completing investigations, and you have a right to know what those circumstances may be.

Due Process: You have the right to be heard in your own defense if you are subject of an investigation. Agencies will differ on the issue of whether you can have legal representation during administrative hearings. If employees are under a collective bargaining agreement, this will also specify rights during investigations and administrative proceedings.

Outcome: You have the right to be notified in writing of the findings of the completed investigation. The right to appeal an outcome will vary depending on the agency.

Criminal Investigations

Criminal investigations involving allegations against employees in the workplace follow the same criminal procedure and administrative rules that apply for all criminal cases in the specific jurisdiction.

Maintain Confidentiality: At all times and for all employees and inmates, confidentiality is a top priority. This means that no one should be discussing the allegation under any circumstance, EXCEPT if and when being questioned by investigators. Most agencies have policy that requires employees to refrain from this kind of discussion.

Stop Talking About It! Yes, it is tempting to talk about what is going on. But it can be very detrimental to the morale of the agency, and damaging to the person(s) under investigation. If YOU were under investigation, would YOU want everybody talking about it?

Cooperate. We also have a responsibility to cooperate with investigators if we are questioned during the investigation. The ultimate goal is to get to the truth, and exonerate those who are not guilty. Cooperation is key to achieving this goal.

Inmate Rights and Protections

The U.S. Constitution provides certain protections for inmates in the Bill of Rights. These include:

- 8th Amendment against cruel and unusual punishment
- 4th Amendment guarantees certain privacy rights, although different in a custodial setting
- 14th Amendment provides a right to due process of law – meaning that action against a person cannot legally take place without a proper hearing

These do not apply to Indians in Indian country, but the Indian Civil Rights Act of 1968 did create certain protections similar to the U.S. Constitution.

Indian Civil Rights Act (ICRA) - Limitations

The ICRA of 1968 prohibits Indian tribal governments from enacting or enforcing laws that violate certain individual rights. While it is similar to the U.S. Constitution Bill of Rights, there are some limitations to the ICRA. In the case of an inmate being sexually abused or harassed while in custody, there can be no monetary damages against the tribal government. Tribal courts may choose a defense of sovereign immunity which prevents a government from being sued without its consent. However, it is possible to name a specific tribal official as a defendant, in which case sovereign immunity would not apply.

Legal Concerns and Consequences

PREA sets a national standard for how to do business.

Non-compliance with PREA standards carries more than just a potential financial penalty. No agency wants to be a defendant in a civil lawsuit, especially one involving sexual abuse, violence or misconduct. Perhaps the most significant consequence for failing to comply with standards, or at least working to comply with standards, is increased civil liability. National PREA standards set the bar for how an agency can best prevent and respond to sexual abuse in corrections facilities. Undoubtedly, the courts across the country will respond accordingly when deciding on culpability and liability of an agency that has made no attempt to comply.

Criminal Prosecution for Employees and Inmates

For Employees: All 50 states and the District of Columbia has laws that make it criminal for corrections, law enforcement, and many other type of employees to have a sexual relationship with inmates. Only a handful of states' laws even allow for anything less than a felony for any form of sexual misconduct. In addition, employees are also subject to the laws that apply in the free world.

For Inmates: Laws that apply to sexual assault and sexual abuse in the free world, also apply to inmates.



CLASS DISCUSSION:

Real Cases, Real People!

Lessons Learned from real cases?

There are three major areas where agencies fail in their response to sexual abuse:

1. **TRAINING** - Poor or insufficient training for everyone – staff, inmates, volunteers, contractors, etc.
2. **INVESTIGATIONS** - Incompetent, incomplete, or unfair investigations
3. **POLICY & PROCEDURE** - Lack of specific and effective policy and procedures

How can we use these lessons to prevent sexual abuse in our facilities?

Legal Concerns and Consequences

TRAINING:

WHO should be trained? Everyone!

- All employees should receive extensive training.
- Contractors, vendors, volunteers and visitors should receive training on the agency zero tolerance policy, the definitions of sexual abuse, mandatory reporting, and consequences for involvement or not reporting.
- Inmates should receive training on their rights to be free from sexual abuse, the dynamics of sexual victimization, how to report, and protection from retaliation.

INVESTIGATIONS:

WHAT are the keys to competent investigations?

- Specially trained investigators
- Diligent supervision of investigations
- Consistent and fair sanctions
- Confidentiality
- Knowledge of the special nature of sexual investigations – they are very different from other investigations.

POLICY AND PROCEDURE:

What makes policy and procedure effective?

- Being specific to the issue
- Defining prohibited behavior
- Created with intent to protect and guide
- Everyone training on policy and procedure
- Clear expectations
- Clear disciplinary process
- Updated regularly

SUMMARY OF MODULE 3

- Competent, fair, timely and consistent investigations are critical to prevent and effectively respond to allegations of sexual abuse.
- Investigations into these types of allegations are unique – they require specially trained investigators, and special attention.
- First responders to these incidents have an extremely important role in effectively addressing sexual abuse.
- First responders need to know how to preserve evidence, and protect the integrity of the process.
- Most employees have no idea how investigations are completed, and thus distrust the process.
- Employees should know their rights and responsibilities if they are subject to investigation.
- The Indian Civil Rights Act provides certain protections for employees who are subject to investigation.
- Garrity ensures that employees compelled to make a statement to investigators at the risk of being fired, will not have their statements used against them in criminal proceedings.
- Miranda protects employees from making incriminating statements in criminal investigations without proper representation.
- PREA increases the level of civil liability for those who fail to protect those in custody from sexual abuse.
- We have learned some lessons over the years in dealing with this issue. The “Big Three” areas where agencies fail in meeting the goal to prevent and respond appropriately to sexual abuse are: Insufficient training; incompetent investigations; and lack of effective Policy and Procedure.

MODULE 4

REVIEW OF PREA STANDARDS

AFTER COMPLETING THIS MODULE, PARTICIPANTS WILL BE ABLE TO:

- List 2-3 PREA standards;
- Describe how the standards might affect current policies and procedures; and
- Discuss agency requirements for national data collection.

What are the National Standards developed under The Prison Rape Elimination Act?

There were 41 proposed standards developed by the National Prison Rape Elimination Commission (NPREC) during a 4 year process, and after public comment and revisions by the U.S. Attorney General.

These standards are intended to provide all agencies who hold persons in custody with a set of guidelines and best practices in their effort to eliminate and address sexual abuse, sexual violence, sexual harassment and sexual misconduct, both between inmate and inmate, and between staff and inmate. There is nothing new about our responsibility to protect those in our care, custody and control. We have always had this moral and ethical obligation. The standards are merely intended to help agencies across the country achieve a consistent level of competency and professionalism in dealing with this issue.

How were the standards developed?

The process included a series of hearings conducted throughout the country, with testimony provided from corrections, jails and law enforcement professionals, professional organizations researchers, subject matter experts, all levels of staff, victims, and victim advocates.

At the conclusion of the wealth of testimony and information gathered, the Commission developed a set of draft standards, which were presented to the U.S. Attorney General as required by the PREA law.

How will these standards affect our current policies and procedures?

Each agency can compare these standards to their current policies and procedures. If current policies and procedures address the issues specified in the standards, then the agency is in compliance. While this is NOT reinventing the wheel, there may need to be some tweaking of current policies and procedures. These standards are intended to assist agencies to achieve the goal of doing their best to address sexual abuse, violence, and misconduct.

What data collection will take place as a result of PREA standards?

PREA also includes the collection of data on incidents of sexual abuse, sexual violence and sexual misconduct in covered agencies. Congress recognized the lack of any standardized data on these incidents. As part of the PREA law, the Bureau of Justice Statistics, a division of the U.S. Department of Justice, will collect and maintain data from all covered agencies concerning allegations of this nature. Similar to the Uniform Crime Reporting to the FBI from law enforcement agencies, data reporting for PREA will help create a national base concerning these particular types of incidents.

What is happening with the draft standards now?

The U.S. Attorney General has been involved in year long process of seeking public comment on the draft standards, followed extensive work on potential revisions to the proposed standards. This includes a lengthy cost-impact study which delineates the actual cost to agencies as they work toward complying with standards. The U.S. Department of Justice proposed rule on “National Standards to Prevent, Detect, and Respond to Prison Rape,” was posted on February 3, 2011 for public comment.

What is happening with the draft standards now?

Once a period of public comment has ended in early 2011, it is anticipated that the U.S. Attorney General will approve and sign a final set of PREA standards in the fall of 2011.

What do the standards actually say?

The standards are divided into categories, as shown below. There are separate standards for adult prisons and jails, community corrections, juvenile facilities, and police lock-ups. While many of the standards are the same for each of the above-named entities, some are different. Copies of the entire set of standards can be obtained on the web at www.regulations.gov.

The Prison Rape Elimination Act (PREA) Standards are divided into the following categories.

- Prevention Planning (7 standards)
- Responsive Planning (3 standards)
- Training and Education (5 standards)
- Screening Inmates for Risk (3 standards)
- Reporting (4 standards)
- Official Response to Reports (6 standards)

- Investigations (3 standards)
- Discipline (2 standards)
- Medical and Mental Health Screening (3 standards)
- Data Collection and Review (4 standards)
- Audits of Compliance (1 standard)



CLASS DISCUSSION:

Selected standards presented for class discussion:

To instructor: below you will find a few of the standards with the exact wording of the proposed standard. As time and interest permits, cover as many of these as appropriate. The standard should appear on the powerpoint slide. Review each of the items in the assessment checklist with the class, and give them time to comment or ask questions. However, do not spend too much time in discussing things that you do not have an answer for! Until the standards are finalized in 2011, there will be questions that you cannot answer.

115.33 (TR3) Inmate education

TO INSTRUCTOR – FOR FURTHER CLASS DISCUSSION OF STANDARD 115.33 (TR-3):

This standard is very specific about the topics to be covered in an inmate orientation. This list was created after much research about what inmates need to know about their right to be free from sexual abuse while in custody. Many of these topics can be covered in an inmate brochure or added to the inmate handbook. It is most important that all inmates be informed of these topics. However, due to the sensitive nature of this topic, and the seriousness of these behaviors, handing out a brochure or handbook is not completely sufficient. There should be some kind of verbal acknowledgement from inmates that they understand these issues, their rights, and the methods by which they can safely report incidents.

115.41 (SCI) Screening for risk of victimization and abusiveness

Screening inmates for risk of being victimized or a victimizer is one of the most important standards, and a critical step to preventing sexual abuse. As soon as possible, after the initial booking process, jail personnel should be screening for the factors listed in the standard. These are sensitive issues, and questions posed to inmates should be done in a setting where others cannot listen-in to the answers and discussions. In some cases, medical personnel could be used to ask these questions when available.

Screening inmates for risk of being victimized or a victimizer is one of the most important standards, and a critical step to preventing sexual abuse. As soon as possible, after the initial booking process, jail personnel should be screening for the factors listed in the standard. These are sensitive issues, and questions posed to inmates should be done in a setting where others cannot listen-in to the answers and discussions. In some cases, medical personnel could be used to ask these questions when available.

MODULE 5

PUTTING INTO PRACTICE WHAT WE KNOW

AFTER COMPLETING THIS MODULE, PARTICIPANTS WILL BE ABLE TO:

- Demonstrate their understanding of the information presented during the first 4 modules;
- Complete a useful tool for actual use in their workplace; and
- Develop a plan of action.

Putting Into Practice What we Know

This module is all about YOU, the participants! You will all be working in groups to create usable products and tools that you can take with you back to your workplace. They can be used in training, for inmate orientation, at staff meetings and roll call.

You will have more confidence about what you learned during this training program, and have the chance to demonstrate that.

The instructor will provide additional guidance and helpful information when you have completed your presentations.

- BE CREATIVE.
- DON'T BE AFRAID TO USE APPROPRIATE STORIES TO GET YOUR POINTS ACROSS TO THE REST OF THE CLASS.
- WORK AS A TEAM !

On the following pages, you will find the specific task for each group. Good luck!



CLASS DISCUSSION:

Let's Practice!

GROUP ONE

What a lucky group, you are, group one! You have the toughest task of all - but perhaps the most important. We all know that without our leaders on board, it is very tough to make change.

You will be creating a 5 minute briefing for your tribal leadership concerning PREA and the responsibility to prevent and address sexual abuse in detention facilities. You have been asked the leadership to tell them about this issue.

So here's what you need to consider:

- **BENEFITS** – inform them how meeting the PREA standards will benefit the employees, the leaders and the tribe.
- **HOW THEY CAN ACHIEVE THE GOALS:** What is the role of the leaders in this effort? What specifically can they do?
- **SUPPORTING THE EMPLOYEES:** Explain how important this is to employees, and **WHY** it is important.
- **WHAT CAN BE DONE NOW:** Briefly describe what actions need to be taken (such as, review of policies, training for staff, etc.)

KEEP IN MIND WHO YOUR AUDIENCE IS – TRIBAL LEADERSHIP. Your biggest task will be to do this in a manner that is respectful, but also clearly explains the responsibilities and roles of leadership.

Make sure that **EVERY PERSON IN YOUR GROUP** participates, especially in the creative process. Your group will make the presentation to the class. Let everyone have a chance to take part in the presentation.

GOOD LUCK!

GROUP TWO

You will be creating a poster to be displayed in the booking area for all inmates to see. This poster will contain all of the pertinent information about PREA and their right to be free from sexual abuse while in custody.

BE CREATIVE! Use images, color, anything that will get their attention and make the point.

Use your flip chart paper to create the poster. Include in your poster:

- Who it is for
- Their rights
- How to report
- What to do if they are a victim

Keep in mind these concerns:

- Language and literacy difficulties
- How to get their attention
- The sensitive nature of this issue – don't be offensive or crude, but get the point across
- The inmates won't be standing there reading something that is too long or too boring

Make sure that EVERY PERSON IN YOUR GROUP participates, especially in the creative process. Your group will present your completed poster to the class, and will explain each of the aspects of the poster. Let everyone have a chance to take part in the presentation.

GOOD LUCK!

GROUP THREE

You have been chosen by your leadership to provide an outline of what you think should be included in a written policy that requires employees to report their observations, knowledge and concern that inappropriate behavior is happening between an employee and an inmate.

List exactly what YOU would want in that policy directive.
BE BRIEF, but BE SPECIFIC!

Consider:

- Our discussion about everyone knowing exactly what is prohibited behavior
- Our discussion about confidentiality for reporting
- How you would want the administration to respond to the report
- Protections for those who report and for victims

Make sure that EVERY PERSON IN YOUR GROUP participates, especially in the creative process. You will be asked to present your outline of the policy to the class, and to explain your process to develop the policy. Let everyone have a chance to take part in the presentation.

GOOD LUCK!

GROUP FOUR

Your group has been assigned the task of creating a 5 minute presentation to give to inmates about their rights and responsibilities to be free from sexual abuse, from both other inmates and staff.

Be sure to cover the important aspects of this issue. Inmates need to know:

- What is sexual abuse?
- Their right to be free from sexual abuse
- How to report
- Why some people are more at risk for being abused than others
- How the department will protect them if they are a victim, or if they report
- THEIR responsibility in the matter – what happens if they file a malicious false report.

You will be giving your presentation to this class as if THEY are the inmates in your facility.

Make sure that EVERY PERSON IN YOUR GROUP participates, especially in the creative process. Your group will make the presentation to the class, and will explain each of the points. Let everyone have a chance to take part in the presentation.

GOOD LUCK!

GROUP FIVE

Your group will be creating a skit or role-play that will demonstrate to the class a particular ‘red flag’ concerning an officer’s behavior. The red flag could indicate that the officer is doing favors for another inmate, and then another officer observes this and has to respond. It could be that an officer thinks that another officer might be having sex with one or more inmates. You choose the red flag what it might indicate.

Have each person in your group take on a specific role. One person will be the inmate, one person the officer, one person a supervisor, one person another inmate, and so on. It could even involve a volunteer or a food service worker, or a health worker.

First choose the situation; then select who will play what role; and then have fun! Make sure that your skit is easy for the class to follow, and that they will get your point.

Make sure that EVERY PERSON IN YOUR GROUP participates, especially in the creative process. Your group will make the presentation to the class. Let everyone have a chance to take part in the presentation.

GOOD LUCK!

GROUP SIX

Your group will be creating a skit or role-play that will demonstrate to the class a particular ‘red flag’ concerning an inmate who is behaving ‘badly’. They might be trying to get an officer to do something for them, or trying to get another inmate to do something for them, or actually be involved in a sexual relationship with another inmate. This will be something that is observed by officers.

Have each person in your group take on a specific role. One person will be the inmate, one person the officer, one person a supervisor, one person another inmate, and so on. It could even involve a volunteer or a food service worker, or a health worker.

First choose the situation; then select who will play what role; and then have fun! Make sure that your skit is easy for the class to follow, and that they will get your point.

Make sure that EVERY PERSON IN YOUR GROUP participates, especially in the creative process. Your group will make the presentation to the class. Let everyone have a chance to take part in the presentation.

GOOD LUCK!

My Action Plan – When I get back to my facility, what do I want to do to improve how we address PREA and the prevention of sexual abuse in our facility?

THE ACTION	HOW WILL I DO THIS?	WHEN WILL I DO THIS?	WHO DO I NEED TO TALK TO OR WORK WITH?

RESOURCES

Addressing Sexual Violence in Prisons: A National Snapshot of Approaches and Highlights of Innovative Strategies www.urban.org/UploadedPDF/411367_psv_programs.pdf

Data Collections for the Prison Rape Elimination Act of 2003
<http://bjs.ojp.usdoj.gov/index.cfm?ty=tp&tid=20>

PREA Statute:

www.wcl.american.edu/nic/Articles_Publications/Prison_Rape_Elimination_Act_of_2003.pdf?rd=1

To order the 5-part DVD “Facing Prison Rape and Responding to Prison Rape”: Contact the National Institute of Corrections Information Center at www.nicic.org, or by calling 1-800-877-1461.

To order copies of the PREA Standards and the report of the Prison Rape Elimination Commission: Go to www.ncjrs.gov and order the following documents by the given numbers:

NCJ 226680 – National Prison Rape Elimination Commission Final Report

NCJ 226681 – National Prison Rape Elimination Commission Final Report – Executive Summary

NCJ 226682 – National Prison Rape Elimination Commission Standards – Adult Prisons and Jails

NCJ 226685 – National Prison Rape Elimination Commission Standards – Lock-ups

NCJ 226684 – National Prison Rape Elimination Commission Standards – Juvenile Facilities

NCJ 226683 – National Prison Rape Elimination Commission Standards – Community Corrections

Reports/Articles:

Breaking the Code of Silence, website of the Washington College of Law, The American University
www.wcl.american.edu/nic

Commission on Accreditation for Law Enforcement Agencies, Inc., Standards for Law Enforcement Agencies: The Standards Manual of the Law Enforcement Agency Accreditation Program, Fourth Edition, November 2001, Fairfax, Virginia. www.calea.org Chapter 71, Prisoner Transportation, Chapter 72, Holding Facility.

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National Institute of Corrections - www.nicic.org

Prison Rape Elimination Commission www.nprec.us – this includes the current proposed National Standards prior to approval by the U.S. Attorney General.

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- www.wcl.american.edu/nic/training.cfm
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PRISON RAPE ELIMINATION ACT

Full Text Of The Law

117 STAT. 972 PUBLIC LAW 108-79-SEPT. 4, 2003

Sept. 4, 2003 [So 1435] Prison Rape Elimination Act of 2003.

Public Law 108-79

108th Congress An Act

To provide for the analysis of the incidence and effects of prison rape in Federal, State, and local institutions and to provide information, resources, recommendations, and funding to protect individuals from prison rape.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,
SECTION I. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.-This Act may be cited as the “Prison Rape Elimination Act of 2003”.

(b) TABLE OF CONTENTS.-The table of contents of this Act is as follows:

Sec. 1. Short title; table of contents.

Sec. 2. Findings.

Sec. 3. Purposes.

Sec. 4. National prison rape statistics, data, and research.

Sec. 5. Prison rape prevention and prosecution.

Sec. 6. Grants to protect inmates and safeguard communities.

Sec. 7. National Prison Rape Reduction Commission.

Sec. 8. Adoption and effect of national standards.

Sec. 9. Requirement that accreditation organizations adopt accreditation standards.

Sec. 10. Definitions.

SEC. 2. 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 prisoner s' 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 exacerbation 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.

SEC. 3. PURPOSES.

The purposes of this Act 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.

SEC. 4.

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 and shall not preclude its selection for sampling in any subsequent surveys.

(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.

(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.

(b) REVIEW PANEL ON PRISON RAPE.

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.

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 section 4.

(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.

SEC. 5. 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.

SEC. 6. 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) 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 Act; and (j) will consider adopting all national prison rape standards that are promulgated under this Act after such date;

(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)-

(1) 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 5.

(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).

SEC. 7. NATIONAL PRISON RAPE REDUCTION COMMISSION.

(a) ESTABLISHMENT-There is established a commission to be known as the National Prison Rape Reduction 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 APPOINTMENT-The appointment of the members shall be made not later than 60 days after the date of enactment of this Act.

(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 Act 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 2 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 appreciate 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.

(D) CONSULTATION WITH ACCREDITATION

ORGANIZATION.-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 EXPENSE-Witnesses requested to appear before the Commission shall be paid the same fees as are paid to witnesses under section 1821 of title 28, United States Code. 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 EXPENSE-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, United States Code, 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 2/3 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 SERVICE - 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 affirmative vote, the Commission may select nongovernmental researchers and experts to assist the Commission in carrying out its duties under this Act. 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 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 Commission submits the reports required by this section..

(n) EXEMPTION.-The Commission shall be exempt from the Federal Advisory Committee Act.

SEC. 8. 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 7(d)(3), 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 7(e), 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) 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; and

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

(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-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 section 8(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.

(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 section 8(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 4(c)(2)(C).

(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 section 8(a) are finalized.

(B) REQUIREMENT FOR COOPERATION-The first grants to which paragraph (4) applies are grants for the fiscal year beginning after the date of the enactment of this Act.

SEC. 9. REQUIREMENT THAT ACCREDITATION ORGANIZATIONS ADOPT ACCREDITATION STANDARDS.

(a) ELIGIBILITY FOR FEDERAL GRANTS-Notwithstanding any other provision of law, an organization responsible for the accreditation 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 grant an accreditation organization referred to in subsection (a) must meet the following requirements:

(1) At all times after 90 days after the date of enactment of this Act, 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 8(a)(4), 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.

SEC. 10. DEFINITIONS.

In this Act, 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;

(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.

Approved September 4, 2003.

LEGISLATIVE HISTORY-S. 1435:

CONGRESSIONAL RECORD, Vol. 149 (2003):

July 21, considered and passed Senate. July 25, considered and passed House.

RELEVANT STATISTICS

Sexual Abuse in Jails and Prisons

Mental Health Issues:

- More than half of all inmates in prisons and jails have a mental health problem (64% for jails).¹²
- There are more mentally ill persons in prisons and jails than in hospitals.¹³
- At least 16% of inmates in jails and prisons have a serious mental illness requiring medication or hospitalization.¹⁴
- Forty percent (40%) of all mentally ill persons in the United States will be in either jail or prison at some point in their lives.¹⁵

Drug and Alcohol Addiction:

- At least 49% of violent offenders in jails and prisons committed the offense(s) under the influence of drug and/or alcohol.¹⁶

History of Victimization (Abuse) Prior to Incarceration: ¹⁷

- More than HALF of all female inmates in prisons and jails report a history of sexual and/or physical abuse prior to being incarcerated.
- For males, that figure exceeds 18%.
- One third (1/3) of women in state prison report being raped before their incarceration.
- On average, more than 90% of those who had been abused, were abused by spouses, parents, friends, family members or guardians.
- A great percentage of those reporting prior abuse were likely to have abused drugs and alcohol compared to those not reporting prior abuse.

¹² U. S. Department of Justice, Bureau of Justice Statistics, "Mental Health Problems of Prison and Jail Inmates". Doris James. September 2006. NCJ 213600

¹³ Torrey, E. Fuller M.D. et al, "More Mentally Ill Persons in Jails and Prisons Than Hospitals: A Survey of States", National Sheriff's Association and the Treatment Advocacy Center. May 2010

¹⁴ Ibid.

¹⁵ U. S. Department of Justice, Bureau of Justice Statistics, see i above.

¹⁶ Ibid.

¹⁷ U.S. Department of Justice, Bureau of Justice Statistics, "Prior Abuse Reported by Inmates and Probationers". By Caroline Wolf Harlow, Ph.D., April 1999, NCJ 172879.

Tribal Detention and Related Statistics:

- While American Indians and Alaska Natives accounted for 1% of the total population of the United States, they account for 1.2% of the incarcerated population.¹⁸
- About 40% of inmates confined in Tribal Jails are incarcerated for violent offenses.¹⁹
- The chance of being a victim of violent crime in Indian Country is more than double the national average.²⁰
- More than 1 in 3 American Indian and Alaska Native women will be raped during their lifetime.²¹

In a recent (August 2010) report by the Bureau of Justice Statistics,²² data collected from more than 81,000 inmates in prisons and jails revealed a number of significantly relevant results about sexual victimization.

- 4.4% of prison inmates and 3.1% of jail inmates reported one or more incidents of sexual abuse by another inmate or facility staff in the past 12 months.
- Females in prison or jail were twice as likely as males to report experiencing inmate-on-inmate sexual abuse.
- Of those inmates reporting inmate-on-inmate sexual abuse, most incidents occurred between 6 pm and midnight (40%).

Certain inmate characteristics increased the likelihood of sexual victimization, including:

- Those inmates who were white or multi-racial, compared to black inmates;
- Those inmates with a college degree or higher, compared to those with high school or less;
- Those inmates who reported gender preference other than heterosexual;
- Those inmates with a history of prior sexual abuse.

In cases of staff sexual misconduct with inmates:

- Incidents were lower among white inmates compared to black inmates;
- Incidents were lower among inmates age 25 or older, compared to age 24 or less;
- Incidents were higher among inmates with college degrees;
- Incidents were higher among inmates with a history or prior sexual abuse;
- Most victims were male, and most perpetrators were female.

¹⁸ U.S. Department of Justice, Bureau of Justice Statistics Bulletin. "Jails in Indian Country 2008". By Todd D. Minton. December 2009, NCJ 228271.

¹⁹ Ibid.

²⁰ U.S. Department of Justice, Bureau of Justice Statistics. "American Indians and Crime" by Lawrence Greenfield. February 1999. NCJ 173386.

²¹ Ibid.

²² "Sexual Victimization in Prisons and Jails Reported by Inmates, 2008-2009". Allen J. Beck and Paige M. Harrison, Statisticians. U.S. Department of Justice, Office of Justice Programs, Bureau of Justices Statistics. August 2010. Publication NCJ 231169.

THE DAILY DOZEN

A former warden developed a list of questions for her correctional staff to ask themselves on a daily basis.²³ Asking yourself these questions is an excellent way to maintain awareness of professional boundaries, and to check that you are not becoming complacent about dealing with inmates. If you answer yes to any of these questions, consider how you might manage feelings and responses. If your agency has an Employee Assistance Program through which you can seek professional help, that might be one avenue to find help. If you respect and trust an experienced co-worker, if you trust your supervisor, or if you know another person in the profession who is not part of your agency, consider discussing this with them. In most instances, the dialogue about these situations is very effective in helping you handle these issues. Remember.....it is being aware of your professional boundaries and knowing how to manage the challenges at work that will help keep you safe and professional at work.

- Do you look forward to seeing a particular offender when you come to work?
- Have you done anything with an offender that you would not want your family or your supervisor to know about?
- Would you be reluctant to have a co-worker observe your behavior for an entire day?
- Do you talk about your personal matters with offenders?
- Do you believe you can ask an offender to do personal favors for you?
- Have you ever received personal advice from an offender?
- Have you said anything to an offender that you would not want tape recorded?
- Do you have thoughts or fantasies of touching a particular offender? Does this extend to planning how you can be alone with that offender?
- Do you think you have the right to touch an offender whenever and wherever you want to?

²³ Teena Farmon, a former warden and a national expert on staff sexual misconduct initially developed this questionnaire for correctional staff to use as a daily self-test.

IDENTIFY MY AGENCY CULTURE

The following checklists will help you evaluate your agency culture. While it is up to leadership to guide an agency through changes that will improve culture, line staff can help by being aware of the deficiencies and problem areas. Remember – by acting professionally, we can individually impact the culture around us.

Instructions: Review each of the following items on the list and give a check if the statement is true. Count the number of checkmarks at the end of each category and enter in the area for the “Score for this block.” When you have gone through all of the blocks, enter the score in the lost at the end, and total them up. Check the total rating results. (Note: This basic evaluation was developed by The Center for Innovative Public Policies, Inc. through cooperative agreement with #01P18GIR4 from the National Institute of Corrections, U.S. Department of Justice, for use with curriculum package “Preventing and Addressing Staff Sexual Misconduct in Community Corrections: A Training Program for Agency Administrators.” March 2004. It is used here with permission.)

YOU CAN MAKE A DIFFERENCE!

After discovering your results about your agency culture assessment, keep in mind that individual employees may not be able to change the culture by themselves. It takes leadership commitment, and commitment from all those within the agency. However, as an individual employee, you can impact the agency culture. Your actions and attitude certainly contribute to the agency culture. Negative attitudes, lack of professionalism, lack of respect for self and others, all contribute to an overall negative culture of an organization. Likewise, positive and helpful attitudes, high professional standards, respect for self, respect for co-workers, and respect for inmates all have a positive impact on agency culture.

PROMOTIONS

	The promotional process is objective.
	Employees know the criteria for getting promoted.
	Most employees think the promotional decisions are fair.
	The promotional process results in qualified and motivated managers.
	The promotional process is a positive incentive for employees.
	Our employees are our #1 recruiters – they bring in excellent new staff.
	Add the checkmarks for the PROMOTIONS block

HIRING

	There is a plan in place for hiring new staff.
	Hiring goals are reached.
	Good quality employees are being hired.
	Our hiring message is reaching our community.
	New employees represent the diversity in our community and among inmates.
	Our employees are our #1 recruiters – they bring in excellent new staff.
	Add the checkmarks for the HIRING block

OPERATIONS

	What we do in reality, matches policy and procedure.
	Employees are generally hard-working and committed to doing the right thing.
	Employees are professional in interactions with inmates.
	Employees understand their job responsibilities.
	Supervisors are supportive of their subordinates.
	Employees feel safe on the job.
	There are few instances of sexual misconduct.
	Add the checkmarks for the OPERATIONS block

MANAGERS

	Managers are trained to do their job.
	Managers support the agency mission and its leadership.
	Managers are pro-active, and work to prevent crises.
	Managers are visible.
	Managers are generally respected by subordinates and their bosses.
	Managers are considered competent by subordinates and their bosses.
	Managers are generally approachable by their subordinates.
	Add the checkmarks for the MANAGERS block

PROFESSIONALISM

	The agency has a good reputation in the community.
	Employees are respected in the community.
	Off-duty behavior is consistent with the level of integrity and professionalism expected on-duty.
	Employees are respectful in the way they treat each other.
	Incidents of sexual joking and sexual harassment are rare.
	Employees are proud to be associated with the agency.
	Employees avoid using street slang, foul language, and derogatory remarks to both other employees and inmates.
	Other agencies visit to learn from your organization.
	The agency is considered a valued partner with other criminal justice agencies, such as police, courts, probation, etc.
	Add the checkmarks for the PROFESSIONALISM block

COMMUNICATION

	There is a regular employee newsletter, and employees like to read it.
	Information flows well both up and down the chain of command.
	Supervisors facilitate communication in the organization.
	Employees believe their grievances will be heard in a timely manner and settled fairly.
	Employees believe their feedback and suggestions are valued.
	Supervisors hold regularly schedule staff meetings to share information.
	Supervisors use opportunities to provide training and guidance.
	Add the checkmarks for the COMMUNICATION block

LEADERSHIP

	The agency mission is clear to everyone.
	The organization's values are known and embraced by employees.
	Leadership is accessible to employees.
	Leadership demonstrates professionalism.
	Leadership engages in "management by walking around" – being seen.
	Leadership values employees and it shows.
	Employees generally trust the agency leadership.
	Add the checkmarks for the LEADERSHIP block

QUALITY OF WORK LIFE

	Employees can get time off without a lot of hassle.
	Employees don't abuse sick leave.
	Employees trust and use an Employee Assistance Program.
	Employees are formally recognized for milestones in their careers.
	Leadership engages in "management by walking around" – being seen.
	Employees are officially acknowledged for a job well done.
	Employees do not divide themselves into cliques along age, gender, or tribal lines.
	There is very little, if any, racism or sexism in the workplace.
	Employees consistently receive training to do their jobs effectively.
	Add the checkmarks for the QUALITY OF WORK LIFE block

Consider the following scores for each individual block.

1 = We need help!

2 = We are doing “ok”, but could use improvement.

3 = We are doing great – no need to improve at this time.

Now put each block total in the appropriate space and add them all together.

Hiring = _____

Promotions = _____

Operations = _____

Managers = _____

Professionalism = _____

Communication = _____

Leadership = _____

Quality of Work Life = _____

TOTAL = _____

Rating Results:

How do you believe your workplace rates? Here is what your score may mean in terms of your agency culture.

0 – 88

Your workplace needs improvements in just about every area of agency culture. This relates to not only how business is conducted, but also how employees are treated. Without improvement, new initiatives, particularly in sensitive areas such as staff sexual misconduct, are likely to encounter resistance from employees.

89-147

Your workplace is taking some steps to address the basic needs of employees, and seeks to create a positive culture. Some improvements may still be needed in the areas you noted with the lowest scores. Because of this more positive culture within the agency, new initiatives will work better and be more accepted.

148+

Congratulations. You are working in an environment that has a positive culture and is open to new initiatives to maintaining a healthy workplace.

