

PREVENTING AND ADDRESSING SEXUAL ABUSE IN TRIBAL DETENTION FACILITIES

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CHANGE

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Introduction

On September 4, 2003, President George W. Bush signed into law the Prison Rape Elimination Act (PREA), the first-ever federal legislation addressing the issue of sexual assault in correctional settings. Unfortunately, the name of the act can be misleading—it is not just about prisons, and it is not just about rape. The Act addresses sexual abuse in all custodial corrections settings, including prisons, jails, police lock-ups, juvenile detention facilities, and community residential settings. Moreover, the Act addresses all types of sexual abuse in which an inmate, detainee or resident is the victim, including abuse by fellow inmates/detainees/residents as well as sexual misconduct committed by a staff person of the correctional facility.

The issue of corrections-based sexual assault is complex and has implications reaching far beyond correctional institutions. In developing the law, Congress found that “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... [and that] 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.”¹

This bulletin seeks to provide information to tribal detention professionals, as well as tribal leaders, on the key policy and practice issues for the prevention, reduction, detection, and punishment of sexual abuse perpetrated on those under correctional supervision in Indian Country, including in jails, juvenile detention facilities, and police lock-ups.

Tribal detention professionals face a number of particular challenges: working with a range of criminal defendants/inmates, including violent and nonviolent, adults and juveniles, and men and women; working in facilities that are often underfunded, understaffed and overpopulated; balancing the equally important responsibilities of holding inmates accountable for their crimes and providing needed programs and services to promote their rehabilitation; managing potentially dangerous inmates in settings originally designed for individuals charged or convicted of lower-level offenses; and, negotiating complex jurisdictional issues unique to Indian Country criminal justice systems. Without a doubt, working in tribal corrections is a highly stressful profession in which the stakes are incredibly high—for officers, for inmates, and for the community alike.

While at first glance it may appear that policy and practice recommendations for preventing and addressing sexual violence add to an already overwhelming set of tasks that tribal corrections professionals are required to accomplish, the purpose of this bulletin is rather to demonstrate how tribal detention staff can build on existing efforts to protect the safety of inmates and facilities through the enhancement of policies and procedures for the prevention of and response to sexual abuse. Moreover, this bulletin will highlight key resources that have been designed to assist tribal detention professionals in addressing this critical issue.

¹ The Prison Rape Elimination Act of 2003 [P.L.108-79 § 2.7] September 4, 2003.

Background: The need to address sexual abuse in correctional settings

Recent incidents of sexual violence within America's corrections systems have brought corrections-based sexual abuse to the foreground among public policymakers, researchers, and corrections professionals, resulting in growing attention to and activities surrounding the issue.

The 1996 Human Rights Watch Report, *All Too Familiar: Sexual Abuse of Women in U.S. State Prisons*, revealed the extent of sexual assault of female inmates, predominantly by male correctional staff, in California, Georgia, Illinois, Michigan, New York, and the District of Columbia. This report fostered new discussions and actions to better prevent and address staff sexual misconduct in correctional facilities at the state and national levels. These and other incidents of staff sexual misconduct across the country prompted a series of lawsuits against state departments of corrections (DOCs).

These high-profile cases also spurred legislative action across the country to better prevent and respond to staff sexual misconduct. While only 16 states and the District of Columbia had laws in place prohibiting sexual misconduct with inmates in 1990, today all 50 states, the District of Columbia, Puerto Rico, and Guam have statutes criminalizing staff sexual misconduct (Smith and Yarussi, 2007).

The U.S. Congress passed the Prison Rape Elimination Act (PREA) of 2003, which supports the elimination, reduction, and prevention of sexual assault, including abuse by correctional staff and by inmates, in federal, state, and local prisons; jails; lock-ups; private facilities; and community residential facilities. Passed unanimously by Congress, PREA established a zero tolerance policy for sexual assault in America's correctional settings. Once fully implemented, PREA will:

- establish national standards for the detection, reduction, prevention, and punishment of prison rape;
- provide for data collection and information dissemination on the incidence of prison rape; and
- provide training, technical assistance and grant funding to help states and localities reduce and prevent the incidence of sexual violence.

Failure to implement the national standards, once they are fully developed, may result in a 5 percent reduction in federal funds for prison programs (See Figure 1 on page 4).

While legal and jurisdictional questions pertaining to the application of PREA to detention facilities in Indian Country remain, national standards to prevent, detect, and respond to prison rape will likely result in increased civil liabilities for correctional facilities—for native and non-native facilities, alike. With the enhancement of standard corrections practices that will occur through the implementation of PREA standards, detention facilities across the country will certainly be held to a higher legal standard for the prevention of and response to sexual abuse, and could potentially face increased civil penalties if they fail to do so.

Already, inmates in Indian Country benefit from the protections provided by the Indian Civil Rights Act (ICRA), which applies the 8th Amendment of the U.S. Constitution (preserving the right against cruel and unusual punishment) to tribal nations. More importantly, however, the premise behind the Prison Rape Elimination Act—providing a safe and secure environment in which those in correctional custody can serve their sentence—should serve as the foundation for any correctional setting. Much of the work that corrections professionals do—whether under the rubric of PREA, or not—already contributes to the ultimate goal of the law.

FIGURE I

The Prison Rape Elimination Act of 2003

The Prison Rape Elimination Act of 2003 (PREA) was passed by the U.S. Congress and signed into law by President George W. Bush on September 4, 2003, and supports the elimination, reduction, and prevention of sexual assault and rape within America's correctional settings. PREA applies to all federal, state, and local prisons; jails; police lock-ups; private institutional facilities; and community residential facilities.

PREA establishes a zero tolerance standard for the incidence of sexual assault in correctional facilities and makes the prevention of prison rape a top priority for all corrections systems. Through the Act, the Bureau of Justice Statistics is directed to carry out, on an annual basis, a comprehensive statistical review and analysis of the incidence and effects of prison rape in federal, state, county, and municipal prisons.

PREA further establishes a national clearinghouse for the provision of information, assistance, and training to federal, state, and local authorities responsible for the prevention, investigation, and punishment of prison rape, and authorizes the provision of grant funding to assist jurisdictions in protecting inmates and safeguarding communities against sexual assault in corrections systems.

The Act has also established the National Prison Rape Elimination Commission, comprising members appointed by Congress and the President. The Commission was charged with undertaking a comprehensive study of prison rape and its impacts on government institutions as well as on communities and social institutions. The Commission was also tasked with the development of recommended national standards to enhance the detection, prevention, reduction, and punishment of prison rape.

The Commission released its final report and recommended standards on June 23, 2009. Based on consideration and review of the Commission's recommended standards, the U.S. Attorney General released, for public review and comment, proposed National Standards to Prevent, Detect, and Respond to Prison Rape. Following a public comment period and subsequent revisions, the Department of Justice will publish a final rule adopting national standards for the detection, prevention, reduction, and punishment of prison rape in 2011. Upon adoption, the standards will be applied immediately to the Federal Bureau of Prisons. In addition, PREA mandates a 5 percent reduction in federal grant funding designated for prisons in states that fail to adopt and comply with the standards. Further, the Act prohibits the receipt of any federal grants by penal accreditation organizations that fail to adopt accreditation standards for the detection, prevention, reduction, and punishment of prison rape.

Why should tribal jail professionals care about the Prison Rape Elimination Act?

One of the biggest challenges for incorporating the principles of PREA in the policy and practice of corrections lies in the name of the law itself—the Prison Rape Elimination Act. Unfortunately, since its passage, PREA has been widely misunderstood as being relevant only to America's prisons, with many jail and juvenile detention professionals wondering, "What does PREA have to do with me?" It is important to note, however, that PREA applies to all custodial corrections settings including prisons, jails, juvenile detention centers, police lock-ups, private facilities, and even community-based confinement facilities.

Moreover, the entire corrections field has an important role to play in ensuring the prevention of and response to corrections-based sexual assault as asserted in PREA. According to the National Prison Rape Elimination Commission (2009, p. 47), "Sexual abuse damages individual prisoners, often in lasting ways, but the harm does not end there... Individuals dealing with the consequences of sexual abuse may find it difficult to reintegrate into society, relate to their families, and rebuild their lives." Inmates who have been victimized while incarcerated bring the trauma of their assaults with them back to the community. If not properly addressed, their victimization may make it more difficult for them to transition back into community life successfully, leading to additional criminal behavior, re-arrest, and re-incarceration, further contributing to the revolving door phenomenon that so commonly plagues our correctional systems (See Figure 2 on page 5).

Offenders are often viewed as unsympathetic individuals who, because of their crimes, deserve all aspects of their experiences under correctional supervision, even when they include abuse. In May 1994, the Boston Globe

reported on a poll of 400 registered voters in Massachusetts in which half of the participants agreed that “society accepts prison rape as part of the price criminals pay for their wrongdoing” (Sennott, 1994).

For many correctional personnel, it may be difficult to recognize that inmates can also be victims. In reality, however, many criminal offenders have also been victimized at some point in their lives. According to the Bureau of Justice Statistics (BJS), 16 percent of jail inmates and probationers reported being abused prior to their current sentence (Harlow, 1999). The study further revealed that nearly half of the women in correctional populations and a tenth of the men report prior abuse.

For inmates under correctional supervision, the effects of a sexual assault often mirror those experienced by rape victims in the community, which may include shock, humiliation, fear, and denial. In many cases,

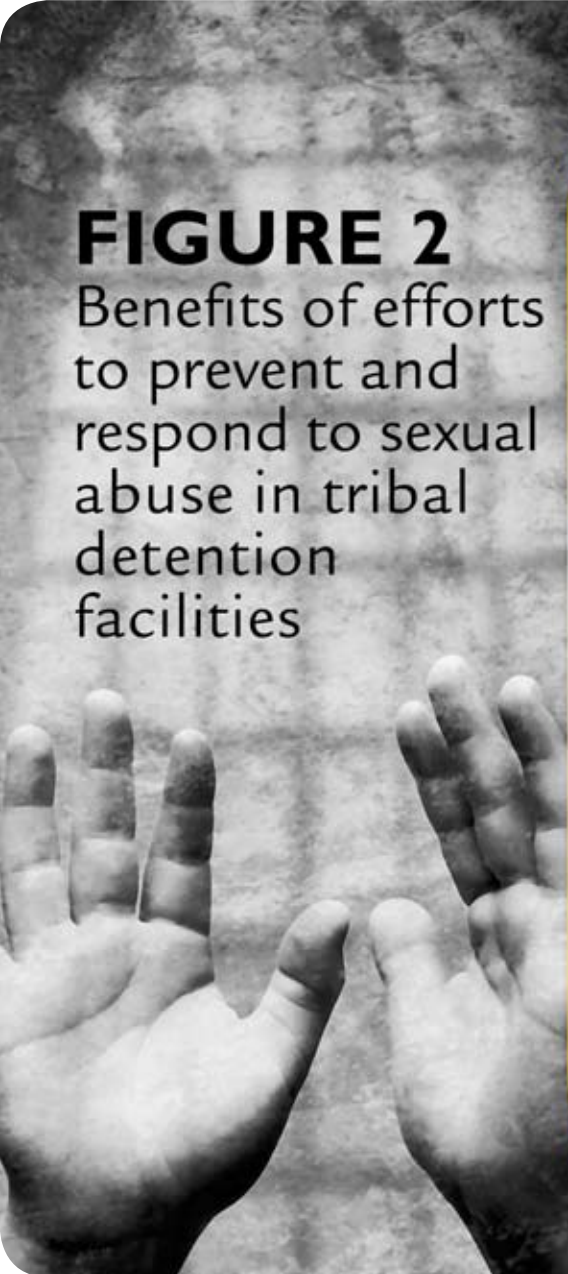


FIGURE 2 Benefits of efforts to prevent and respond to sexual abuse in tribal detention facilities

There are a number of benefits to efforts aimed at preventing and responding to sexual abuse in tribal detention facilities, and these benefits extend to inmates, facilities, and detention staff, as well as to tribal communities as a whole. Some of the benefits, among many others, include:

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

however, the physical, social, emotional, and behavioral impacts of sexual assault can be exacerbated when the assault occurs within the correctional environment.

Corrections-based sexual assault poses a significant public health risk. According to BJS, 1.3 percent of inmates in local jails across the country in 2002 either had been infected with the human immunodeficiency virus (HIV) or had confirmed AIDS (Maruschak, 2006). By contrast, the Centers for Disease Control reported that the rate of HIV infection among the U.S. household population at year end 2006 was .45 percent (2008). In other words, jail inmates suffer from HIV/AIDS infection at a rate of nearly three times that of the general population.

The estimated prevalence of other communicable diseases, including sexually transmitted diseases, hepatitis B and C, and tuberculosis, is also significantly higher among American jail inmates than in the general U.S. population. According to the National Commission on Correctional Health Care, the estimated rate of inmates infected with hepatitis C in 1997 was between 9 and 10 times higher than the estimated rate of cases among the total U.S. population. Likewise, the prevalence of tuberculosis among inmates was estimated to be between 4 and 17 times higher than among the total U.S. population in 1996 (Hammett et al., 2002).

In addition to the risks posed by inmate-to-inmate sexual abuse, staff sexual misconduct has significant implications for corrections facilities. Staff sexual misconduct jeopardizes the safety of staff and inmates and erodes trust in and respect for the field of corrections (Smith and Yarussi, 2007). Correctional staff members who engage in sexual misconduct with inmates put the safety of their colleagues, other inmates, and the larger community at risk, in addition to harming the victim, by compromising the system of power and authority necessary to hold inmates accountable and ensure public safety. Meanwhile, inappropriate relationships between staff and inmates delegitimize the work of corrections, putting undue strain on the already challenging task of promoting offender accountability and rehabilitation.

Does this really happen here? Sexual abuse cases in tribal detention facilities.

According to BJS, there were 82 detention facilities in Indian Country in 2009 (Minton, 2011). In many ways, tribal jails face a unique set of circumstances that differentiate them from non-tribal facilities, wherein a much more localized population of offenders is housed, primarily for non-violent crimes and typically for short periods of time. Moreover, given the close-knit communities that are common in Indian Country, it is not unusual for detention staff to know inmates quite well. With this in mind, it may seem far-fetched that a problem like sexual abuse, common in large state prison systems, would plague tribal detention facilities. Unfortunately, however, several cases, including those described below, indicate that tribal jails and juvenile detention facilities are not immune from sexual violence.

- In 2002, a male detention officer at a tribal juvenile facility in Montana raped a 17-year-old female inmate. The officer had been charged with transporting the inmate for medical treatment. Following an investigation into the event, it was discovered that the officer had a criminal record, but that an “appropriate background check” was never conducted prior to his hiring. The officer was later convicted for the crime (U.S. Department of the Interior, Office of Inspector General, 2004).
- In 1997, a youth being held at an adult detention facility in Indian Country was raped by an inmate. According to a detention officer at the jail, “It was due to understaffing, and the guard

was not certified. The boy was 13...the boy should not have been there,” (U.S. Department of the Interior, Office of Inspector General, 2004, p. 49). The youth was being held at the jail for social services.

- In July 2010, a former corrections officer with the Bureau of Indian Affairs pled guilty in federal court to sexual abuse of a ward. The officer served at a BIA detention facility in North Dakota, where he engaged in a sexual act with an inmate. The inmate’s cellmate reported the incident to authorities. The officer was sentenced to time served and 5 years of supervised release, including 5 months of home confinement. He will be required to register as a sex offender (U.S. Department of Justice, Office of US Attorney Timothy Q. Purdon, 2010).

Sex and sexual violence in correctional settings: An overview

Despite the fact that most prisons and jails prohibit inmates from engaging in sexual activities, sex among inmates is not uncommon (See Figure 3 on page 8). In fact, researchers have documented sexual activity among incarcerated individuals for decades (Fishman, 1934; Sykes, 1958; Kirkham, 1971; Lockwood, 1980; Wooden and Parker, 1982; Donaldson, 1993) and have analyzed the various reasons for which prisoners engage in sex as well as the different manifestations of sexual activity that occur, including the following:

- Consensual sex among inmates. Researchers and corrections professionals have long recognized that consensual sex occurs, even where prohibited, among inmates in jails and prisons. Inmates who are homosexual or bisexual may engage in sexual acts with other inmates of the same sex, just as they may in the community. Consensual sex may also occur between otherwise heterosexual inmates and inmates of the same sex, in a phenomenon researchers call “situational homosexuality.”
- Coercive sex among inmates. In addition to consensual sex, inmates may engage in sexual activity with other inmates through a variety of coercive means. Inmates may agree to engage in sex as a result of threats, intimidation, or bribery by another inmate. In other cases, inmates may resort to carrying out sexual acts with other inmates as a way to pay off debts for protection, for commissary items, or other goods or services. For instance, young inmates who are naïve to the ways of prison may accept “gifts” in the forms of snacks, protection, or friendship from a more seasoned inmate, only to face demands to repay the inmate for such gifts through sexual favors.

While the threat of physical violence is often used to coerce inmates into sexual activity, this is not always the case. As a result, incidents of coercive sex may not be properly identified as abuse. Discerning coercive sex from consensual sex is often difficult for corrections professionals, who may incorrectly assume that both parties are consenting to the activity. In addition, as a victim of coercive sex may not sustain the types of physical injuries that are common in cases of violent sexual assault, he or she may not be identified as a victim of abuse by health care providers and others trained to detect signs of sexual assault. Inmates who have been subjected to coerced sex may not consider themselves to be sexual abuse victims given the lack of physical force used in the incident, but may experience intense levels of shame and humiliation, as well as possible sexual identity crises, as a result of “consenting” to homosexual relations in these cases.

- Violent sexual assault among inmates. On the opposite extreme of the prison sex continuum from consensual sex is violent sexual assault, characterized by the use of physical force and/or violence against the victim. Violent sexual assault may occur between two inmates—the aggressor and the

victim—or among multiple inmates, i.e., a gang rape. While victims of violent sexual assault may self-identify as either homosexual or heterosexual, aggressors are typically heterosexual. Despite engaging in sexual relations with an individual of the same sex, an aggressor is often able to maintain his or her heterosexual status through the use of force. Heterosexual victims of violent sexual assaults in correctional settings, however, are often referred to as “punks” or “turnouts” following an attack.

Sexual activity between corrections staff and inmates

In contrast to sexual behaviors among inmates in correctional settings, no sexual activity between staff and inmates can be considered consensual in nature. Rather, given the authority that corrections staff have over

FIGURE 3

Key Facts: Sexual Victimization in U.S. Jails

As a direct result of the passage of the Prison Rape Elimination Act of 2003 (PREA), the Bureau of Justice Statistics (BJS), U.S. Department of Justice, was tasked with carrying out a comprehensive statistical review and analysis of the incidence and impacts of prison rape. In August 2010, BJS published *Sexual Victimization in Prisons and Jails Reported by Inmates, 2008—09*, the results of a national survey of inmates in state and federal prisons, local jails, and a variety of special confinement facilities including correctional facilities in Indian Country. The survey was administered to 81,566 inmates ages 18 or older, including 32,029 inmates within state and federal prisons, 48,066 jail inmates, 957 detainees in Immigration and Customs Enforcement (ICE) facilities, 399 in U.S. military facilities, and 115 in Indian Country jails. The survey enabled participants to report sexual victimization anonymously through an interactive computer-assisted questionnaire using audio instructions and a computer touch-screen to select responses. Following are some of the key findings from the survey (Beck et al., 2010).

- An estimated 3.1 percent of jail inmates reported experiencing at least one incident of sexual victimization by another inmate or facility staff within the last 12 months.
- Approximately 1.5 percent of jail inmates reported an incident that involved another inmate, while 2 percent of jail inmates reported having had sexual contact with a facility staff member. Of those inmates who reported experiencing staff sexual misconduct, at least half reported that they willingly engaged in the encounter with staff.
- Female jail inmates (3.1 percent) were twice as likely to report abuse by another inmate as were male jail inmates (1.3 percent).
- Male inmates in jails (2.1 percent) were more likely than female inmates (1.5 percent) to report sexual contact with facility staff.
- Approximately 64 percent of male victims of staff sexual misconduct in jails were victimized by female staff.
- Among male jail inmates who reported abuse by a fellow inmate, nearly 20 percent reported that they were victimized within 24 hours after admission.
- Nearly one-third of male victims of staff sexual misconduct in jails reported being victimized within 24 hours of their admission to the facility, as compared to only 4 percent of female victims of staff sexual misconduct in jails.

the inmates in custody, there is an unequal power dynamic that exists between the two parties. Inmates may feel powerless to deny a staff member's flirtations or requests for an intimate relationship. On the other hand, an inmate may use a sexual relationship he or she has developed with a staff member in order to gain power or access to special privileges within the correctional environment, which may lead to such outcomes as the manipulation of compliance reports or the failure to act on violations. Because of the unequal power dynamics that exist between staff and inmates, sexual relationships that develop between the two parties put at grave risk the safety and security of the agency, facility, other staff members, and inmates. As a result, all 50 states, the District of Columbia, and the U.S. territories of Puerto Rico and Guam have developed and passed laws criminalizing sexual relations between corrections staff and inmates, otherwise known as staff sexual misconduct.

In addition to state laws prohibiting staff sexual misconduct, many corrections agencies have developed internal agency policies prohibiting conduct of a sexual nature between staff and inmates. These policies typically define prohibited behavior and relationships between staff and inmates, identify the requirements of staff to report existing abuses, and outline disciplinary measures, including termination, for staff determined to be engaged in misconduct.

Who's at risk? The "typical" victim of corrections-based sexual abuse

While all inmates are at risk of sexual abuse and violence within correctional settings, research indicates that certain categories of inmates are victimized at higher rates (Beck et al., 2010; Hensley et al., 2005; Hensley et al., 2003; Dumond, 2000; Dumond, 2003). These include:

- Young inmates
- Inmates who are inexperienced, naïve, or lack "street sense"
- Mentally ill or developmentally challenged inmates
- Inmates who are not affiliated with a gang
- Gay, lesbian, bisexual, transsexual, or intersex (GLBTI) inmates
- First-time offenders
- Inmates convicted of sexually-based crimes
- "Snitches," "rats," and inmates who break the code of silence
- Inmates who have previously been victimized

A 2008-2009 survey of inmates in federal and state prisons, jails, and other correctional facilities conducted by BJS suggests that sexual orientation can be an important predictor of sexual victimization among inmates, with large disparities in victimization rates between heterosexual inmates and inmates with a sexual orientation other than heterosexual (including bisexual, homosexual, gay or lesbian, or other). Approximately 1.1 percent of heterosexual jail inmates reported inmate-on-inmate victimization, while 1.9 percent reported experiencing staff sexual misconduct. In contrast, among non-heterosexual jail inmates, 7.2 percent reported sexual abuse by another inmate and 3.5 percent reported victimization by staff (Beck et al., 2010). Perhaps the most striking predictor of sexual abuse victimization in jails, however, is a history of prior sexual

victimization, according to results from the BJS survey. Among jail inmates reporting sexual victimization before their current sentence, 7.4 percent reported being sexually assaulted by an inmate while incarcerated, and another 6.1 percent reported sexual activity with a staff member (Beck et al., 2010).

While understanding the types of inmates who may be at greater risk of sexual assault victimization is critical, it should also be noted that no one is immune to abuse. Anyone can become a victim of sexual violence within a correctional environment.

Crime and victimization in Indian Country

According to the U.S. Census Bureau, Native Americans and Alaska Natives accounted for 1 percent of the total United States population in 2009 (2010). Despite comprising a small percentage of the overall U.S. population, Native Americans experience a significant proportion of the nation's violent crimes. Federal crime victimization statistics suggest that the rate of violent crime victimization among Native Americans between 1992 and 2001 was 2.5 times the national rate. In comparison to other ethnic/racial groups, Native Americans are victimized by violent crime at rates that are twice that of African Americans, 2.5 times that of Caucasians, and 4.5 times that for Asians (Perry, 2004).

Statistics for sexual assault victimization among Native Americans and Alaska Natives are equally alarming. National crime victimization data suggest that American Indians are twice as likely to experience sexual assault as compared to non-natives (Perry, 2004), and native women are particularly at risk of being sexually assaulted. Data indicate that indigenous women experience sexual violence at rates that are 2.5 times that of non-native women. It is estimated that more than one in three native women will be raped at some point in their lifetime (Amnesty International, 2007); although some studies suggest that an even greater percentage of Native American women may experience sexual violence (Malcoe and Duran, 2004). Given that prior sexual abuse is one of the primary predictors of corrections-based sexual abuse, women inmates in tribal jails may be particularly at risk of victimization during incarceration.

Native Americans also have a higher rate of incarceration in comparison to the national average. According to a recent survey conducted by BJS, the incarceration rate of Native Americans and Alaska Natives is 25 percent higher than the overall national incarceration rate. In 2009, a total of 2,176 Native Americans were confined in the nation's 82 detention facilities operating in Indian Country, including jails, detention centers, lock-ups and other confinement facilities. More than one-third of those incarcerated were in custody for violent offenses (37 percent), including domestic violence (12 percent), simple/aggravated assault (15 percent), unspecified violent offenses (8 percent), and rape or sexual assault (2 percent) (Minton, 2011).

So now what? Taking steps to prevent and address sexual abuse in tribal jails.

Primary among the purposes of the PREA is the establishment of a zero tolerance standard for the incidence of sexual assault in corrections settings. But what exactly does a zero tolerance standard mean for jails and detention facilities in Indian Country, and how can it be achieved?

In essence, a zero tolerance standard indicates that an agency will not tolerate sexual abuse of any kind within its environment and that it will take any necessary steps to ensure that incidents of sexual abuse are responded to appropriately. One of the many ways that correctional agencies and facilities are working to fulfill a zero tolerance standard is through the development of policies and procedures that aim to protect inmates against sexual abuse and provide guidance for agency personnel on how to properly respond to incidents of assault, if and when they occur.

Although these steps are important, achievement of a zero tolerance standard cannot be fulfilled through policies and procedures alone. Rather, all employees, volunteers and contractors of an agency must contribute to a culture of zero tolerance for sexual abuse to achieve safety, security, and fairness for everyone involved.

What does this mean for tribal jail and juvenile detention administrators? It means that jail and detention administrators must:

- establish clear policies and procedures pertaining to the prevention, detection, and response to sexual abuse, violence and assault within the facility, including staff sexual misconduct;
- ensure that all staff members are familiar with the policies and procedures in place to protect inmates from sexual abuse;
- assure staff that policies on sexual abuse prevention and response will be strictly enforced;
- provide staff members with adequate training that reinforces the policies and procedures on a regular basis;
- set the standard for appropriate behavior within the workplace and lead by example;
- develop an environment in which individuals (including inmates and staff members, alike) feel comfortable and safe reporting incidents of sexual abuse; and
- hold those who perpetrate abuse accountable for their behavior, whether it is an inmate preying on other inmates or a staff member engaged in a sexual relationship with an inmate.

While the efforts of tribal detention administrators are key to establishing a culture of zero tolerance, they are not solely responsible for achieving such an environment. Tribal detention officers and other staff members can contribute to the development of a culture of zero tolerance by:

- reporting any known or suspected incidents of sexual abuse and harassment that occur within the facility;
- reporting suspicions of staff sexual misconduct between a colleague and an inmate;
- maintaining professional boundaries with all inmates;
- following policies and procedures, including those related to prevention and response to sexual abuse and harassment;
- setting a high standard of ethical conduct for themselves and for their colleagues; and
- Informing inmates of their right to be protected against sexual abuse while under custody and that any reported incidents will be properly investigated and addressed.

Creating a culture of zero tolerance is an important first step in improving efforts to prevent and address sexual abuse in correctional settings, but it cannot be successful by itself. Rather, a comprehensive approach must be adopted that incorporates strategies for training, sexual abuse investigations, and enhanced policies and procedures. The following suggestions can help guide tribal detention facilities and professionals in improving their capacity to properly prevent and respond to sexual violence.

Training:

WHO should be trained? Everyone!

- All employees should receive extensive, regular training on the agency's sexual abuse prevention and response policies and procedures.
- 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 right 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?

- Investigators are specially trained in conducting sexual assault investigations.
- Diligent supervision of investigations by the appropriate authority.
- Consistent and fair sanctions imposed upon completion of the investigative process.
- Confidentiality maintained throughout the investigation process.
- Knowledge of and respect for the special nature of sexual assault investigations.

Policy and procedure:

WHAT makes policy and procedure effective?

- Being specific to the issue and using definitive language throughout sexual assault policies and procedures.
- Defining prohibited behavior clearly and definitively.
- Being developed with the intent to protect inmates, staff, and facility and to guide all measures toward this overarching goal.
- Being accompanied by appropriate training for staff, contractors/vendors/volunteers, and inmates.
- Including clear expectations.
- Defining a clear disciplinary process.
- Being updated regularly to address emerging issues, concerns, and challenges.

Where can I find more information?

Since the passage of PREA in 2003, there has been a significant amount of confusion and anxiety among correctional professionals nationwide as to how the law will be implemented within corrections systems. In conversations with a number of tribal detention staff and administrators, it is clear that many in Indian Country share that sense of confusion and anxiety. Common among the concerns expressed by tribal detention professionals is that properly addressing sexual abuse and violence within facilities will require a complete overhaul of policies and procedures, training programs, and investigative protocols. Fortunately, however, this is often not the case.

Many of the principles inherent in PREA are frequently reflected in extant policies and procedures in tribal detention facilities across the country. That is to say that much of what is required by the law is already in place in most jurisdictions. As such, for the majority of tribal jail administrators, addressing PREA will not require developing PREA policies, procedures, and practices from scratch. Rather, it will require assessing the gaps in existing policies and strengthening or supplementing policies, practices, and training programs as appropriate.

Moreover, there are a number of resources available that can assist tribal detention professionals in reaching this goal. Through funding from the U.S. Department of Justice, Bureau of Justice Assistance (BJA), the American Probation and Parole Association (APPA) has developed a variety of training and technical resources for tribal detention staff, including a training curriculum for frontline tribal detention staff and a policy development guide for tribal detention facility administrators.

The APPA training curriculum, *Preventing and Addressing Sexual Abuse in Tribal Detention Facilities: The Impact of the Prison Rape Elimination Act*, is a comprehensive training package that includes an instructor's manual, a participant manual, PowerPoint presentation slides, and supplemental resources. This one-day training program is designed for delivery to front line staff and supervisors in tribal detention facilities (including jails, lock-ups, and other tribal correctional facilities), and can be downloaded from the APPA Web site at <http://tinyurl.com/preaindian>.

Additionally, *Preventing and Addressing Sexual Abuse in Tribal Detention Facilities: A Policy Development Guide* provides guidance and recommendations for tribal detention administrators in the development of policies and procedures for the prevention of and response to sexual abuse. This publication is also available for free download from the APPA Web site.

Moreover, the resources highlighted above were designed to be used as companion pieces to a variety of resources available through BJA, the National Institute of Corrections (NIC), and other organizations that have developed publications and other resources to assist correctional agencies in preventing and responding to the corrections-based sexual abuse.

Recently, through funding from BJA, the National Council on Crime and Delinquency launched the National Resource Center for the Elimination of Prison Rape (the Center). The Center will serve as the national source for online and direct support, training, technical assistance, and research to assist adult and juvenile corrections, detention, and law enforcement professionals in their ongoing work to eliminate sexual assault in confinement.

For more information about the National Resource Center for the Elimination of Prison Rape, please visit the National Council on Crime and Delinquency Web site: <http://nccd-crc.org/nccd/initiatives/prea.html>.

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