



Addressing Sexual Abuse of Youth in Custody

Module 2: The Prison Rape Elimination Act- Overview and Update

Developed by the NIC/WCL Project under NIC
CA #06S20GJJ1Developed by Brenda V. Smith
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PREA Purposes

- Increase accountability of prison officials who fail to detect, prevent, reduce and punish prison rape
- Protect 8th amendment rights of federal, state and local prisoners
- Establish grant programs
- Reduce costs of prison rape on interstate commerce



PREA Purposes

- Establish zero tolerance for the conduct
- Make prevention a top priority
- Develop national standards for detection, prevention, reduction and punishment
- Increase available data and information on incidence in order to improve management and administration
- Standardize definitions used for collecting data on the incidence of rape



PREA: Major Sections

- Section 4: Collection of prison rape statistics, data and research (BJS)
- Section 5: Prison Rape Prevention and Prosecution (NIC)
- Section 6: Grants to Protect Inmates and Safeguard Communities (BJA)
- Section 7: National Prison Rape Elimination Commission
- Section 8: Adoption and Effect of National Standards
- Section 9: Accreditation organizations must adopt standards or lose federal funds



PREA and Juveniles

- Like other legislation, such as the Prison Litigation Reform Act, PREA refers to prisons but applies to juveniles— in adult and juvenile settings
- Challenge to address juveniles comprehensively
 - Lack of Research
 - Lack of Training
 - Lack of Funding
 - Lack of Standards

What We Know about Prevalence

- Administrative survey collections -- 2004, 2005 and 2006 data

- <http://www.ojp.usdoj.gov/bjs/abstract/svrca04.htm>
[juveniles and adults]

- <http://www.ojp.usdoj.gov/bjs/pub/pdf/svrjca0506.pdf>
[juveniles only]

- Victim self reports

- <http://bjs.ojp.usdoj.gov/content/pub/pdf/svjfry09.pdf>

According to Administrative Reports: More than 2,000 allegations of sexual violence reported each year in juvenile facilities

	All facilities	State juvenile facilities	Local/private juvenile facilities
Number of allegations			
2006	2,025	786	1,239
2005	2,047	771	1,276
Rates per 1,000 youth			
2006	16.8	20.4	15.1
2005	16.7	19.2	15.4

From: Allen Beck (Bureau of Justice Statistics)
Developed by the NIC/WCL Project under NIC
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According to Administrative Reports: 57% of allegations in 2005-06 involved youth-on-youth incidents

Incident type*	National estimate	Percent
U.S. total	4,072	100 %
Youth-on-youth nonconsensual sexual acts	1,451	35.6
Youth-on-youth abusive sexual contacts	861	21.1
Staff sexual misconduct	1,314	32.3
Staff sexual harassment	446	11.0

According to Administrative Reports: 1 in 5 allegations of sexual violence in 2005-06 were substantiated (732 incidents)

All facilities		
	Number	Percent
Youth-on-youth		
Substantiated	437	21 %
Unsubstantiated	845	40
Unfounded	803	38
Investigation ongoing	83	
Staff-on-youth		
Substantiated	295	18 %
Unsubstantiated	573	35
Unfounded	751	46
Investigation ongoing	155	

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According to Administrative Reports: Most youth perpetrators were male, age 16 or older

	All incidents	Nonconsensual sexual act only
Number of perpetrators		
1	91 %	91 %
2 or more	9	9
Gender of perpetrator		
Male	78 %	85 %
Female	22	15
Age of perpetrator		
12 or younger	3 %	2 %
13-15	40	48
16-17	47	44
18-19	9	5
20 or older	1	1
Race/Hispanic origin of perpetrator		
White	40 %	43 %
Black	49	54
Hispanic	9	4
Other	2	0

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According to Administrative Reports: Half of staff perpetrators were male; a majority were under age 30

	Total	Male	Female
Number of staff perpetrators	253	137	116
Age of staff			
24 or younger	19 %	5 %	35 %
25-29	44	55	31
30-34	9	5	15
35-39	12	15	8
40 or older	12	14	10
Not reported	3	5	1
Type of staff involved			
Full/part-time employee	94 %	97 %	91 %
Contract employee	5	2	8
Other/don't know	1	2	1

Survey of Sexual Violence, 2005-06 – Additional Findings: Youth on Youth Sexual Violence

- Victims received physical injuries in 12% of substantiated incidents of youth-on-youth sexual violence; 8% anal/vaginal tearing
- About half of all victims of youth-on-youth violence received some form of medical follow-up
- Nearly half of victims of youth-on-youth sexual violence had their housing changed in response (24% moved in the facility, 10% transferred, 10% admin. segregation or protective custody)
- 41% of youth perpetrators had legal action taken (32% referred for prosecution); 37% transferred; 22% solitary/disciplinary segregation

Survey of Sexual Violence, 2005-06 – Additional Findings: Staff Sexual Misconduct

- Few youth victims of staff misconduct received physical injuries (2%)
- About half of all victims of staff sexual misconduct were provided counseling/mental health treatment (56%)
- Nearly 40% of perpetrators of staff misconduct or harassment were arrested or referred for prosecution
- Almost all staff perpetrators lost their job in local/private facilities (99%), compared to 75% of staff perpetrators in state systems

Major Data Comparisons: Juvenile v. Adults

- Overall juvenile agencies have higher rates of substantiated incidents
 - Adult: 14%
 - Juvenile: 20%
- Overall juvenile agencies have higher prevalence rates of sexual abuse
 - Adult: 2.91%
 - Juvenile: 16.8%

NOTE: Numbers based on 2006 reports by correctional and juvenile authorities

Major Data Comparisons: Juvenile v. Adults

- Staff sexual misconduct is more prevalent in both adult and juvenile facilities
 - Adult:
 - 47% of incidents were inmate on inmate sexual abuse
 - 53% of incidents were staff sexual misconduct
 - Juvenile:
 - 38% of incidents were youth on youth sexual abuse
 - 46% of incidents were staff sexual misconduct
- Staff sexual misconduct is perpetrated by different staff
 - Adult:
 - 60% of male staff and 40% of female staff
 - Juvenile:
 - While the BJS report on reports by juvenile correctional authorities did not address this issue specifically, the report of incidents reported by youth indicated that 95% of staff sexual misconduct was perpetrated by female staff

NOTE: Numbers based on 2006 reports by correctional and juvenile authorities

Developed by the Department of Justice, Office of the Inspector General
CA #06S20GJJ1 Developed by Brenda V. Smith
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Measuring Sexual Activity within Juvenile Facilities by Interviewing Youth

- Youth self report survey determines whether a youth has been victimized by addressing 3 basic questions:
 1. Has the youth had any sexual contact since admission? (distinctions for specific actions)
 2. With whom did the contact occur?
 3. Was it done willingly?
- Specific questions vary by gender and age

Findings: Sexual Victimization Reported by Youth 2008-9

- 12% of adjudicated youth reported 1 or more incidents of sexual victimization (in the past 12 months or since admission, if less than 12 months)
 - 2.6% of incidents involved other youth
 - 10.3% of incidents involved staff

Findings: Sexual Victimization Reported by Youth 2008-9

- 13 facilities were considered to have the highest rates of prevalence
 - Among the 13 high-rate facilities most reports of sexual victimization involved nonconsensual sexual acts with other youth and serious sexual acts with facility staff
 - 4 had rates of youth-on-youth sexual victimization that exceeded 10%
 - Corsicana Residential Treatment Center (TX): 13.9%
 - Indianapolis Juvenile Correctional Facility (IN): 16.3%
 - Shawono Center (MI): 18.2%
 - Samarkand Youth Development Center (NC): 12%
 - 11 had rates of staff sexual misconduct that were more than twice the national average
 - Pendleton Juv. Corr. Fac. (IN), Corsicana Res. Trtmt. Ctr. (TX), Victory Field Corr. Acad. (TX), Shawono Ctr. (MI), Samarkand Yth. Dev. Ctr. (NC), Woodland Hills Yth. Dev. Ctr. (TN), Culpeper Juv. Corr. Ctr., Long Term (VA), Backbone Mtn. Yth. Ctr., Swanton (MD), L.E. Rader Ctr. (OK), Bon Air Juv. Corr. Ctr. (VA), The New Jersey Training Center (NJ)

Findings: Sexual Victimization Reported by Youth 2008-9

● Youth Characteristics

- Males were more likely to report sexual activity with facility staff
- Females were more likely to report forced sexual activity with other youth
- Youth who are considered sexual minorities reported significantly higher rates of victimization
- Youth with prior histories of victimization were twice as likely to report victimization

Findings: Sexual Victimization Reported by Youth 2008-9

● Facility Level Factors

- State facilities had higher rates of staff sexual misconduct (10.9%) compared to non-state facilities (7.9%)
- Female facilities had highest rates of youth-on-youth incidents (11%); male facilities highest for staff sexual misconduct (11.3%).
- Small facilities (10-25 youth) had the lowest rates of sexual victimization (6.3%), mostly due to low rates of staff sexual misconduct.

Findings: Sexual Victimization Reported by Youth 2008-9

- Female-only facilities had the highest rates of youth-on-youth sexual victimization (11.0%); male-only facilities had the highest rates of staff sexual misconduct (11.3%).
- Approximately 95% of all youth reporting staff sexual misconduct said they were victimized by female staff
 - 92% were males reporting activity with female staff
 - 2.5% were males reporting sexual activity with both male and female staff

Findings: Sexual Victimization Reported by Youth 2008-9

- 4.7% of youth reporting sexual victimization by staff were female
 - 3% reported victimization by a male staff member
 - .8% reported victimization by both male and female staff
- Females were more likely than males to report forced sexual activity with other youth.
 - About 9.1% of females and 2.0% of males reported forced sexual activity with another youth at the facility.



Institutional Review Panel

- Section 4(b): Review Panel on Prison Rape
 - Carry out public hearings in each calendar year for prisons (state and federal) with the three highest and two lowest numbers.
 - This will be carried out for adult prisons and jails as well as juvenile facilities and community corrections centers.
- 3 Members
 - Gwendolyn Chunn
 - Dr. Reginald A. Wilkinson
 - Sharon English

National Prison Rape Elimination Commission

- 9 members authorized (8 served)
- Charge
 - Conduct legal and factual study of the effects of prison rape in the US
 - Recommend national standards
 - Consultation with accreditation organizations
 - Can't impose something that would mandate substantial increased costs to agency
 - Hold hearings
 - Issue report w/in 2 years of initial meeting [June 23, 2009]



Commission Findings

- Protecting inmates from sexual abuse remains a challenge correctional facilities across the country.
- Sexual abuse is not an inevitable feature of incarceration -- leadership matters.
- Certain individuals are more at risk of sexual abuse than others.



Findings: NPREC

- Few correctional facilities are subject to the kind of rigorous internal monitoring and external oversight that would reveal why abuse occurs and how to prevent it.
- Many victims cannot safely and easily report sexual abuse, and those who speak out often do so to no avail.
- Victims are unlikely to receive the treatment and support known to minimize the trauma of abuse.



Findings: NPREC

- **Juveniles in confinement are much more likely than incarcerated adults to be sexually abused, and they are particularly at risk when confined with adults.**
- Individuals under correctional supervision in the community are at risk for sexual abuse.
- A large and growing number of detained immigrants are in danger of sexual abuse.

Structure of Juvenile Standards

- Table of Contents
- Preface
- Compliance guide
- Glossary
- Standards
 - Standard
 - Discussion
 - Checklist



Standards Include

- Leadership and Accountability
- Prevention
- Detection and Response
- Monitoring



Standards Example

- PP-3 Resident Supervision.
 - Summary: Direct care staff provides the resident supervision necessary to protect residents from sexual abuse. Requires facility supervisors to review critical incidents and examine potential problems that could have led to the abuse. When problems or needs are identified, facility administrators and supervisors are to take corrective action.

Compliance Checklist

PP-3 Resident Supervision

Assessment Checklist	YES	NO
(a) Does direct care staff provide the supervision of residents necessary to protect them from sexual abuse?		
(b) Do the facility administrators and supervisors responsible for reviewing critical incidents examine areas in the facility where sexual abuse has occurred to assess the following?		
• Physical barriers that may have enabled the abuse		
• Adequacy of staffing levels during different shifts		
• Monitoring technology needs		
(c) When problems or needs are identified, do facility administrators and supervisors take corrective action? (Attach description of corrective actions taken.)		



Standards Example

- DC-2 Data Collection

- Summary: The agency collects accurate, uniform data for every reported incident of sexual abuse using a standardized instrument and set of definitions. Data is aggregated annually and includes data necessary to satisfy annual BJS Surveys. Data is obtained from multiple sources, including contracted facilities.

Compliance Checklist

● DC-2 Data Collection

Assessment Checklist	YES	NO
(a) Does the agency collect uniform data for every reported incident of sexual abuse using a standardized instrument and set of definitions?		
(b) Does the agency aggregate the incident-based sexual abuse data at least annually?		
(c) Does the agency collect the incident-based data necessary to answer all questions from the most recent version of the BJS Survey on Sexual Violence?		
(d) Does the agency obtain data from multiple sources, including reports, investigation files, and sexual abuse incident reviews?		
(e) Does the agency also obtain incident-based and aggregated data from every facility with which it contracts for the confinement of its residents?		

Adoption and Effect of National Standards

- A year after National Prison Rape Elimination Commission issues report, AG publishes a final rule with standards
 - 90 days after publication -- transmission to state departments of correction
 - FBOP is immediately covered by rule
 - Possible reduction of 5% each year for failure to meet the standard
 - Annual report on non-compliance



What is Happening Now

- Attorney General Working Group
 - Composition
 - NIC, OJJDP, HHS, BJA, NIJ, BOP, OJP, ICE, HS
 - Tasks
 - Review standards one by one
 - Commissioned a cost study (OJP)
 - Established a framework for public comments on the standards
- Prediction
 - Strong aggressive standards that are similar to what the NPRE Commission proposed

What States are Doing Now

- Compliance
- Early Adopters



What does this mean?

- Increased scrutiny at state, federal and local level on custodial sexual abuse
- Enhanced focus on investigations, prosecution and administrative sanctions
- Services for victims



What does this mean?

- Reentry services for victims and perpetrators and role of community corrections
- Set of national standards that establish minimum standards for addressing sexual violence in custody



Unresolved Issues

- Who defines compliance?
- Who monitors compliance?
- The existence of a body to continue to refine the standards
- The availability of funding to assist in implementing the standards and developing best practices