

U. S. Department of Justice  
Office of Justice Programs  
Bureau of Justice Assistance

**The Prison Rape Elimination  
Act of 2003 and  
Law Enforcement Agencies:**

**What Every Law Enforcement  
Executive Needs to Know**

**Instructor's Guide, Lesson Plans and  
Resources [DRAFT]**

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The Center for Innovative Public Policies, Inc.

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# Forward

The Prison Rape Elimination Act of 2003 was passed unanimously by Congress, and signed by the President in 2003. PREA:

- Addresses the detection, elimination and prevention of sexual assault and rape in correctional systems, including lock-ups operated by law enforcement;
- Funds the development of national standards of compliance and accountability;
- Directs collection and dissemination of information on the incidence of arrestee-on-arrestee sexual violence as well as staff sexual misconduct with arrestees; and
- Awards grants and technical assistance to help agencies implement the Act.

For purposes of PREA, the term “prison” applies to all federal, state, and local prisons, jails, **police lock-ups, temporary holding cells**, private facilities, and community settings such as residential facilities. The term “inmate” applies to any person held in a custodial setting for any length of time by any of the facility types mentioned above.

## **INSTRUCTOR’S GUIDE, LESSON PLANS, AND RESOURCES**

These lessons plans provide a two-hour program for law enforcement executives – chiefs of police, sheriffs, and their command staff. This overview of PREA is intended as a briefing and includes suggestions for next steps.

These lesson plans are built using the input of law enforcement executives, and what has been learned from PREA-related training over the past four years.

Instructors are also provided with suggested reading materials and other resources. Becoming familiar with these materials and using this knowledge to enrich the instruction is critical.

This package includes not only the lesson plans, but the note taking guide which can be distributed to participants, and Power Point slides.

## **TRAINING PROGRAM OBJECTIVES**

This introduction program for law enforcement executives is designed to achieve the following objectives:

1. To educate law enforcement executives about PREA and it’s relevance to law enforcement agencies who manage short term prisoner holding facilities and court holding.
2. Overview legal issues
3. Provide recommendations to both:
  - a. assure arrestee and detainee safety from sexual violence and
  - b. prevent and address staff sexual misconduct with arrestees and detainees

4. Highlight prevention activities
5. Identify resources

### **HOW DOES PREA APPLY TO LAW ENFORCEMENT?**

PREA addresses the safety of arrestees while in the custody of the agency - including arresting agencies - from sexual assault, sexual harassment, "consensual sex" with employees, and arrestee-arrestee sexual assault.

PREA also directs agencies to maintain data regarding arrestee-arrestee sexual assaults, nonconsensual sexual acts, and staff sexual misconduct.

### **COURSE MANUAL AND NOTE TAKING GUIDE**

This Note Taking Guide for participants is provided to encourage participants to record information and actions as the program unfolds. Many of the Power Point Presentations used in the program are included in this Guide.

### **WHAT OTHER ASSISTANCE AND SERVICES ARE OFFERED BY BJA?**

BJA will provide no-cost assistance to state and regional law enforcement and sheriffs' associations, as well as individual sheriffs and chiefs of police, including:

1. Presentations/training to state or regional law enforcement or sheriffs' associations including an overview of PREA with specific policy and operational recommendations, as well as a review of legal issues for policy-makers.
2. On-site technical assistance to agencies and organizations that request more in-depth help to develop policies, procedures regarding PREA.
3. A Policy Development Guide to assist agencies as they update and revise their policies and procedures to effectively and efficiently address PREA-related initiatives (available in 2007).
4. Training curriculum that may be used by law enforcement agencies. Curriculum includes a two hour module to educate agency leadership and policy-makers about their role in assuring compliance with PREA; and a four hour module for employees and supervisors involved in day-to-day operations

To schedule a training program, at no cost to your organization, please contact CIPP by e-mail [cippinc@aol.com](mailto:cippinc@aol.com), or telephone (239) 597-5906.

To request technical assistance, please contact:

U.S. Department of Justice, Office of Justice Programs, Bureau of Justice Assistance,  
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## Module One – Prison Rape Elimination Act (PREA) - Overview

Content	Instructor Notes/Strategies
<p>Module Overview: This Module provides an overview of the Prison Rape Elimination Act of 2003, including an overview of the statute, definitions and reporting requirements. The Module overviews why law enforcement agencies responsible for the operation of short-term holding facilities may only now be learning about PREA and its implications for their operations. Legal issues are overviewed including state statutes, maps, and case law.</p>	
<p><b>Module Road Map - 65 Minutes</b></p> <p>1.1 What do you know? (quiz) (15 minutes)</p> <p>1.2 What is PREA? (10 minutes)</p> <p style="padding-left: 20px;">1.2.1 Overview and purposes of PREA</p> <p style="padding-left: 20px;">1.2.2 How Sexual Violence is Measured</p> <p style="padding-left: 20px;">1.2.3 Development of standards</p> <p style="padding-left: 20px;">1.2.4 BJS reporting</p> <p>1.3 Why now for law enforcement agencies? (5 minutes)</p> <p>1.3.1 What law enforcement executives say about PREA.</p> <p>1.4 Legal Overview (20 minutes)</p> <p>1.5 Burning Issues (10 minutes) <b>OPTIONAL</b></p> <p>1.6 Conclusions (5 minutes)</p>	
<p><b>PROGRAM OPENING</b></p> <p><b>Program Objectives:</b></p> <p><b>The objectives of this program to are:</b></p> <p><b>6. To educate law enforcement executives about PREA and it’s relevance to law enforcement agencies who manage short term prisoner holding facilities and court holding.</b></p> <p><b>7. Overview legal issues.</b></p> <p><b>8. Provide recommendations to both:</b></p> <p style="padding-left: 20px;"><b>a. assure arrestee and detainee safety from sexual violence and</b></p> <p style="padding-left: 20px;"><b>b. prevent and address staff sexual misconduct with arrestees and detainees</b></p> <p><b>9. Highlight prevention activities.</b></p> <p><b>10. Identify resources.</b></p> <p><b>Definition: For the purposes of this training the term “prison” applies to all federal, state,</b></p>	<p><b>(15 minutes)</b></p> <p>Overview the program objectives; facilitate introductions.</p> <p>While the participants are arriving, invite them to begin working on the “quiz” inside their note taking guide.</p> <p>Advance PPTs to match lesson/discussion</p> <p>Tell participants about their individual Note Taking Guide.</p>

Content	Instructor Notes/Strategies
<p>and local prisons, jails, police lock-ups, temporary holding cells, private facilities, and community settings such as residential facilities. The term “inmate” applies to any person held in a custodial setting for any length of time by any of the facility types mentioned above. For the purposes of this training, the term arrestee and/or detainee is used to describe persons in custody by law enforcement.</p>	
<p><b>“What do you know?” QUIZ</b></p>	<p>Refer participants to “What Do You Know?” Quiz in the note taking guide. (15 minutes for their responses and provision of answers.)</p>
<p>Take a few minutes and review these questions. This quiz will provide you an overview of the program.</p> <p>See page 14.</p>	<p>The objective of this quiz is to introduce participants to PREA in a fast-moving way. Ask participants to review the statements and note T or F next to each statement.</p> <p>The instructional strategy is more than just identifying if the statement is T or F. As you review each question, preview the information that will be included in this entire presentation. If there are questions, respond to the question, or ask permission to place it in a “parking lot” list for later review. The responses the participants give to the quiz, as well as their questions will be a way for you to judge their knowledge of the subject and any issues of concern.</p>

1.1 What is PREA?	(10 minutes)
<p>On September 4, 2003, the Prison Rape Elimination Act of 2003 was signed into law. The Prison Rape Elimination Act (PREA) is legislation that establishes a standard of zero tolerance for rape and sexual assault in any prison, jail, police lockup, or juvenile facility.</p> <p>The major provisions of PREA are to:</p> <ul style="list-style-type: none"> <li>• Develop standards for detection, and punishment of prison rape.</li> <li>• Collect and disseminate information on the incidence of prison rape.</li> <li>• Award grants and technical assistance to help state governments implement the Act.</li> </ul> <p>PREA seeks to insure that short-term prisoner holding facility and other correctional settings protect arrestees from sexual assault, sexual harassment, “consensual sex” with employees, and arrestee-arrestee sexual assault. These behaviors affect security and staff safety, and in many states these behaviors are prohibited by law.</p> <p>PREA requires short-term holding facilities to keep data regarding inmate-inmate [arrestee-arrestee] sexual assaults, nonconsensual sexual acts, and staff sexual misconduct. For more information about the PREA data collection efforts, refer to Bureau of Justice Statistics (BJS) web site noted in the Resources section of the participants’ note taking guide.</p> <p><u>1.2.1 Overview and Purposes of PREA:</u></p> <ol style="list-style-type: none"> <li>1. Establish a zero-tolerance standard for the incidence of rape in prisons in the United States.</li> <li>2. Make the prevention of prison rape a top priority in each prison system.</li> <li>3. Develop and implement national standards for the <i>detection, prevention, reduction, and punishment</i> of prison rape.</li> <li>4. Increase available data and information on the incidence of prison rape.</li> <li>5. Standardize the definitions used for collecting data on the incidence of</li> </ol>	

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 health care; mental health care; disease prevention; crime prevention, investigation, and prosecution; prison construction, maintenance, and operation; race relations; poverty; unemployment; and homelessness.

9. Reduce the costs that prison rape imposes on interstate commerce

Other parts of PREA:

- Supports the elimination, reduction and prevention of sexual assault within the corrections system
- Mandates several national data collection activities
- Provides funding for program development and additional research
- Creates a national commission to develop standards and accountability measures
- “Safe communities” has implications for probation, parole and other types of non-residential supervision
- BJS (Bureau of Justice Statistics) to collect prison rape statistics
- NIJ (National Institute of Justice) to provide grants for research
- NIC (National Institute of Corrections) to offer training, technical assistance, and clearinghouse functions
- U. S. Attorney General’s Office authorized to provide grants to corrections to prevent, investigate, and punish (BJA); and create review panel
- National Prison Rape Elimination Commission appointed

Benefits of PREA:

- Reduced liability exposure to prison rape lawsuits
- Reduced prison costs in administration, medical, and mental health

<ul style="list-style-type: none"> <li>• Safer environment for inmates [arrestees] and staff</li> <li>• Protects <b>public health</b> from sexually transmitted diseases inmates [arrestees] may contract in prison</li> <li>• Protects <b>public safety</b> by releasing inmates [arrestees] into the community who have not been sexually assaulted in prison/jail/detention setting</li> </ul>	
<p><b>1.2.2. How sexual violence is measured</b></p>	
<p>The definition of “rape” under the Prison Rape Elimination Act of 2003 was operationalized by disaggregating sexual violence into two categories of inmate-on-inmate [arrestee-on-arrestee] sexual acts and two categories of staff sexual misconduct.</p> <p>The categories are:</p> <p><b>Nonconsensual sexual acts</b></p> <ul style="list-style-type: none"> <li>• Contact of any person without his or her consent, or of a person who is unable to consent or refuse; and</li> <li>• Contact between the penis and the vagina or the penis and the anus including penetration, however slight; or</li> <li>• Contact between the mouth and the penis, vagina, or anus; or</li> <li>• Penetration of the anal or genital opening of another person by a hand, finger, or other object.</li> </ul> <p><b>Abusive sexual contacts</b></p> <ul style="list-style-type: none"> <li>• Contact of any person without his or her consent, or of a person who is unable to consent or refuse; and</li> <li>• Intentional touching, either directly or through the clothing, of the genitalia, anus, groin, breast, inner thigh, or buttocks of any person.</li> <li>• Excluding incidents in which the intent of the sexual contact is to harm or debilitate rather than sexually exploit.</li> </ul>	<p>Note: These are the definitions in PREA – participants are strongly encouraged to check the definitions in their state statute. The 50-state survey is attached here as a resource for the instructor.</p> <p>Most importantly, the agency’s policies and procedures need to be specific in terms of defining behaviors which are prohibited.</p>

<p><b>Staff sexual misconduct</b></p> <ul style="list-style-type: none"> <li>• Any behavior or act of a sexual nature directed toward an inmate [arrestee] by an employee, volunteer, official visitor, or agency representative. Romantic relationships between staff and inmates [arrestees] are included. Consensual or nonconsensual sexual acts include:             <ul style="list-style-type: none"> <li>○ Intentional touching of the genitalia, anus, groin, breast, inner thigh, or buttocks with the intent to abuse, arouse, or gratify sexual desire; or</li> <li>○ Completed, attempted, threatened, or requested sexual acts; or</li> <li>○ Occurrences of indecent exposure, invasion of privacy, or staff voyeurism for sexual gratification.</li> </ul> </li> </ul> <p><b>Staff sexual harassment</b></p> <ul style="list-style-type: none"> <li>• Repeated verbal statements or comments of a sexual nature to an inmate [arrestee] by an employee, volunteer, official visitor, or agency representative, including:             <ul style="list-style-type: none"> <li>○ Demeaning references to gender or derogatory comments about body or clothing; or</li> <li>○ Profane or obscene language or gestures.</li> </ul> </li> </ul>	
<p><b>1.2.3 Development of Standards</b></p>	
<ul style="list-style-type: none"> <li>• Standards are now being developed by the National Prison Rape Elimination Commission using committees whose membership is selected for their expertise in the subject matter.</li> <li>• Draft in Federal Register in 2008 for public comment</li> <li>• Standards will not contain any elements which impose substantial costs on states</li> <li>• Approved by the NPREC and then forwarded to Attorney General</li> <li>• Attorney General has one year from date of receipt to approve and transmit</li> </ul>	

<ul style="list-style-type: none"> <li>• 90 days after that rules can become final</li> <li>• Tied to accreditation – accrediting bodies will be asked to adopt these standards</li> </ul>	
<p><b>1.2. 4 BJS Reporting</b></p>	
<p>Two reports to date – see resources section for links.                  All agencies that operate short term holding facilities will be asked to collect and report data – in coming year.                  Importance of definitions and incorporation into agency operations.</p>	
<p><b>1.3 Why Now for Law Enforcement Agencies?</b></p>	<p><b>(5 minutes)</b></p>
<ul style="list-style-type: none"> <li>• Name of law is somewhat imprecise when it comes to law enforcement</li> <li>• Problem of arrestee/arrestee sexual violence not widely recognized; staff sexual misconduct in law enforcement seen as a “few bad apples”</li> <li>• Emphasis placed since PREA became law on institutional corrections</li> <li>• Funding to state departments of corrections for PREA initiatives – few involved sheriffs and law enforcement</li> </ul> <p>In 2003, BJS reported that of the 12,666 local police departments in the United States 26% (N=3,293 agencies) indicated that they operated a lock-up.</p> <p>It is unknown exactly the number of law enforcement “lock-ups” in the U.S.</p> <p>A lock-up is any place where an arrestee is detained and cannot leave of their own free will – may be traditional “cells” or a detective’s interrogation room, or even, in some cases, the back seat of a paddy wagon or law enforcement vehicle.</p>	<p>Participants may wish to know why organizations and agencies are only now learning about PREA and/or PREA’s impact on lock-ups and short term holding facilities. This is a legitimate question.</p> <p>Initiatives for the first three years were concentrated on bringing the information to custodial corrections settings – jails, prisons.</p> <p>Through NIC and BJA – the message is not reaching out to those responsible for operating short-term holding facilities.</p>

<p><b>1.3.1 What law enforcement executives say about PREA.</b></p>	
<p>What concerns have law enforcement executives voiced about PREA? Here are a few issues raised by your peers:</p> <ol style="list-style-type: none"> <li>1 Persons with mental illness and those who are homeless pose difficult arrest and detention situations. Police/law enforcement are the only 24/7 agency who have the capacity to intervene – yet lack the resources to respond effectively. These individuals also pose challenges as potential victims and/or potential predators. There is a need for diversion programs, screening, training of employees, links to mental health and homeless services.</li> <li>2 Definitions of staff sexual misconduct with arrestees are sometimes vague in agency policy. Executives are now realizing that employees need specific definitions about what constitutes sexual misconduct with arrestees.</li> <li>3 Employees are fearful that if arrestees are given more information on how to report allegations of misconduct, that they, the employees, may be subject to false allegations.</li> <li>4 Employee buy-in is crucial to increasing efforts to safeguard arrestees and that buy-in isn't there.</li> <li>5 Lack of knowledge about PREA and lack of coordination/collaboration with the state's department of corrections who may have received funding under PREA is an issue. Communicating/collaborating and sharing information with state departments of corrections not "usual" for most law enforcement agencies.</li> <li>6 Inexperienced or newly employed staff are sometimes assigned to lock-ups – often without sufficient training and/or supervision. Sometimes, due to lack of staffing, other employees must work mandatory overtime in lock-ups – without training.</li> <li>7 Training for police/law enforcement officers doesn't often include information on the pathways of women and other vulnerable victims</li> </ol>	<p>Note: This section briefly summarizes the concerns raised in other training with law enforcement executives. This short list is to raise questions/issues for participants. Respond to questions; invite other points of view.</p>

<p>into the justice system. Therefore employees are not equipped to communicate with or manage such individuals –both in lock-up situations and during arrest [Refer to question – what will people do/say to avoid arrest?)</p> <p>8 Policies and procedures, along with risk assessment need updating, and in some cases, development.</p> <p>9 Link CALEA and PREA – there is a need to assure that CALEA standards recognize PREA and vice versa.</p> <p>10 Operating short-term holding facilities, lock-ups, is not the primary mission of law enforcement – and as such often have a lower priority in funding, staffing, resources. Some organizations are considering how to find more appropriate agencies to operate these facilities – collaboration with the county sheriff and/or the state department of corrections.</p> <p>11 Funds are scarce for improving or implementing risk assessments for arrestees, providing medical/mental health/pharmaceuticals for arrestees, improving the physical plant, and upgrading training and supervision of employees who work in lock-ups.</p> <p>These are just a few concerns raised by your peers. These, along with the concerns you raise, suggest possible strategies for solution – most involving collaboration with community organizations, and educating local officials about the mission of police/law enforcement.</p>	
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**1.4 Legal Issues**

**(20 minute)**

**Note to facilitators: This curriculum assumes that agency chief executives know the law regarding agency liability for violations of the 4<sup>th</sup>, 8<sup>th</sup> and 14<sup>th</sup> amendments, as well as the issues of municipal, agency, professional and personal liability from employee misconduct, including misconduct in which employees do not adequately supervise arrestees.**

**As such, this section highlights how PREA interplays with what the participants know about liability issues.**

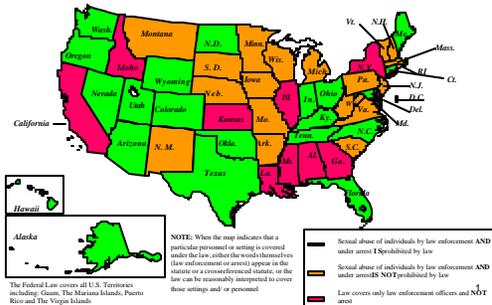
This is intended to be an overview of legal issues highlighting potentially new information regarding PREA and police lock-ups/short term holding facilities.

Resources for the instructor are (in the instructor's resource section):

- Diagrams of State Laws (January 2007)
- Summaries of Civil Case Law Regarding Law Enforcement, Lock-Ups and Jail Settings (January 2007)
- PREA Implications for Law Enforcement Operated Jails and Lock-ups: News Stories Regarding Criminal Convictions for Sexual Misconduct (January 2007)
- PREA Implications for Law Enforcement

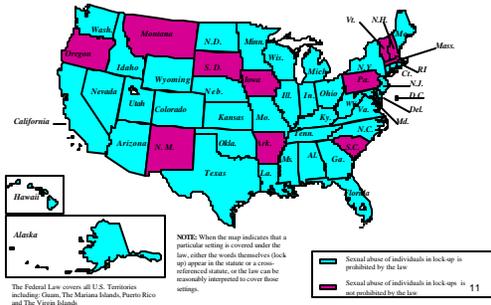
*State Criminal Laws Prohibiting the Sexual Abuse of Individuals by Law Enforcement  
Smith Consulting – January 2007*

Source: The NIC/WCL Project on Addressing Prison Rape: 50 State Survey of State Criminal Laws Prohibiting the Sexual Abuse of Individuals in Custody (Current as of January 2007)



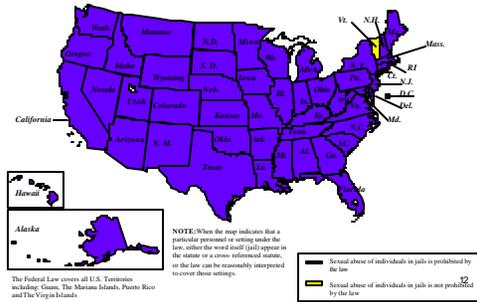
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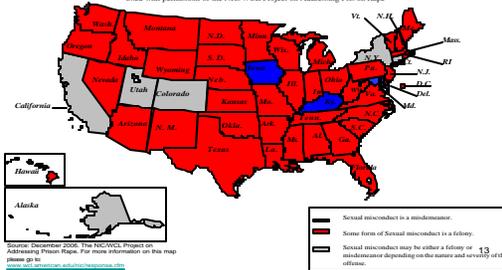
**State Criminal Laws Prohibiting the Sexual Abuse of Individuals in Jails**

Smith Consulting – January 2007  
 Source: The NIGWCL Project on Addressing Prison Rape 50 State Survey of State Criminal Laws Prohibiting the Sexual Abuse of Individuals in Custody (Current as of January 2007)



**State Criminal Laws Prohibiting Sexual Abuse of Individuals in Custody: Penalties**

National Institute of Corrections/American University, Washington College of Law – December 2006  
 Used with permission of the NIGWCL Project on Addressing Prison Rape



**The Issue of Consent?**

What about the issue of “consent”? Can arrestees “consent” to have sexual contact with an arresting officer, booking officer or lock-up personnel? Can an arrestee “consent” to have a sexual relationship with another arrestee?

What is the agency’s explicit policy on the matter? Do employees’ need direction?

The following summary is a reminder of the responsibilities of agencies to protect arrestees from violence perpetrated by other arrestees and from staff sexual abuse/misconduct with arrestees.

Need to Know:	Sources of Liability
<ul style="list-style-type: none"> <li>• PREA = no new “cause of action”</li> <li>• Focuses on existing duty to protect arrestees</li> <li>• Need to involve prosecutors</li> <li>• Arrestees cannot consent to sex with employees</li> <li>• Lock-ups have duty to protect arrestees from other arrestees</li> </ul>	<ul style="list-style-type: none"> <li>• PREA</li> <li>• Agency Policy</li> <li>• State statutes prohibiting the abuse of persons in custody</li> <li>• Laws enacted to Implement PREA (California)</li> <li>• Other State Laws</li> <li>• Constitutional Law</li> </ul>

Operated Jails and Lock-ups: News Stories Regarding Civil Liabilities in Conjunction with Criminal Convictions for Sexual Misconduct (January 2007)

- PREA Implications for Law Enforcement Operated Jails and Lock-ups: News Stories Regarding Criminal Convictions for Off Duty Conduct (January 2007)

**Important Points:**

- PREA does not create a new cause of action – in other words the organization cannot be “sued under PREA”. But PREA raises the visibility of this arrestee/arrestee sexual violence and staff sexual misconduct – including reference to PREA in litigation.
- PREA focuses organization on their current legal obligation to safeguard arrestees from harm, including harm inflicted by other arrestees and from staff/employees.
- PREA helps focus the organization on the importance of involving the prosecutor in the development of policies/procedures, training, and prosecution of allegations of arrestee/arrestee sexual violence and/or staff sexual misconduct with employees.

<p style="text-align: center;"><b>Sexual Misconduct Laws</b></p> <ul style="list-style-type: none"> <li>• All 50 states, the federal government and DC have laws specifically covering the sexual abuse of persons in custody</li> <li>• 32 states cover law enforcement officers</li> <li>• 21 states cover arrests</li> <li>• 39 states cover police lockups</li> <li>• 49 states cover jails</li> </ul>	<p style="text-align: center;"><b>Other State Criminal Laws</b></p> <ul style="list-style-type: none"> <li>• Sexual Assault</li> <li>• Statutory Rape</li> <li>• Sodomy</li> <li>• Sex Offender Registration             <ul style="list-style-type: none"> <li>– Juveniles</li> <li>– Adults</li> </ul> </li> <li>• Vulnerable Adult Statutes</li> <li>• Licensing</li> <li>• Malfesance in Office/Official Misconduct</li> <li>• Obstruction of Justice</li> <li>• Making False Statements to a government official</li> <li>• Mandatory Reporting</li> <li>• Notification</li> </ul>	<p><b>Note to Instructor:</b> Be sure to review the state statute of the state in which you are instructing. If possible, ask as legal representative from the state [or agency] to speak directly to the participants.</p>
<p style="text-align: center;"><b>Civil Liability -- Constitutional Claims</b></p> <ul style="list-style-type: none"> <li>• Most commons legal bases for challenges             <ul style="list-style-type: none"> <li>– 42 U.S. C. 1983</li> <li>– Eighth Amendment</li> <li>– Fourth Amendment</li> <li>– Fourteenth Amendment</li> <li>– State tort claims</li> </ul> </li> </ul>	<p style="text-align: center;"><b>42 U.S. C. 1983</b></p> <ul style="list-style-type: none"> <li>• Creates a federal cause of action for the vindication of rights found elsewhere</li> <li>• Key elements             <ul style="list-style-type: none"> <li>– Deprived or a right secured by the constitution or law of U.S.</li> <li>– Deprivation by a person acting under color of state law</li> </ul> </li> </ul>	
<p style="text-align: center;"><b>Eighth Amendment</b></p> <ul style="list-style-type: none"> <li>• Prohibits cruel and unusual punishment</li> <li>• Legal standard is deliberate indifference             <ul style="list-style-type: none"> <li>– Established in a prison rape case Farmer v. Brennan, 511 U.S. 825 (1994)</li> <li>– Two part test                 <ul style="list-style-type: none"> <li>• the injury must be objectively serious and must have caused an objectively serious injury</li> <li>• the official must have a sufficiently culpable state of mind and have acted with deliberate indifference or reckless disregard for the inmate's constitutional rights</li> </ul> </li> </ul> </li> </ul>	<p style="text-align: center;"><b>What the court looks for</b></p> <ul style="list-style-type: none"> <li>• Deliberate indifference to inmate vulnerability -- safety or health             <ul style="list-style-type: none"> <li>– Official knew of and disregarded an excessive risk to inmate safety or health</li> <li>– Official must be aware of facts from which an inference could be drawn that a substantial risk of harm exists and he must draw the inference</li> </ul> </li> </ul>	

<p><b>State Tort Law Claims</b></p> <ul style="list-style-type: none"><li>• Assault</li><li>• Battery</li><li>• Intentional infliction of emotional distress</li><li>• Negligent infliction of emotional distress</li><li>• Negligent hiring, firing, supervision, training</li></ul>	<p><b>Liability</b></p> <ul style="list-style-type: none"><li>• Municipal</li><li>• Official</li><li>• Individual</li><li>• Personal</li></ul>		
<p><b>Fourteenth Amendment : Substantive Due Process</b></p> <ul style="list-style-type: none"><li>• Was the individual deprived of a life, liberty or property without due process of law?</li><li>• Lower legal standard than 8<sup>th</sup> Amendment</li><li>• Depending on situation – 14<sup>th</sup> Amendment may apply – juveniles and pre-trial detainees in particular</li></ul>	<p><b>Qualified Immunity</b></p> <ul style="list-style-type: none"><li>• No violation of federal law -- constitutional or otherwise</li><li>• Rights and law not clearly established at the time of the incident</li><li>• Official's action was objectively legally reasonable in light of clearly established legal rules at time of the incident</li></ul>		
<p><b>Lessons Learned</b></p> <ul style="list-style-type: none"><li>• Examine patterns of misconduct at institution</li><li>• Same employee/officer accused many times</li><li>• Off duty conduct which reflects on work performance</li><li>• Compromised grievance procedures</li><li>• Ineffective investigative procedures</li><li>• Must lead, manage and discipline</li></ul>			

**Conclusions:**

- Law enforcement officials can be held liable in their official, individual and personal capacities for sexual violence against arrestees by either staff or other arrestees.
- Knowledge and involvement of prosecutor important.
- Municipalities can be held liable for sexual violence against arrestees if the violence is a result of a policy or custom of the county or if it follows official policy set by the Chief of Police/Sheriff.
- Failure to address sexual violence and misconduct has criminal, administrative and civil consequences for cities, counties, chiefs of police, sheriff, and law enforcement personnel.

<p><b>1.5 Burning Issues – OPTIONAL EXERCISE</b></p>	<p><b>(10 minutes)</b></p>
<p>What are the priority issues that you want to be sure we discuss about the Prison Rape Elimination Act and your agency before this training ends?</p>	<p>If there is time, or if the participants appear to have many questions, consider using “Burning Issues” to capture concerns. In this exercise, ask participants to work in small groups (5 – 7), or if it is a smaller group – question the larger group -- to capture their issues/concerns on flip chart paper. Ask each group to post their issue list and designate a spokesperson. When debriefing this exercise, tell participants what will, and what will not be covered. Highlight resources especially for these issues which are not included in this program.</p>
<p><b>1.6 Conclusion of Module One</b></p>	<p><b>(5 minutes)</b></p>
<p>This module has addressed:</p> <ul style="list-style-type: none"> <li>• What is PREA</li> <li>• Why now an issue for law enforcement</li> <li>• Legal issues</li> <li>• Burning issues (if used)</li> </ul> <p><b>Module two will address next steps - What Should Your Agency Be Doing About PREA? Assuring Arrestee and Detainee Safety</b></p>	<p>Respond to questions, check out body language, and check on participant engagement. Make adjustments, ask questions, see what needs to be discussed before you move to the next module.</p>

## Test Your Knowledge



An understanding of the issue of arrestee/arrestee sexual violence and staff sexual misconduct with arrestees involves all aspects of operations. Consider the following statements and assess whether you think they are “true” or “false”?

  F   1. The Prison Rape Elimination Act of 2003 is applicable only to prisons, jails, and arrestee holding facilities that keep detainees for more than 24 hours.

  F   2. Staff sexual misconduct with arrestees is an issue only affecting women arrestees.

§ Staff sexual Misconduct (SSM) is by no means a woman=s issue@

§ SSM crosses all gender lines: male to female; female to male; male to male; female to female

§ SSM also impacts an agency=s ability to achieve its mission

  T   3. Sexual violence can be prevented by keeping arrestees in single cells.

- BUT this is only one strategy. Arrestees need to be screened for their medical and mental health safety, and staff sexual misconduct remains an issue with single-celling.

  ?   4. A male officer who fails to announce his presence when he enters an area when female arrestees are held to perform a security check is guilty of sexual misconduct.

- It **depends** on whether these are really routine rounds, or whether the staff is being voyeuristic.

§ If observing or interfering with arrestee’s personal affairs is w/o reasonable need

§ If not in ordinary course of duties, officers should announce presence

§ May include reading personal mail or written materials when not required for security or safety

(1)

  F   5. Consent is a valid defense to claims of sexual misconduct.

§ Remember, in custodial settings power is not equal

§ Generally, no such thing as consent in a custodial setting BUT

§ State law may permit consent as a defense

§ 7<sup>th</sup> Circuit opinion suggests that it may be available

§ Point: check law in your state and legal precedent in your jurisdiction

§ Policy can provide that consent is never a defense

  T   6. An agency may impose standards on its staff that are higher than those contained in the state=s criminal statutes.

§ Even if statutes limit criminal consequences for SSM

§ Agency policy can set higher standards that carries with them administrative sanctions

  F   7. Sexual violence and sexual misconduct are criminal, not civil, issues.

§ Plaintiffs have been awarded significant damages in civil actions

F   8. Good policies that address sexual violence ensure no incidents in your organization.

- Unfortunately, not true, but policies, procedures and training go a long way in helping assure staff and arrestee safety

  T   9. PREA addresses staff sexual *harassment* of arrestees.

- Repeated verbal statements or comments of a sexual nature to an arrestee by
- an employee, volunteer, official visitor, or agency representative, including:
  - Demeaning references to gender or derogatory comments about body or clothing; or
- Profane or obscene language or gestures.

  T   10. Data collected by the Bureau of Justice Statistics found that in 66% of staff incidents, correctional authorities determined that staff had a romantic relationship with the offender.

- See both the 2004 and the 2006 report for more data

  T   11. In local jails, the Bureau of Justice Statistics found that most victims of sexual misconduct are female and most perpetrators male.

- In local jails 78% of the victims were females; 87% of the perpetrators, male.

  F   12. A survey done for the National Prison Rape Elimination Commission found that more than 60% of law enforcement agencies knew about PREA.

- 30.8% of responding agencies indicated that they knew of PREA
- Fewer than 3 of 26 responding agencies had policies addressing arrestee/arrestee sexual violence.

  F   13. It is sufficient to conduct an administrative investigation only into allegations of staff sexual misconduct with arrestees.

- Potential violations of law must be investigated.
- Agencies have potential liability if investigations not completed
- Allowing employees to resign in lieu of investigations not sufficient
- Administrative investigation should follow the completion of a criminal investigation

  T   14. PREA provides that if organizations fail to comply with published standards, federal funding can be reduced 5% each year.

- True.
- Standards won't be published in draft until summer 2007 in the Federal Register
- No date when implemented.

F 15. Courts have limited the ability of agencies to restrict off-duty relationships with individuals with criminal histories, and/or those on probation and parole.

- Draft clear policies that provide notice to employees
- Enforce policies uniformly
- Limits on behaviors should be strictly in line with agency interests
- Assess the relationship with which you are presented
  - Is it truly private
  - Will it affect operations
  - Does the behavior effect the ability of the employee do to their job
- Policy has legitimate purpose
- Require reporting and case-by-case review
- Monitor policy and implementation<sup>1</sup>

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<sup>1</sup> Brenda V. Smith, Nairi Simonian, Washington College of Law, February 28, 2006  
[http://www.wcl.american.edu/nic/documents/AJA\\_Final.pdf?rd=1](http://www.wcl.american.edu/nic/documents/AJA_Final.pdf?rd=1)  
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## Module Two – What Should Your Agency Be Doing About PREA? Assuring Arrestee and Detainee Safety

Content	Instructor Notes/Strategies
<p>Module Overview: This module provides an overview for agency executives asking the question -“what should my agency be doing NOW to respond to PREA?” The module addresses policies and procedures, risk assessment of arrestees, physical plant assessments, and employee training. Policies and procedures are overviewed in terms of issues the agency may wish to review, including but not limited to: risk assessments of arrestees/detainees; arrestee transportation; court holding; CALEA standards; and management and supervisory responsibilities. “Model” polices are not presented, rather a review of relevant procedures is discussed, leading to the participating agency’s ability to review and update policies and procedures. Employee training issues are addressed; as well as accountability and data collection.</p>	
<p>Module Road Map (55 minutes)</p>	
2.1	Effective strategies – systemic approach (5 minutes)
2.2	Policies and procedures (10 minutes)
	2.2.1 Investigation of allegations
	2.2.2 Compliance/Data Reporting
	2.2.3 Training
2.3	Arrestee Risk Assessment (10 minutes)
2.4	Physical Plant Assessment (10 minutes)
2.5	Stakeholder Involvement (5 minutes)
	2.5.1 Investigating Authority
	2.5.2 Sexual Assault Treatment Center
	2.5.3 Medical/Mental Health/Pharmacies
	2.5.4 Prosecutor
	2.5.5 Who Else?
2.6	Next Steps (10 minutes)
	2.6.1 Prevention Strategies)
2.7	Program Close-Out (5 minutes)

2.1 Effective Strategies	(5 minutes)
<p>What are the recommended next steps for agencies/organizations wishing to assess how the provisions of PREA impact their operations?</p> <p>This section looks at these areas:</p> <ul style="list-style-type: none"> <li>○ Policies and procedures</li> <li>○ Arrestee risk assessment</li> <li>○ Physical plan assessment</li> <li>○ Stakeholder involvement</li> </ul> <p>Assuring arrestee/detainee safety is more than looking at just one policy – it involves a holistic, systemic review of operations – from arrest procedures, to arrestee screening, to court transports and the physical plant. If you are accredited by CALEA – you have addressed many of these issues.</p> <p>Review aspects of operations:</p> <ul style="list-style-type: none"> <li>○ Policies/procedures</li> <li>○ Training</li> <li>○ Professional boundaries</li> <li>○ Supervision of employees</li> <li>○ Supervision of detainees</li> <li>○ Advising arrestees of their right to be safe during the time they are held by the agency and ways to report allegations of misconduct</li> <li>○ Risk assessment</li> <li>○ Adequate physical plant</li> <li>○ Effective investigations</li> <li>○ Corrective actions</li> <li>○ Prosecution</li> </ul>	<p>Provide an overview.</p> <p>Another important consideration is the sexual dynamics between arrestees and employees, which is not discussed in this training, but is important in supervision and training issues.</p> <p>Ask participants: what do some arrestees do to avoid being arrested and/or detained? How would employees respond to offers of bribes, sex or other illegal activities? How do employees learn these professional boundaries? Ask if participants are sure that allegations of arrestee abuse of other arrestees; or staff abuse of arrestees will be reported and investigated?</p>

2.2 Polices and Procedures	(10 minutes)
<ul style="list-style-type: none"> <li>• How to develop policies and procedures                             <ul style="list-style-type: none"> <li>○ With a topic as potentially controversial as this, it is a best practice to gather as much input and cooperation as possible from the officers who are involved most with arrestees; seeking their ideas before policies and finalized.</li> <li>○ Many organization engage in a short-term “try-out” of policies before the final is implemented.</li> <li>○ Operational practice must match written policies and procedures</li> </ul> </li> <li>• What are specific policies your organization should consider when addressing arrestee/arrestee sexual violence</li> <li>• What are critical issues to be covered in policy?                             <ul style="list-style-type: none"> <li>○ Definition of misconduct between arrestees/employees</li> <li>○ Commitment to operate safe, secure, Constitutional holding facilities                                     <ul style="list-style-type: none"> <li>▪ Risk assessments/screenings</li> <li>▪ Medical and mental health attention</li> <li>▪ Physical plant assessment/inspection/repair</li> </ul> </li> <li>○ Commitment to train employees                                     <ul style="list-style-type: none"> <li>▪ Recognizing trouble – medical/mental health</li> <li>▪ Safeguarding vulnerable arrestees</li> <li>▪ Recognizing arrestees who are potential predators</li> </ul> </li> </ul> </li> <li>○ Operational practice follows policy – a challenge to first line supervisors and managers.</li> <li>• Informing arrestees of their right to be free of violence and coercion while in your custody is part of the systemic approach. Informing arrestees/detainees about how to file complaints is important.</li> </ul>	<p>Collaboration is important in developing policies and procedures.</p>

2.1.1 Investigation of Allegations	
<p>Important components to assuring arrestee safety include, but are not limited to:</p> <ul style="list-style-type: none"> <li>○ Mechanisms for complaints/allegations to reach investigators – regardless of whether these allegations involve only arrestees or staff and arrestees.</li> <li>○ Mandates that all employees report allegations of arrestee/arrestee sexual violence and staff sexual misconduct with arrestees.</li> <li>○ Commitments to fully investigate all allegations.</li> <li>○ Commitments to refer for prosecution sustained allegations.</li> <li>○ A means to incorporate lessons learned from investigations into agency policy, supervisory training, pre-and-in-service training, to improve arrestee risk assessment and lock-up physical plant.</li> </ul> <p>Here are BJS' definitions regarding outcomes of investigations:</p> <ul style="list-style-type: none"> <li>○ <u>substantiated</u>, if they were determined to have occurred</li> <li>○ <u>unsubstantiated</u>, if the evidence was insufficient to make a final determination that they occurred</li> <li>○ <u>unfounded</u>, if they were determined not to have occurred</li> <li>○ <u>investigation ongoing</u>, if a final determination had not been made at time of data collection.</li> </ul>	<p>Review the importance of investigating all allegations.</p> <p>Discuss how arrestees learn of their right to be free from violence and how to report allegations.</p> <p>Discuss false allegations – a fear of employees when arrestees are educated/informed about how to report allegations.</p> <p>Discuss how the agency currently is recording allegations and outcomes of investigations.</p>

<b>2.2.2 Compliance/Data Reporting</b>	
<p>The Bureau of Justice Statistics will be collecting data regarding allegations of, and investigations into arrestee/arrestee sexual violence and staff sexual misconduct with arrestees.</p> <p>It is important to set up data collection processes using the definitions of BJS (see Module One)</p>	<p>A reminder that information will be requested via administrative record reviews, about allegations and outcomes of investigations.</p>
<b>2.2.3 Training</b>	
<p><b>Who?</b> - Train everyone – all staff, including sworn, non-sworn, volunteers, contractors, vendors, medical personnel, etc.</p> <p><b>What ?</b> - Training should include, depending on job assignments:</p> <ul style="list-style-type: none"> <li>○ Agency policies</li> <li>○ How to report</li> <li>○ Mandatory reporting</li> <li>○ Penalties for not reporting</li> <li>○ State statute and other relevant laws</li> <li>○ Definitions of misconduct</li> <li>○ Sanctions for involvement in misconduct or not intervening to prevent harm to arrestees</li> <li>○ Special populations – women arrestees, lesbian, gay, bi-sexual, transsexual, intersex inmates [arrestees]</li> <li>○ Recognizing the need for medical and mental health care</li> <li>○ Proficiency in the agency’s arrestee risk assessment instrument</li> <li>○ Handling allegations of arrestee/arrestee violence and/or staff sexual misconduct</li> <li>○ Inspection procedures and how to request repairs/maintenance</li> </ul> <p><b>When?</b></p> <ul style="list-style-type: none"> <li>○ Pre-service</li> </ul>	

<ul style="list-style-type: none"> <li>○ In-service</li> <li>○ Reinforced through open discussions at staff meetings, and other venues.</li> </ul>	
<p><b>2.3 Arrestee Risk Assessment</b></p>	<p><b>(10 minutes)</b></p>
<p>Short-term holding facilities house high risk arrestees – substance abusers, those with violent behavior, those who are predators, potential victims, high risk mental health, high risk health issues. So what screening is needed? Here are suggestions. These suggestions emerge from litigation, as well as from what jails do to perform a risk assessment.</p> <p>What type of arrestee risk assessment is provided – even if an arrestee stays only a few minutes? What is critical?</p> <p>Refer to arrestee risk assessment checklist in the participants’ note taking guide.</p> <p>Ask how an organization documents the condition and needs of arrestees?</p> <p>Ask what are the protocols in place if an arrestee, for example:</p> <ul style="list-style-type: none"> <li>○ Needs medication and/or medical care?</li> <li>○ Exhibits behavior indicating mental illness and/or drug or alcohol withdrawal/reactions?</li> <li>○ States they are a victim of sexual assault/abuse while in your custody?</li> <li>○ Indicates he/she is a transsexual?</li> <li>○ States she is pregnant or nursing?</li> <li>○ Indicates they are fearful of a particular other arrestee?</li> <li>○ Appears to staff as a potential victim?</li> <li>○ Appears to staff as a potential predator?</li> <li>○ Past criminal history indicates violence?</li> </ul>	<p>Refer to the checklist in the note-taking guide</p> <p>This list is not meant to be exhaustive. But it does raise issues which appear as important in litigation involving agencies/organizations who hold arrestees for several hours or several days.</p> <p><b>Note: this is intended to spark participant consideration of what they might be doing to improve arrestee safety – and NOT intended as a lengthy discussion of each element of the list.</b></p>

<p>These and other circumstances should indicate to employees that some additional actions are needed to be sure the arrestee is safe.</p> <p>Are there procedures in place for immediate action as well as documentation of these actions?</p>	
<p><b>2.4 Physical Plant Assessment</b></p>	<p><b>(10 minutes)</b></p>
<p>Safeguarding arrestees from one another, and to prevent staff sexual misconduct in a lock-up, short-term holding, the physical plant is obviously critical.</p> <p>Conducting a physical plant assessment and regular, documented, inspections are important strategies.</p> <p>See note taking guide checklist</p> <p>Maintenance is critical. How promptly issues are repaired is critical.</p> <p>Funding for maintenance, as well as improvements such as improve visual surveillance, cameras, etc.</p>	<p>Review the elements of a physical plant assessment (in participants' note taking guide). Note that many CALEA standards also address the physical plant.</p> <p>Also prompt discussion about the issues associated with funding to update/repair the physical plant.</p> <p>Ask participants about their ability to separate arrestees to safeguard them – for example, those who may be victims and/or those who may be predators? Transsexuals, homosexuals, or others who are at risk?</p> <p>Ask participants about the process they use to assess the physical plant on a regular basis, how the facility is cleaned, how promptly repairs are made.</p> <p>Ask about meals, bedding, sanitation??</p> <p><b>Note: this is intended to spark participant consideration of what they</b></p>

	<p><b>might be doing to improve arrestee safety – and NOT intended as a lengthy discussion of each element of the list.</b></p>
<p><b>2.5 Stakeholder Involvement</b></p>	<p><b>(5 minutes)</b></p>
<p>There are organizations in your community who can assist in improving the safety of arrestees. Either formally, or informally, these organizations are important, especially in medical, mental, health, sexual assault, and prosecution.</p> <p>Among the MOUs you might consider:</p> <ul style="list-style-type: none"> <li>○ Investigating authority             <ul style="list-style-type: none"> <li>○ Same agency investigative functions</li> </ul> </li> <li>○ Sexual Assault Treatment Center</li> <li>○ Medical/Mental Health Providers/Pharmacies</li> <li>○ Prosecutors             <ul style="list-style-type: none"> <li>○ Education</li> </ul> </li> <li>○ Other MOUs?</li> </ul> <p><b>Investigating Authority</b></p> <p>If organization does not have the authority to initiate investigations into allegations of arrestee/arrestee sexual violence or allegations of staff sexual misconduct a written agreement with the investigating authority is recommended. Among the issues which may be addressed include:</p> <ul style="list-style-type: none"> <li>○ Delineation of responsibilities – who will do what</li> <li>○ Progress reports to the agency – when, in what format, how often, by whom and to whom</li> <li>○ Coordination between the investigative agency and the target agency about the exchange of information</li> <li>○ When the investigative agencies determines that criminal</li> </ul>	<p>Participants are encouraged to think about who are stakeholders in their community who can assist the agency in improving the safety of arrestees.</p> <p>Participants are encouraged to develop written memorandum of understanding/agreement (MOU/MOA) with these organizations.</p>

- charges will be filed or not
- Delineate who will do administrative and who will do criminal investigations
- Who will make the findings and conclusions
- Who will file the case with prosecutor, if applicable
- Who maintains the closed file and contents.

**Sexual Assault Treatment Center** It is important for employees in the lock-up areas to know the location of, and how services are accessed at the sexual assault treatment center for arrestees who claim they have been sexually assaulted prior to arrest, or while in your custody.

**Medical/Mental Health Providers/Pharmacies** - Providing medical, mental health care and prescriptions medications is a logistical, safety and fiscal challenge. MOUs will define responsibilities, perhaps set aside space in emergency rooms for secure holding of arrestees, procedures to expedite treatment, provision of medications, etc.

**Educating the Prosecutor – Getting them on board** - Collaboration and cooperation with the prosecutor is important to investigations and prosecutions – for issues of arrestee/arrestee sexual violence and staff sexual misconduct with arrestees.

BEFORE an incident happens it is important to meet with the prosecutor to discuss these issues and gain their support to follow through with prosecutions when appropriate.

When a working relationship has been established with the local prosecutor, develop a written Memorandum of Understand (MOU) that specifies:

- What evidence, reports, etc. the prosecutor requires to file a case for prosecution;

<ul style="list-style-type: none"> <li>○ Who will be the point of contact in each agency while a case in progress;</li> <li>○ Who is responsible for releasing any information to the public and communicating with the media;</li> <li>○ Who will make notifications to witnesses, victims, and subjects of any changes in the case; and</li> <li>○ Other expectations of each party.</li> </ul> <p><b>Who other stakeholders are important?</b></p> <ul style="list-style-type: none"> <li>○ Mental health advocates to assist in services, diversion, advocacy?</li> <li>○ Pre-trial diversion programs</li> <li>○ Arrest diversion for mental health clients</li> <li>○ Large organizations operating lock-ups? Perhaps close your agency's lock-up and contract with a larger facility.</li> <li>○ Develop memoranda of agreements with hospitals, mental health service providers, etc.</li> </ul>	
<p><b>2.6 Next Steps – Prevention</b></p>	<p><b>(10 minutes)</b></p>
<p>Suggestions to help prevent arrestee/arrestee sexual violence and staff sexual misconduct.</p> <ol style="list-style-type: none"> <li>1. Triage policies and procedures             <ol style="list-style-type: none"> <li>a. Zero tolerance for misconduct</li> <li>b. Commitment to investigations</li> </ol> </li> <li>2. Review arrestee risk assessment</li> <li>3. Physical plant assessments regularly conducted</li> <li>4. Consider partnerships and options</li> </ol> <p><b>Also consider:</b></p> <ol style="list-style-type: none"> <li>1. Prevention does not mean “elimination”.</li> <li>2. Be PRO-Active, rather than Reactive.</li> <li>3. Prevention strategies should be implemented as a systemic approach.</li> </ol>	

<p>4. Involve other stakeholders and the community; find ways to get help with difficult issues of medical, mental health screening, physical plant improvements; training and investigative responses</p> <p>5. Exercise your leadership! Let your employees know your commitment to the issue.</p>	
<p><b>2.7 Program Close Out</b></p>	<p><b>(5 minutes)</b></p>
<p>Questions/comments/suggestions?</p> <p>Summarize:</p> <ul style="list-style-type: none"> <li>○ PREA includes police/law enforcement lock-ups and short-term holding facilities.</li> <li>○ PREA focuses agencies on already existing legal obligations to protect arrestees</li> <li>○ A systemic approach – examining all agency operations relating to arrest and short term holding is important             <ul style="list-style-type: none"> <li>○ Policies/procedures</li> <li>○ Training</li> <li>○ Data maintenance</li> <li>○ Investigations</li> <li>○ Providing information to arrestees about their rights and how to report allegations</li> </ul> </li> <li>○ Arrestees are screened to keep them safe is critical</li> <li>○ Adequate physical plant is maintained</li> <li>○ There are partnerships to insure safety</li> </ul>	<p><b>Encourage participants to ask any final questions. Be sure to point them to the resources at the end of their note taking guide.</b></p> <p><b>If there are evaluations, distribute.</b></p> <p><b>If “burning issues” was used – review issues and refer to resources if an issue was not addressed during the training time.</b></p>

**Policies and Procedures**

- Administrative, Management and Operations
  - Organizational Placement
  - Chain-of-command
  - Staffing
  - Training
  - Auditing
  - Forms
- Zero Tolerance
  - Definitions
    - What are prohibited behaviors?
    - What behaviors constitute staff misconduct and harassment?
  - What are reporting requirements for employees?
  - What are reporting avenues for arrestees/detainees
  - Commitment to investigate to exonerate
  - Commitment to improve operations
  - Fraternalization rules, reporting
- Use of Force
  - Restraints
  - Firearms
  - Chemical spray
  - Tasers
  - Other non-lethal
- Operational Issues
  - Booking Procedures
    - Searches
      - Pat, full, strip, body cavity
    - Screening/Risk Assessment
    - Assignment in holding area
    - Medical interventions
    - Searches
    - Arrestee property
      - Medications
    - Record management/confidentiality (CALEA 72.1.3)
  - Supervision of arrestees
    - Security/wellness checks, cell searches (CALEA 72.4.6)
    - When officers can enter cells (CALEA 72.4.2)
    - Cross-sex supervision
    - Managing potentially vulnerable victims
    - Managing potentially aggressive predators
    - 24/7
    - Visual
    - Logs
    - Detainee privacy
  - Meals
    - Preparation/Dated
    - Storage
    - Safety/Inspection
    - Three meals a day (CALEA 72.7.1) within 24 hour period
  - Bedding
    - Laundry
    - Sanitation
    - Blankets
    - If held longer than 8 hours (CALEA 7.2.1)
  - Arrestee Hygiene

## Leadership Module Two July 1, 2007

- Working toilets
- Working sinks
- Toilet paper
- Ability to shower
- Alternative clothing
- Feminine hygiene supplies
- Hygiene kits (toothpaste, soap)
- Access to showers
- Hygiene kits
- Clothing issue?
- Feminine hygiene
- "Suicide" gowns
- ADA/Accessibility
- Fire Safety (compliance with local codes)
  - Approved plan
  - Drills/documentation
  - Storage of combustible materials
  - Air pacs, extinguishes
- Fire Marshall's inspection
- Pharmaceutical distribution
  - Give to arrestee upon release
  - Transfer with custody
  - Refused/forgotten prescriptions
  - Acquired from family
- Emergency Procedures
  - Fire
  - Suicide
  - Medical
  - Assaults (sexual and other)
    - First responder
    - Evidence collection, preservation, chain of custody
  - Disturbance
  - Natural disaster
  - Mass arrest
  - Escape
  - Staff injury/assault
  - Emergency keys
  - Blood borne pathogens/OSHA requirement for clean up
- Maintenance/Janitorial
  - Fixing problems
  - Sanitation/cleaning
  - Control of cleaning chemicals
- Assess to counsel
- Release to investigators for interview
- Transferring information to next organization
- Meth lab decontamination
  - No clothes from lab
  - Arrestee decontaminated before arrival
  - No storage of arrestee property
- Assess to telephones
- Access to holding area by non-essential person (CALEA 72.1.2)
- Key control (CALEA 72.4.3)
- Transport
  - Same sex, procedures
- Reporting by arrestees of misconduct/criminal activities
  - By community, family

## Leadership Module Two July 1, 2007

- When leave custody
- When arrive in state custody
- Court Holding
  - Separation
  - Communication in holding areas
  - Supervision
  - Reporting
  - Responding to allegations
- Investigations (See Module Four)
  - Administrative
  - Criminal
  - Handling allegations
- Memoranda of Agreement
  - Sexual Assault Treatment Center
  - Investigating authority
  - Mental health resources (NAMI, MHA)
  - Hospital
  - Prosecutors

### Training

- Medical, mental health, risk assessment
- Medication management
- Logging/documentation
- Supervision
- Inspection
- Fire Safety
- Emergency responses
  - Fire extinguishers
  - Air pacs

### Arrestee Risk Assessment

#### Arresting Officer:

- Did the arrestee exhibit any behaviors indicating mental health issues?
- Did the family, or bystanders, indicate the arrestee has any mental health issues?
- Does the arrestee appear physically injured?
- Is the arrestee sober? Alcohol or legal or illegal drugs?
- Did the arrestee indicate any thoughts of self-harm or suicide?
- Did arrestee come from active meth lab?
  - Decontaminated before transport?

#### Screening:

- Mental Health:
  - Appears anxious
  - Hallucinating
  - Hearing voices
  - Unfocused
  - Acting out
    - Crying
    - Withdrawing
  - Psychiatric history
    - Current treatment/immediate past treatment
  - Developmentally disabled, appearance of low functioning
- Suicide risk
  - Nature of offense

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- Shame/humiliation
- Sex offense involving minor
- Past attempts; evidence of past attempts
- First arrest
- Alcohol/drug involvement
- Voicing self-harm
- No family/friends in community
- Medical Screening
  - Appearance
    - Obvious pain/swelling
    - Injury (old or new)
    - Visible trauma, bruises, lacerations
    - Infection
    - Profuse sweating
    - Sutures, bandages, cast
    - Color
    - Pupils
    - Withdrawing from substance
  - Pregnant/recent delivery/breast feeding
  - Allergies
  - Asthma
  - Diabetes
  - Seizures
  - Epilepsy
  - Cardiac health issues
  - High blood pressure
  - Recent surgery
  - Current drug use
  - Past drug use
  - Current alcohol use
  - Past alcohol use
  - Did arrestee come from meth lab?
    - User?
    - Decontaminated?
  - Movement impaired, wheelchair, crutches
    - ADA issues
  - Current medications
    - With arrestee?
  - Name of physician
- Risk Assessment/Sexual Violence
  - Indicates is homosexual [gay man, lesbian woman]
  - Indicates is transexual, inter-sex
  - Physical stature indicates potential victimization
  - Physical stature indicates potential predator
  - Anger
  - Fear
  - Criminal charge (past and present)
  - Disabled
  - Young
  - Old
  - Developmentally disabled
  - Mental illness
  - Previous sexual assault victim/perpetrator

Hospital

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- Criteria for transport
- Allegations of sexual assault/misconduct
- Transporting criteria
- Supervision at the hospital; secure area
- Medical information from hospital re: arrestee
  - Precautions
  - Drug interactions
- Prescriptions, how filled

Medical authority approves procedures (CALEA 72.6.1)

### **Physical Plant Assessment**

#### Fire/Life Safety/Sanitation

- Fire extinguishers
  - Inspected, dated
  - Mounted
  - Appropriate type
- Combustible materials
  - Removed (inside and in sally port)
  - Stored in allowable containers
  - No smoking
- Fire egress
  - Cleared exits
- Fire loads
  - Storage closets, janitor closets, telephone closets
  - File storage
  - Sally ports
- Sanitary conditions
  - Cleaning, janitorial
  - Control of Cleaning chemicals
- Safety Equipment
  - Breathing apparatus (air masks)
  - First aid kits, airways, inspected
  - Automated External Defibrillator (AED)
  - Personal protection equipment (PPE)
    - Gloves
    - Masks
    - Eye Wash Stations
- Fire detection and alarm system
  - Smoke detectors
- Cell lock release
- Emergency keys
- Fire exits marked, diagrams, posted, painted
- Lighting as required by local code
- Air circulation
- Weekly documented inspection of fire equipment; semi-annual testing of equipment; daily visual inspection of fire detention devices and alarm systems as required by local code (CALEA 72.3.1)
- Emergency evacuation plan (CALEA 72.3.2)
- Weekly sanitation inspection (CALEA 72.3.3)
- Vermin and pest control (CALEA 72.3.3)
- Working toilets
- Working sinks

#### Sleeping provisions

- Ability to lie down

## Leadership Module Two July 1, 2007

### Crowding/Degrading Conditions/Totality of Conditions

- What is capacity of cellblock?
- What are provisions when capacity is reached?
- Single cells

### Suicide Hazards/Opportunities for Harm

- Lighting
- Pipes
- Bars
- Benches
- Clothing
  - Shoe laces
  - Belts
- Areas out of surveillance
- Covered windows (paper, blinds, etc.)
- Air vents
- Broken equipment, doors, materials, etc.
- Towel bars, grab bars
- Cot, bed frames
- Privacy screens as appropriate
- Unobservable areas/blind spots

### Meal Service

- Storage
- Thermometer, logs
- Control of tools and culinary equipment (CLAEA 72.4.7)

### Maintenance

- Inspections checklists
- Requests for maintenance
- Promptness of maintenance
- Closing of holding areas
- Tool control
  - Inventory
  - Log

### ADA Accessibility

- Plan to disabled arrestees
- Retrofitting ADA accessible

### Secure pharmaceutical storage

- Key control
- Logs

### Communication ability with arrestees in the cell area

- Panic alarms for officers
- Call button for arrestees

## Resources

### **Addressing Sexual Violence in Prisons: A National Snapshot of Approaches and Highlights of Innovative Strategies**

[http://www.urban.org/UploadedPDF/411367\\_psv\\_programs.pdf](http://www.urban.org/UploadedPDF/411367_psv_programs.pdf)

### **Arrestee/Detainee Suicide Prevention**

"Model Suicide Prevention Programs: Part I", *Jail Suicide/Mental Health Update*, A Joint Project of the National Center for Institutions and Alternatives and the National Institute of Corrections, U. S. Dept. of Justice, Summer 2005, Volume 14, Number 1, page 6.

<http://www.ncianet.org/suicideprevention/publications/update/summer2005update.pdf>

### **Data Collections for the Prison Rape Elimination Act of 2003**

<http://www.ojp.usdoj.gov/bjs/pub/pdf/dcprea03.pdf>

### **PREA Statute**

[http://www.wcl.american.edu/nic/Articles\\_Publications/Prison\\_Rape\\_Elimination\\_Act\\_of\\_2003.pdf?rd=1](http://www.wcl.american.edu/nic/Articles_Publications/Prison_Rape_Elimination_Act_of_2003.pdf?rd=1)

### **Reports/Articles:**

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](http://www.calea.org) Chapter 71, Prisoner Transportation, Chapter 72, Holding Facility

Confronting Confinement: A Report of the Commission on Safety and Abuse in America's Prisons

<http://www.prisoncommission.org/report.asp>

End to Silence, website of the Washington College of Law, The American University

<http://www.wcl.american.edu/nic/>

Jordan, Andrew, Marcia Morgan and Michael McCampbell, "The Prison Rape Elimination Act: What Police Chiefs Need to Know", *Police Chief Magazine*, International Association of Chiefs of Police, vol. 73, no. 4, April 2006,

[http://policechiefmagazine.org/magazine/index.cfm?fuseaction=display\\_arch&article\\_id=864&issue\\_id=42006](http://policechiefmagazine.org/magazine/index.cfm?fuseaction=display_arch&article_id=864&issue_id=42006)

McCampbell, Michael S., "Prison Rape Elimination Act: Impact on Police Chiefs of the Prison Rape Elimination Act," *Subject to Debate*, Police Executive Research Forum, September 2005, Vol. 19, No. 9, page 5, [http://www.policeforum.org/upload/V19-N09%20P%5B1%5D\\_715866088\\_12302005143917.pdf](http://www.policeforum.org/upload/V19-N09%20P%5B1%5D_715866088_12302005143917.pdf)

Susan W. McCampbell and Larry S. Fischer, Staff Sexual Misconduct with Inmates: Policy Development Guide for Sheriffs and Jail Administrators, National Institute of Corrections, August 2002. <http://www.cipp.org/SSMPolicy/index.html>

McCampbell, Susan W. and Elizabeth P. Layman, "Investigating Allegations of Staff Sexual Misconduct with Inmates: Myths and Realities."

[http://www.wcl.american.edu/nic/Articles\\_Publications/Investigating\\_Allegation\\_of\\_staff\\_Sexual\\_Misconduct.pdf?rd=1](http://www.wcl.american.edu/nic/Articles_Publications/Investigating_Allegation_of_staff_Sexual_Misconduct.pdf?rd=1)

Sexual Violence Reported by Correctional Authorities, 2004

<http://www.ojp.usdoj.gov/bjs/pub/pdf/svrca04.pdf>

Sexual Violence Reported by Correctional Authorities, 2005

[http://www.wcl.american.edu/nic/documents/BeckandHarrison\\_BJSReport2005\\_000.pdf?rd=1](http://www.wcl.american.edu/nic/documents/BeckandHarrison_BJSReport2005_000.pdf?rd=1)

Simonian, Nairi M. and Brenda V. Smith. "[Integrity in Jail Operations: Addressing Employee/Offender Relationships.](#)" American Jails. July/August 2006: 9-19.

[http://www.wcl.american.edu/nic/documents/AJA\\_Final.pdf?rd=1](http://www.wcl.american.edu/nic/documents/AJA_Final.pdf?rd=1)

Simonian, Nairi M. and Brenda V. Smith. "[Policy on Worker Relations Helps Ensure Office Integrity.](#)" Sheriff May-June 2006: 27-28.

[http://www.wcl.american.edu/nic/documents/5.SheriffMagazine\\_WorkerRelationsPolicies.pdf?rd=1](http://www.wcl.american.edu/nic/documents/5.SheriffMagazine_WorkerRelationsPolicies.pdf?rd=1)

Staff Perspectives: Sexual Violence in Adult Prisons and Jails: Trends from Focus Group Interviews

<http://nicic.org/Downloads/PDF/Library/021619.pdf>

Stop Prisoner Rape, Call for Change: Protecting the Rights of LGBTQ Detainees, May 2007

<http://www.champnetwork.org/media/callchange.pdf>

Stop Prisoner Rape, How Well is Your Institution Meeting the Goals of the Call for Change,

May, 2007, <http://www.spr.org/index.asp>

### **Web Sites:**

American with Disability Act - <http://www.usdoj.gov/crt/drs/drshome.htm>

Bureau of Justice Assistance – <http://www.ojp.usdoj.gov/BJA>

Bureau of Justice Statistics - <http://www.ojp.usdoj.gov/bjs/abstract/dcprea03.htm>

National Institute of Corrections [www.nicic.org](http://www.nicic.org)

Prison Rape Elimination Commission [www.nprec.us](http://www.nprec.us)

Stop Prisoner Rape – [www.spr.org](http://www.spr.org)

### **Training Materials:**

- <http://www.wcl.american.edu/nic/training.cfm>

The materials which follow were prepared by Professor Brenda V. Smith, Washington College of Law, under contract to the Center for Innovative Public Policies, Inc (CIPP). This information is for the use of instructors of this program. Use of this material beyond instructor preparation and background requires the permission of both Professor Smith and CIPP.

**50-State Survey of Statutes**

<b>STATE AND STATUTE</b>	<b>Covers Law Enforcement*</b>	<b>Covers Jails</b>	<b>Covers Lock-ups<sup>♦</sup></b>	<b>Covers Arrest<sup>∇</sup></b>	<b>All Personnel Covered<sup>+</sup></b>	<b>Some Forms are Punishable as a Felony</b>	<b>Consent is Not a Defense</b>
<b>Alabama</b> Custodial Sexual Misconduct ALA. CODE § 14-11-31 (2005).	v	v	v <sup>2</sup>		Volunteers not covered	v	v
<b>Alaska</b> Sexual assault in the first degree. ALASKA STAT. § 11.41.410 (2006).  Sexual assault in the second degree. ALASKA STAT. § 11.41.420 (2006).  Sexual assault in the third degree. ALASKA STAT. § 11.41.425 (2006).  Sexual assault in the fourth degree. ALASKA STAT. § 11.41.427 (2006).	v	v	v	v	Volunteers not covered	v <sup>3</sup>	Consent is not addressed
<b>Arizona</b> Unlawful sexual conduct; correctional employees; prisoners; classification ARIZ. REV. STAT.	v	v	v <sup>4</sup>	v	Volunteers not covered	v <sup>5</sup>	The defense of consent may be implied because

\* Some state statutes use the word *police* or *sheriff*. For purposes of this checklist, if a statute uses the word *police* or *sheriff*, we assumed that all law enforcement is covered.

♦ If a state law contained the word jail and the word local correctional facility, local correctional institution, county or city facility etc., then we assumed that the state law intended to cover other local facilities such as lock-ups.

∇ If a state law contained the word “arrest” or covers law enforcement personnel and contains phrases such as “having custody over the victim”, “in the offenders care under authority of law”, or “under the supervision of a city or county” then we assumed that the law intended to cover arrest.

+ All personnel are covered if the statute includes paid employees, volunteers, other state agency employees, and private/contract employees.

<sup>2</sup> Alabama covers employees of government agencies that by court order have the responsibility for pretrial persons and thus the law appears to cover court holding facilities. ALA. CODE § 14-11-30(b)(2) (2006).

<sup>3</sup> Police are punished under First and Second Degree sexual assault and as felonies, where Department of Corrections Employees are punished under Third and Fourth Degree Sexual assault where third degree is a felony and fourth degree is a misdemeanor. ALASKA STAT. §§ 11.41.410(b), 11.41.420(b), 11.41.425(b) & 11.41.427(b) (2006).

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ANN. § 13-1419. (2006).							the inmate is also penalized for the conduct
<b>Arkansas</b> Sexual assault in the first degree. ARK. CODE ANN. § 5-14-124 (2006). Sexual Assault in the second degree ARK. CODE ANN. § 5-14-125 (2006). Sexual assault in the third degree ARK. CODE ANN. § 5-14-126 (2006).		v			Volunteers not covered	v	v
<b>California</b> Employee or officer of detention facility; Engaging in sexual activity with consenting adult confined in detention facility. CAL. PENAL CODE § 289.6 (2006).	v	v	v <sup>6</sup>		v <sup>7</sup>	v	v
<b>Colorado</b> Unlawful Sexual Contact. COLO. REV. STAT. § 18-3-404 (2005).  Sexual Conduct in Penal Institutions. COLO. REV. STAT. § 18-7-701 (2005).	v	v	v	v	v	v	Consent is not addressed
<b>Connecticut</b> Sexual assault in the second degree: Class C or B felony. CONN. GEN. STAT. § 53a-71 (2006).  Sexual assault in the fourth degree: Class A	v	v	v	v	Volunteers not covered	v	Consent is not addressed

<sup>4</sup> In Arizona, custody is defined as actual or constructive restraint pursuant to a court order and thus would appear to cover court holding facilities. ARIZ. REV. STAT. ANN. § 13-2501 (2006).

<sup>5</sup> In Arizona, the inmate is penalized for the misconduct. ARIZ. REV. STAT. ANN. § 13-1419B (2006).

<sup>6</sup> California covers court holding facilities as well. CAL. PENAL CODE § 289.6(5) (2006).

<sup>7</sup> In California, the statute covers persons over the age of consent housed in juvenile facilities. Thus, the statute covers sexual activity with a “consenting adult” in a juvenile facility, not juveniles in juvenile facilities. Presumably, sexual offenses involving juveniles under the age of consent can be prosecuted under statutory rape or other sexual assault laws. The legislative history of the statute also suggests that the California Assembly was concerned with sexual activity with “consenting adults.” No mention was made of juvenile victims, presumably because legislators knew that ANY sex between staff and juvenile inmates was already proscribed by law. Therefore, it was unnecessary to enact additional legislation criminalizing sexual activity between staff and juvenile inmates in their charge.

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misdemeanor or Class D felony. CONN. GEN. STAT. § 53a-73a (2006).							
<b>Delaware</b>  Sexual relations in detention facility; Class G felony DEL. CODE ANN. tit. 11, § 1259 (2006).	v <sup>8</sup>	v <sup>9</sup>	v <sup>10</sup>		Volunteers and contractors are not covered	v <sup>11</sup>	v <sup>12</sup>
<b>District of Columbia</b>  First degree sexual abuse of a ward. D.C. CODE § 22-3013 (2006).  Second degree sexual abuse of a ward. D.C. CODE § 22-3014 (2006).	v	v	v <sup>13</sup>		Volunteers are not covered	v	v
<b>Florida</b>  Authorized use of Force; malicious battery & sexual misconduct <b>Florida Cont'</b>  prohibited; reporting required; penalties FLA. STAT. ANN. § 944.35 (2006).  Sexual battery. FLA. STAT. ANN. § 794.011 (2006).	v	v	v	v	Volunteers not covered	v	v
<b>Georgia</b>  Sexual assault against persons in custody; sexual	v	v	v		Volunteers not covered	v	v

<sup>8</sup> In Delaware, the activity must occur “on the premises of a detention facility” for it to be criminal. DEL. CODE ANN. tit. 11, § 1259 (2006).

<sup>9</sup> In Delaware, the activity must occur “on the premises of a detention facility” for it to be criminal. DEL. CODE ANN. tit. 11, § 1259 (2006).

<sup>10</sup> Delaware covers confinement pursuant to a court order and thus would appear to cover court holding facilities. DEL. CODE ANN. TIT. 11, § 1258(2) (2006). In Delaware, the activity must occur “on the premises of a detention facility” for it to be criminal. DEL. CODE ANN. tit. 11, § 1259 (2006).

<sup>11</sup> In Delaware, the inmate is penalized for the misconduct. DEL. CODE ANN. TIT. 11, § 1259 (2006).

<sup>12</sup> Although Delaware states that consent is not a defense to staff sexual misconduct, the law penalizes inmates for engaging in the conduct. DEL. CODE ANN. TIT. 11, § 1259 (2006).

<sup>13</sup> D.C. defines official custody as transportation for court appearances and thus would appear to cover court holding facilities. D.C. CODE § 22-3001(6)(b) (2006).

<sup>12</sup> Hawaii defines custody as restraint pursuant to a court order and thus would appear to cover court holding facilities. HAW. REV. STAT. ANN. § 710-1000(3) (2006).

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assault against person detained or patient in hospital or other institution; sexual assault by practitioner of psychotherapy against patient. GA. CODE ANN. § 16-6-5.1 (2006).							
<b>Hawaii</b>  Sexual assault in the second degree. HAW. REV. STAT. ANN. § 707-731 (2006).  Sexual assault in the third degree. HAW. REV. STAT. ANN. § 707-732 (2006).	v	v	v <sup>12</sup>	v	Volunteers not covered	v	Consent is not addressed
<b>Idaho</b>  Sexual contact with a prisoner. IDAHO CODE ANN. § 18-6110 (2006).	v	v	v		Volunteers not covered	v	Consent is not addressed
<b>Illinois</b>  Custodial Sexual Misconduct 720 ILL. COMP. STAT. ANN. 5/11-9.2 (2005).	v	v	v <sup>15</sup>		Volunteers not covered	v	v
<b>Indiana</b>  Sexual misconduct by service provider with detainee IND. CODE ANN. § 35-44-1-5 (2006).	v	v	v <sup>16</sup>	v	v	v	v
<b>Iowa</b>  Sexual misconduct with offenders and juveniles IOWA CODE § 709.16 (2005).		v			v		Consent is not addressed
<b>Kansas</b>	v	v	v		Volunteers	v	v

<sup>15</sup> Illinois includes employees of any governmental agency that by court order has the responsibility for pretrial persons and thus would appear to cover court holding facilities. 720 ILL. COMP. STAT. ANN. 5/11-9.2(g)(3) (2005).

<sup>16</sup> Indiana covers custody for purposes of court appearances and thus would appear to cover court holding facilities. IND. CODE ANN. § 35-41-1-18 (9) (2006).

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Unlawful sexual relations. KAN. STAT. ANN. § 21-3520 (2005).					not covered		
<b>Kentucky</b>  Sexual Abuse in the Second Degree. KY. REV. STAT. ANN. § 510.120 (2006).	v	v	v <sup>17</sup>	v	Community Corrections employees are not covered		Consent is not addressed
<b>Louisiana</b>  Malfeasance in office; sexual conduct prohibited with persons confined in correctional institutions. LA. REV. STAT. ANN. § 14:134.1 (2006).	v	v	v		Volunteers not covered  Contract employees not covered  Community Corrections employees not covered	v	Consent is not addressed
<b>Maine</b> Gross sexual assault. ME. REV. STAT. ANN. tit. 17-A, § 253 (2005). Unlawful sexual contact ME. REV. STAT. ANN. tit. 17-A, § 255-A 1.E (2005). Unlawful sexual touching ME. REV. STAT. ANN. tit. 17-A, § 260.1-E (2005).	v	v	v <sup>18</sup>	v	Volunteers not covered	v	Consent is not addressed
<b>Maryland</b>  Sexual conduct between correctional or Department of Juvenile Services employee and inmate or confined child. MD. CODE ANN., CRIM. LAW § 3-314 (2006).	v	v	v <sup>19</sup>	v	Volunteers not covered  Contractors not covered		Consent is not addressed

<sup>17</sup> Kentucky defines custody as “restrain by a public servant pursuant to . . . an order of court for law enforcement purposes” and thus would appear to cover court holding facilities. KY. REV. STAT. ANN. § 510.010(2) (2006).

<sup>18</sup> Maine defines official custody as custody pursuant to a court order and thus would appear to cover court holding facilities. ME. REV. STAT. ANN. tit. 17-A, § 755(3) (2005).

<sup>19</sup> Maryland defines correctional unit as a unit of government that is responsible under a court order for inmates and thus would appear to cover court holding facilities. MD. CODE ANN., CRIM. LAW § 8-201(g)(1) (2006).

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<p><b>Massachusetts</b></p> <p>Punishments for sexual relations with inmate.          MASS. ANN. LAWS ch. 268, § 21A (2006).</p>		v			Volunteers not covered	v	v
<p><b>Michigan</b></p> <p>Criminal sexual conduct in the second degree; felony.          MICH. COMP. LAWS SERV. § 750.520c (2006).</p>		v	v		v	v	Consent is not addressed
<p><b>Minnesota</b></p> <p>Criminal sexual conduct in the third degree.          MINN. STAT. § 609.344 (2005).          Criminal sexual conduct in the fourth degree.          MINN. STAT. § 609.345 (2005).</p>		v	v		v	v	v
<p><b>Mississippi</b></p> <p>Crime of sexual activity between law enforcement or correctional personnel and prisoners; sanctions. MISS. CODE ANN. § 97-3-104 (2006).</p>	v	v	v		v	v	v
<p><b>Missouri</b></p> <p>Sexual contact with an inmate, penalty – consent not a defense          MO. REV. STAT. § 566.145 (amended 2006) (current version at 2006 Mo. HB 1698 (2006)).</p>		v	v		v	v	v

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<p><b>Montana</b> Sexual assault MONT. CODE ANN. § 45-5-502 (2005).</p> <p>Sexual intercourse without consent MONT. CODE ANN. § 45-5-503 (2005).</p>		v			v	v	v
<p><b>Nebraska</b> Sexual abuse of an inmate or parolee. NEB. REV. STAT. ANN. § 28-322.01 (LexisNexis 2005).</p> <p>Sexual abuse of an inmate or parolee in the first degree; penalty NEB. REV. STAT. 28-322.02 (LexisNexis 2005).</p> <p><b>Nebraska Cont'</b> Sexual abuse of an inmate or parolee in the second degree; penalty NEB. REV. STAT. § 28-322.03 (2005).</p>		v	v		Volunteers not covered	v	v
<p><b>Nevada</b> Voluntary sexual conduct between prisoner and another person; penalty. NEV. REV. STAT. ANN. § 212.187 (2006).</p>	v	v	v	v	Community corrections is not covered	v <sup>21</sup>	The defense of consent may be implied because the inmate is also penalized for the conduct
<p><b>New Hampshire</b> Aggravated Felonious Sexual Assault. N.H. REV. STAT. ANN. § 632-A2: (LexisNexis 2006).</p> <p>Felonious Sexual Assault. N.H. REV. STAT. ANN. § 632-A3: (2006).</p>		v			Volunteers not covered	v	Consent is not addressed
<p><b>New Jersey</b></p>		v	v		Volunteers	v	Consent

<sup>21</sup> In Nevada, the inmate is penalized for the misconduct. NEV. REV. STAT. ANN. § 212.187(2) (2006).

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Sexual assault N.J. STAT. ANN. § 2C:14-2 (2006).					not covered		is not addressed
<b>New Mexico</b>  Criminal sexual penetration. N.M. STAT. ANN. § 30-9-11 (2006).		v			Volunteers not covered	v	Consent is not addressed
<b>New York</b>  Sexual misconduct. NY PENAL LAW § 130.20 (Consol. 2006).  Rape in the third degree. NY PENAL LAW § 130.25 (Consol. 2006).	v	v	v		Volunteers not covered  Health care contractors are covered. Other contracted employees are not. <sup>22</sup>	v	v
<b>North Carolina</b>  Intercourse and sexual offenses with certain victims; consent no defense N.C. GEN. STAT. § 14- 27.7 (2006).	v	v	v	v	Volunteers not covered	v	v
<b>North Dakota</b>  Sexual abuse of wards. N.D. CENT. CODE § 12.1-20-06 (2006).  Sexual assault. N.D. CENT. CODE § 12.1-20-07 (2006).	v	v	v	v	Volunteers not covered	v	Consent is not addressed
<b>Ohio</b>  Sexual Battery, OHIO REV. CODE ANN. § 2907.03 (LexisNexis 2006).	v	v	v	v	Volunteers not covered	v	Consent is not addressed
<b>Oklahoma</b>  Rape Defined OKLA. STAT. tit. 21, § 1111 (2005). Rape in the first degree - second degree OKLA. STAT. tit.21, § 1114	v	v	v	v	Volunteers not covered	v	Consent is not addressed

<sup>22</sup> In New York, employees who perform professional duties including providing custody, medical or mental health services, counseling services, educational programs or vocational training are covered under the statute. NY PENAL LAW § 130.05(3)(e)(i) (2006).

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(2005). Forcible sodomy OKLA. STAT. tit. 21, § 888 (2005).							
<b>Oregon</b>  First Degree Custodial Sexual Misconduct OR. REV. STAT. § 163.452 (2006).  Second Degree Custodial Sexual Misconduct OR. REV. STAT. § 163.454 (2006).	v	v		v	Volunteers not covered	v	v
<b>Pennsylvania</b>  Institutional sexual assault 18 P.A. CONS. STAT. § 3124.2 (2005).		v			Volunteers not covered	v	Consent is not addressed
<b>Rhode Island</b>  Correctional employees — sexual relations with inmates — felony R.I. GEN. LAWS § 11-25-24 (2006).		v <sup>23</sup>	v <sup>24</sup>		Volunteers not covered	v	Consent is not addressed
<b>South Carolina</b> Sexual misconduct with an inmate, patient or offender S.C. CODE ANN. § 44-23-1150 (2005).		v			v	v	Consent is not addressed
<b>South Dakota</b> Sexual acts prohibited between prison employees and prisoners. S.D. CODIFIED LAWS § 24-1-26.1 (2006).		v			Volunteers not covered	v	Consent is not addressed
<b>Tennessee</b> Sexual contact with inmates TENN. CODE ANN. § 39-16-408 (2006). Sexual battery by	v	v	v <sup>25</sup>	v	v	v	Consent is not addressed

<sup>23</sup> In Rhode Island, the law covers employees of the Department of Corrections. According to the structure of Rhode Island's Department of Corrections, all jails are governed under the state DOC. R.I. GEN. LAWS § 11-25-24 (2006).

<sup>24</sup> In Rhode Island, the law covers employees of the Department of Corrections. According to the structure of Rhode Island's Department of Corrections, all intake centers (lock-ups) are governed under the state DOC. R.I. GEN. LAWS § 11-25-24 (2006).

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an authority figure TENN. CODE ANN. § 39-13-527 (2005).							
<b>Texas</b> Violations of the Civil Rights of Person in Custody; Improper Sexual Activity with person in custody. TEX. PENAL CODE ANN. § 39.04 (Vernon 2005).	v	v	v	v	v	v	Consent is not addressed
<b>Utah</b> Custodial sexual relations – custodial sexual misconduct – definitions – penalties – defenses UTAH CODE ANN. § 76- 5-412 (2006).	v	v	v	v	v	v	v
<b>Vermont</b> Sexual exploitation of an inmate VT. STAT. ANN. tit. 13, § 3257 (2006).					v		Consent is not addressed
<b>Virginia</b> Carnal knowledge of an inmate, parolee, probationer, or pretrial or post- trial offender; penalty. VA. CODE ANN. § 18.2-64.2 (2006).		v	v		v	v	Consent is not addressed
<b>Washington</b> Custodial sexual misconduct in the first degree WASH. REV. CODE ANN. § 9A.44.160 (LexisNexis 2006).  Custodial sexual misconduct in the second degree WASH. REV. CODE ANN. § 9A.44.170 (2006).	v	v	v	v	Volunteers not covered	v	v
<b>West Virginia</b> Imposition of sexual intercourse		v	v		Volunteers not covered	v	v

<sup>25</sup> Tennessee defines custody as “restraint by a public servant pursuant to an order of a court” and thus would appear to cover court holding facilities. TENN. CODE ANN. § 39-16-601(2) (2006).

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or sexual intrusion on incarcerated persons; penalty W. VA. CODE ANN. § 61-8B-10 (2006).							
<b>Wisconsin</b>  Second Degree Sexual Assault WIS. STAT. ANN. § 940.225 (West 2006).  Abuse of residents of penal facilities WIS. STAT. ANN. § 940.29 (West 2006).		v	v		v	v	Consent is not addressed
<b>Wyoming</b>  Sexual assault in the second degree WYO. STAT. ANN. § 6-2-303 (2006).	v	v	v	v	Volunteers not covered	v	Consent is not addressed

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STATE	Covers Law Enforcement*	Covers Jails	Covers Lock-ups**	Covers Arrest	All Personnel Covered†	Some Forms are Punishable as a Felony	Consent is Not a Defense
<p><b>United States</b></p> <p>(NOTE: This law also covers all federal United States territories including Guam, Northern Mariana Islands, Puerto Rico and the Virgin Islands)</p> <p>Aggravated sexual abuse 18 U.S.C.S. § 2241 (LexisNexis 2006).</p> <p>Sexual abuse 18 U.S.C.S. § 2242 (LexisNexis 2006).</p> <p>Sexual abuse of a minor or ward 18 U.S.C.S. § 2243 (LexisNexis 2006).</p> <p>Abusive sexual contact 18 U.S.C.S. § 2244 (LexisNexis 2006).</p>	v <sup>27</sup>	v	v	v	v	v	Consent is not addressed

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<sup>26</sup> The Federal law defines “official custody” as “detention by a federal officer” or “under the direction of a Federal officer.” 18 U.S.C.S. § 2246 (LexisNexis 2006).

**PREA Implications for Law Enforcement Operated Jails and Lock-ups  
News Stories: Criminal Convictions for Sexual Misconduct**

*Note: This is a representative sample of relevant news stories. This is not meant to function as an exhaustive list.*

State	Locale	Date	Article Title	Situation	Setting	Personnel	Allegation/Charge	Outcome and Penalty
Alabama	Marshall County	9/22/2006  11/18/2006	Two More Women Testify that Cop Solicited Sex  Ex- Officer Gets Prison Sentence	Officer was accused of offering to dismiss / not give tickets in exchange for sex	Traffic Stops	Police Officer	Sex in exchange for not writing tickets	4 State Ethics Charges 3 years on each count
Alabama	Jefferson County	11/22/2006	Birmingham Officer Arrested on Rape, Drug Charges	Officer sexually assaulted a woman while on duty- cocaine was discovered during a search of the officer's home	On Duty	Police Officer	Sexual Assault	<i>Outcome unknown at this time</i>
Alabama	Montgomery County	1/11/07	Police Officer Arrested, Charged with Sexual Abuse of Teenagers	A Montgomery police officer who was part of the School Enforcement Bureau stationed at Capital Heights Junior High School resigned last night after being arrested and charged with seven counts including attempted sodomy and sexual abuse of a 15 year-old boy and two 14 year-old girls. The investigation was done by the police department's internal affairs unit who suspect that more charges and victims are forthcoming.	On Duty	Police Officer	Three counts of enticing a child, two counts of sexual abuse and two counts of attempted sodomy	<i>Outcome unknown at this time</i>
California	The County of San Francisco	5/2005	Gay Inmates Complain of Abuse at San Bruno Jail	Gay inmates were inappropriately touched	San Bruno Lock Up	Deputies	Prisoner Abuse	<i>Outcome unknown at this time</i>

State	Locale	Date	Article Title	Situation	Setting	Personnel	Allegation/ Charge	Outcome and Penalty
California	San Diego County	9/20/2006	Trial Ordered for Officer Accused of Soliciting Favors from Detainees	Officers solicited sexual favors from detainees in return for their freedom	El Cajon Detention Center	Police Officer	Rape and Sexual Battery Is facing up to 19 years in prison	<i>Outcome unknown at this time</i>
California	Alameda County	11/21/06	Asian Women Sue City, Oakland Cop for Illegal Stops	Asian women harassed by a police officer after traffic stops. The suit alleges that the city condoned the harassment.	Traffic Stop	Police Officer		2 counts of false imprisonment and 2 counts of interfering with the civil rights of victims. Sentenced to 6 mos. in the county jail and 3 years of probation
California	Los Angeles County	12/15/2006	LAPD Probes Claim Ex-Deputy Chief Promoted Sex Partners	Deputy chief is accused of arranging promotions for female officers who he was having affairs with	LAPD	Deputy Chief of the Standards Division	Promoting staff for sexual favors	<i>Outcome unknown at this time</i>
District of Columbia	Washington	7/22/2006	Sexual Assault Case	A male inmate forced to have oral sex with a male guard	DC Jail-CTF	Correctional Officer		1 <sup>st</sup> Degree Sexual Abuse of a Ward 7 years
Florida	Charlotte County	5/27/2006	Guard Admits Misconduct, Officials Say: Accused of Sex with Inmate	Guard had sex with an inmate while on duty	Jail	Corrections Officer	Sexual Misconduct	<i>Outcome unknown at this time</i>
Florida	Polk County	11/7/2006	Drug Trading Ends Deputy's Career	A Female deputy offered money and sex in exchange for pain killers and had relationships with men in her chain of command	Central County Jail	Detention Deputy	Conspiracy for unlawful compensation involving official behavior	<i>Outcome unknown at this time</i>
Florida	Orange County	1/4/07	Transvestite Accuses Ex-Cop of Sexual Abuse	A former police Lieutenant has been accused of forcing a transvestite prostitute to perform a sex act inside his	It is unclear if this happened while the	Police Lieutenant	Sexual Battery	<i>Outcome unknown at this time</i>

State	Locale	Date	Article Title	Situation	Setting	Personnel	Allegation/ Charge	Outcome and Penalty
				patrol car. The officer is accused of making the prostitute strip and fondled him. The former officer then drove to a secluded area and forced him to perform oral sex. The accusation was investigated by the IA department and referred for criminal prosecution.	Lieutenant was on duty but alleged abuse occurred in the police vehicle			
Georgia	Colquitt County	12/15/2006	Jailer Admits Sex with Inmate	A female jailer had sex with an inmate then transported marijuana for him and crossed guard lines with contraband	Colquitt County Jail	Jailer	Sexual Assault and Marijuana possession with intent to sell	<i>Outcome unknown at this time</i>
Idaho	Canyon County	9/12/2006	Deputy Accused of Lewd Conduct	No details released	Canyon County Jail	Sheriff's Deputy	Lewd conduct with an inmate	Terminated
Illinois	Cook County	6/11/2006	County Jail Guard Charged with Sexually Abusing Woman	Guard sexually abused a visitor in the jail elevator while escorting her out of the facility	Cook County Correctional Facility	Jail Guard	Criminal Sexual Abuse and Official Misconduct	Suspended without pay
Illinois	DuPage County	8/3/2006	Jailer Convicted in Sex Case	Jailer has sex with a 16 year old female under his supervising	Illinois Youth Center	Supervisor	Sexual Conduct	4 Felony Counts
Illinois	Tazwell County	8/7/2006	Handegan Admitted Having Sex with Convicted Felon	A correctional officer admitted to using his position to gain a romantic relationship with former female inmate	Relationship happened post-incarceration	Correctional Officer	Conduct unbecoming an officer	Not facing criminal charges but was terminated
Kansas	Atchinson County	2/2006	Former Inmate Accuses Deputy of Rape	Deputy has sex with a female inmate	Atchinson County Jail	Sheriff's Deputy	Unlawful sexual relations with an inmate Faces 22 mos. and \$2 million in damages	<i>Outcome unknown at this time</i>

State	Locale	Date	Article Title	Situation	Setting	Personnel	Allegation/ Charge	Outcome and Penalty
Kansas	Sedgewick County	5/23/2006	Former Deputy Faces Charges in Connection with Jail Sex	Male guard is accused of having sex with 2 female inmates	Sedgewick County Jail	Detention Deputy	2 Felony counts of sexual relations with an inmate	<i>Outcome unknown at this time</i>
Kansas	Butler County	8/2006	2 Butler County Sheriff's Officers Fired	Sexual Abuse of inmates	Butler County Jail	Sheriff's Officials	Sexual Misconduct Currently on administrative Leave pending outcome	<i>Outcome unknown at this time</i>
Kansas	Butler County	8/31/2006	Lieutenant Arrested on Sex Charges	Lieutenant had sex with two female inmates at jail- 2 of the 4 shifts were involved in the scandal	Butler County Jail	Lieutenant	5 counts of sexual misconduct and unlawful sexual relations	Currently only administrative sanctions- 1 resignation and 3 terminations
Kentucky	Daviess County  Daviess County Cont'	8/2/2006  10/4/2006	Jail Worker Charged with Misconduct Ex Jail Worker Pleads Guilty to Misconduct	Jail worker having ongoing sexual relations with a male inmate	Davies County Detention Center	Medical Technician	1 <sup>st</sup> Degree Official Misconduct and 2 <sup>nd</sup> Degree Sex Abuse Inmate may face administrative sanctions	1 <sup>st</sup> degree official misconduct 1 year in jail (suspended) and 2 years of probation
Maryland	Cecil County	11/6/2006	2 <sup>nd</sup> Ex-Guard Pleads Guilty in Jail Case	3 guards are involved in a sex with female inmates scandal	Cecil County Detention Center	Jail Guards	Misconduct in Office, Correctional Employee engaging in intercourse with an inmate while on duty, 4 <sup>th</sup> degree sex offense, 2 <sup>nd</sup> degree sex abuse	Fired after completion of investigation
Maryland	Baltimore County	1/10/2007	Three Officers Given Separate Rape Trials	The three officers stopped the victim and a friend and took them to the station house in December of 2005 in the Southwester District station house. The woman was handcuffed and the officer told her that if she had sex with him she could avoid criminal charges. The	Southwester District station house	3 Police Officers	One officer was accused of having sex with the woman and the other two are accused of doing nothing to intervene. All are currently suspended without pay and have been since the allegation	Trial for the officer accused of sex is beginning in January of 2007 with trails for the other two officers to follow shortly after. <i>Outcome unknown at this time</i>

State	Locale	Date	Article Title	Situation	Setting	Personnel	Allegation/ Charge	Outcome and Penalty
				same officer is also accused of the same behavior in an October of 2005 case.			was investigated	
Massachusetts	Hampton County	12/6/2006 12/27/2006	Guard, 3 Former Guards Indicted Former Guard Denies Sex Count	Guards accused of having “consensual” sex with female inmates	Ludlow Jail	Guards	Sex with a female inmate while on duty. Faces five years in prison and a \$10,000.00 fine	Indicted by a grand jury- One fired and others on unpaid leave. <i>Final outcome pending</i>
Massachusetts	Berkshire County	12/20/2006	Officer Charged with Sex Abuse	The guard allegedly had sexual relations with two female inmates while employed at the county jail.	Berkshire County Jail	Major	Sexual relations with an inmate. If convicted he is facing up to 20 years in state prison.	Currently suspended <i>Final outcome pending</i>
Michigan	Manistee County	1/2003	Rape Case Dropped Against Sheriff’s Deputy	Sexual assault of female inmate	Jail	Sheriff’s Deputy	Sexual Assault	Charges Dismissed
Michigan	Ionia County	12/5/2006	Jail Officer Fired, Investigation for Sexual Misconduct with Inmate	Officer engaged in inappropriate sexual relations with 2 female inmates	Ionia County Jail	Jail Correctional Officer	Criminal charges pending for oral sex and lewd sexual behavior while on the job	<i>Outcome unknown at this time</i>
Mississippi	Harrison County	8/11/2006	Jailers Need Monitoring and Deserve Adequate Training	Jailers accused of sex with female inmates	Pascagoula Municipal Jail	Jailer	Sex with inmates	<i>Outcome unknown at this time</i>
Mississippi	Noxubee County	6/20/2006	MBI Checks Allegations Females Raped at Noxubee Jail	Allegations of female inmates being raped by male inmates are being investigated by the Mississippi Bureau of Investigations	Noxubee County Jail	Inmate on Inmate	Prisoner Rape	<i>Outcome unknown at this time</i>

State	Locale	Date	Article Title	Situation	Setting	Personnel	Allegation/ Charge	Outcome and Penalty
Missouri	Pulaski County	3/10/2006	Jailer Accused of Sexual Assault	Jailer has sex with female inmate	Pulaski County-Central Jail	Jailer	Sexual Assault	<i>Outcome unknown at this time</i>
Montana	Cascade County	7/6/2006	Cascade County Detention Officer Faces Rape Charges	Sexual relations with female inmates	Cascade County Regional Jail	Detention Officer	3 Felony counts of Rape	<i>Outcome unknown at this time</i>
New York	Rensselaer County	3/24/2006	Ex-Jail Guard Convicted of Raping Female Inmates	Guard coerced inmate into having sex, fondled inmates, made phone calls to former inmates	Rensselaer County Jail	Jail Guard	Rape and Lying to FBI Faces 1-3 years for rape and up to 11 for Lying	3 <sup>RD</sup> Degree Rape
New York	Bronx County	10/27/2006  11/1/2006	Bronx Cop Captain Suspended in Harassment  Sex Charge v. Cop Not Crime	Captain was making unwanted sexual advances to a female officer	Precinct-Conduct between officers	NYPD Police Captain	Sexual Harassment	Was suspended at time of event pending outcome Charges dropped- DA says behavior is lewd but not criminal
New York	<i>No locale given</i>	11/16/2006	Police Officer Arrested on Charges of Sexual Abuse	No details released- arrest of NYPD Officer comes after IA investigation	Unknown	Police Officer	Sex Abuse	<i>Outcome unknown at this time</i>
New York	Westchester County	12/1/2006	Suspended Police Officer Testifies in Harassment Case	Offered to help with a marijuana charge in exchange for sex		Police Officer		Currently suspended without pay
New York	Erie County	12/8/2006	Ex Police Officer Spared Jail Time in Sexual Coercion	Police officer forced 2 women to have sex with him or face arrest	Arrest	Police Officer	Using position as a police officer to benefit himself	Strict Probation- Professional counseling and sex offender treatment
New York*	Rensselaer County	11/17/2006	Jail Guard Sentenced for Sex	Jail guard raped female inmates	Rensselaer County Jail	Correctional Officer	Supplying Contraband, Official	3 <sup>RD</sup> Degree Rape 1-3 years

State	Locale	Date	Article Title	Situation	Setting	Personnel	Allegation/ Charge	Outcome and Penalty
			with Inmates				misconduct and lying to a grand jury and the FBI	
North Carolina*	New Hanover County	12/28/06	Former Sheriff Deputy Sued by Woman Claiming Sexual Assault	Jail guard had sex with a female inmate	Jail	Sheriff's Deputy		One felony count of sex offense by a custodian. Sentenced to 6 mos. in jail
North Dakota*	Barnes County	10/27/2006	Murder Suspect Charged with Sex Abuse of Inmates	Sexual abuse of female inmates while on duty at the jail	Barnes County Jail	Jailer	Sexual conduct with a female inmate, gross sexual imposition, sex abuse of a ward, sexual assault, also linked by DNA to a 2004 Rape	<i>Outcome unknown at this time</i>
Ohio	Cuyahoga County	8/25/2006	Cleveland Jail Guard Accused of Raping Inmate	Guard forced a male inmate to perform oral sex after threat of violence	Cuyahoga County Jail	Jail Guard	Rape of an Inmate	<i>Outcome unknown at this time</i>
Oklahoma	Tulsa County	9/19/2006	Sheriff Vows to Investigate Alleged Abuse of Jailed Teens	Allegations of abuse of juveniles held as adults	Tulsa Jail	Tulsa Sheriff's Office	Abuse	<i>Outcome unknown at this time</i>
Oregon	Multnomah County	6/7/2006	County Investigates Inmate Sex	Male inmate sneaks into female inmate's cell and rapes her	Multnomah County Jail	Inmate on Inmate	Guard: Breach of Duty Inmate: Rape	<i>Outcome unknown at this time</i>
Pennsylvania	Allegheny County	1/31/06	Cleared of Sex Charge, Jail Guard Gets Job Back	13 guards were accused in 2004 of trading sex for contraband with female inmates at the jail. Specifically, an arbitrator ruled in favor of Donald Stupka, and settled a union grievance by reinstating	Allegheny County Correctional Facility	Jail Guard	One count of Institutional Sexual Assault	Thus far, 5 guards were found guilty and five have been acquitted. Three remain to be tried for the allegations. Stupka, was cleared of all

State	Locale	Date	Article Title	Situation	Setting	Personnel	Allegation/ Charge	Outcome and Penalty
				him. The warden tried to block this.				charges and won reinstatement and \$88,924.00 in back pay
Pennsylvania	Allegheny County	7/25/2006	Jail Probes Assault Claim	Guard mistook woman in cell for a male and placed a male inmate in the cell. The male then raped the female inmate	Allegheny County Correctional Facility	Inmate on Inmate		Officer disciplined based on outcome of investigation
Pennsylvania	Monroe County	12/23/2006	High Official at Monroe Jail Fired, Sources Say	The lieutenant has been fired for allegedly seeking social contacts with ex-inmates. He is accused of violating prison policies by emailing former inmates suggesting that they meet socially for drinks. Emails were sent from his correctional facility computer.	Monroe County Jail	Lieutenant	Seeking social contacts with ex-inmates	Fired
Pennsylvania	Philadelphia County	12/23/2006	Woman Alleges Rape by Philadelphia Police	A police officer (not the arresting officer) took a female arrestee to his home and raped her after her release from police custody	Post-Arrest	Police Officer	Rape	<i>Outcome unknown at this time</i>
Pennsylvania*	Philadelphia County	8/13/2006	Extorting Sex with a Badge	Two on duty police officers stopped a stripper getting off work and forced her into their car and raped her	Arrest	Police Officer	Sex Crimes	Termination and Conviction
South Carolina	Saluda County	7/26/2006	Saluda County Jail Guard Arrested	Jail guard had sexual conversations with and fondled an inmate	Saluda County Jail	Guard	Sexual Misconduct with an Inmate	<i>Outcome unknown at this time</i>
Tennessee	Hamilton County	12/1/2006	Hickey Suspended and Demoted	Sexual Harassment of a female subordinate	Conduct Between	Police Lieutenant	Sexual Harassment	Demoted and suspended 28 days

State	Locale	Date	Article Title	Situation	Setting	Personnel	Allegation/ Charge	Outcome and Penalty
					Officers			without pay
Tennessee	Jackson County	12/14/2006	TBI Investigates Jackson County Sheriff	Investigation (ongoing) of a series of complaints by former jail inmates	Jackson County Jail	Sheriff	Sexual Abuse	<i>Outcome unknown at this time</i>
Tennessee	Anderson County	1/10/07	Former Anderson Reserve Deputy Indicted After Rape Claim	A woman placed a 911 call for a domestic dispute. She asked the officers who came to the scene to drive her to her father's house. In the process of doing so the officer allegedly pulled into a secluded area and sexually assaulted and raped her. The TBI was brought in to investigate the allegation	On-duty performing official duties	Sheriff's Deputy	Official Misconduct	<i>Outcome unknown at this time</i>
United States	Federal	11/17/2006	EnCon Cop Quits After Harassment Allegations	Department of Env. Conservation police officer accused by IG of harassing women drivers and lying to investigators	Traffic Stops	Police Officer	Criminal charges pending- referral to AG office	Fired
Utah	Washington County	6/22/2006 7/20/2006	Former Deputy Sentenced in Sex Scandal Second Deputy Sentenced for Sex with Inmate, Probationer	Female inmate and probationer raped by deputy	Purgatory Correctional Facility	Sheriff's Deputies	Sexual Misconduct	3 <sup>rd</sup> Degree Felony Custodial Relations, Custodial Sexual Misconduct 120 days, mental health evaluations and \$1500.00 fine
Utah	Iron County	10/29/2006	Sex Offenses Ensnaring Officers	Guard had oral sex with inmate- also reported were decertification of guards in Davis County for sex with a	Iron County Jail	Guard		Custodial Sexual Misconduct Loss of Certification

State	Locale	Date	Article Title	Situation	Setting	Personnel	Allegation/Charge	Outcome and Penalty
				probationer, South Salt Lake for in appropriate touching of a female while off duty and in Washington County, felony and misdemeanor sex with inmates				
Virginia	Fairfax County	2004	VA Ex-Deputy Guilty of Having Sex With Inmates	An ex-deputy intimidated 2 female inmates into having sex	Alexandria City Jail	Deputy	Carnal knowledge of an inmate, Abduction	6 years in prison, 3 years on probation and an \$840.00 fine
Washington	King County	8/31/2006	Jurors Deadlock in Jail Sex Case	Sex with 5 Female inmates	King County Jail	Jail Guard		Mistrial- New trial set for January, 30, 2007
Washington	King County	8/10/2006  12/2/2006	Sex Claims Outlines at Guard's Trial  County Jail Officer to Become an Inmate	Guard exposed himself, fondled and had sex in a storage closet with 2 female inmates	King County Jail	Guard	Custodial Sexual Misconduct	Custodial Sexual Misconduct 12 months in jail 8 months suspended
Washington	King County	1/6/2007	Former Jail Guard Sentenced in Sexual Misconduct Case	The guard was accused of making sexual comments to a female inmate in March of 2005 and receiving oral sex from her. The charges also involve another woman who the guard had sexual contact with while she was on work release in 1999.	King County Jail	Guard	Second-degree custodial sexual misconduct and third degree assault	6 months in jail and had to resign his position at the jail.
Washington	Clallam County	7/26/2006	Sex Incident in Jail Prompts Changes	Inmates conspired to have sex in jail	Callam County jail	Inmate on Inmate	Security Lapse	Male inmate disciplined
Washington*	King County	7/25/2006	Former King County Jail Guard Accused of Having Sex With Juvenile	2 juvenile inmates had sex with a female guard in exchange for candy	King County Juvenile Detention Center	Detention Officer	4 counts custodial sexual misconduct Trial set for April	Currently on paid leave

State	Locale	Date	Article Title	Situation	Setting	Personnel	Allegation/ Charge	Outcome and Penalty
	King County Cont'	8/1/2006 8/2/2006	Inmates Female Guard Pleads Not Guilty to Sex Charge A Sex Scandal Widens Among Guards at the County and Juvenile Jail					
West Virginia	Marshall County	4/292006	Female Guard Accused of Having Sex with Inmate	Female jail guard is accused of having sex with male inmate in her office	Jail	Guard	Felony charge of imposing intercourse on an incarcerated person and bringing a cell phone to jail and letting an inmate use it- Facing 1-5 years and a \$5,000.00 fine	<i>Outcome unknown at this time</i>
Wisconsin	Milwaukee County	7/27/2006	Milwaukee Deputy Convicted of Sexually Assaulting an Inmate in 2005	Deputy forced female inmate to perform oral sex in jail	Milwaukee County Jail	Sheriff's Deputy	Faces up to 40 years	2 <sup>nd</sup> Degree Sexual Assault of an inmate by a CO, 2 <sup>nd</sup> Degree Sexual Assault with the use of force
Wisconsin	Dodge County	9/12/2006	Former Waupun Officer Charged With Sexual Assault	Officer sexually assaulted a 15 year old girl, fondled, offered condoms and looked at porn as she was sitting in a car	Unclear- off duty OR in process of traffic stop	Police Officer	Sexual Assault of a child under 16	<i>Outcome unknown at this time</i>
Wyoming	Platte County	9/27/2006	Two Others Face Trial in Platte Jail Sex Case	Sex with female detainees and stealing mail	Platte County Detention Center	Guards	2 <sup>nd</sup> degree sexual assault, mistreating a person in an institution, bribery, larceny and reckless endangerment	<i>Outcome unknown at this time</i>

**PREA Implications for Law Enforcement Operated Jails and Lock-ups**  
**News Stories: Civil Liabilities in Conjunction with Criminal Convictions for Sexual Misconduct**

*Note: This is a representative sample of relevant news stories. This is not meant to function as an exhaustive list.*

State	Locale	Date	Article Title	Situation	Setting	Personnel	Allegation/ Charge	Outcome and Penalty
California	County of San Francisco	8/24/2006	Deputy Faces Suit By Former Inmate	Male deputy used his authority to force a female inmate to have oral sex.	San Francisco County Jail	Sheriff's Deputy- also named in suit are: Sheriff and city of San Francisco	Sexual Assault, Intentional infliction of Emotional Distress, Battery, False Imprisonment, Negligence \$4 million dollar federal civil rights law suit	<i>Outcome unknown at this time</i>
California	Alameda County	11/21/2006	Asian Women Sue City, Oakland Cop for Illegal Stops	Asian women harassed by a police officer after traffic stops. The suit alleges that the city condoned the harassment.	Traffic Stop	Police Officer	Violation of Civil Rights	<i>Outcome unknown at this time</i>
District of Columbia	Washington	6/1999	Ex Inmate Tells Court of Strip Tease	Female inmates forced to strip and perform for guards	DC Jail	Guards		\$5.3 million awarded in damages
District of Columbia	Washington	12/14/2006	Two Women Sue DC Alleging Rape by Jail Guards	Male guards took female inmates to isolated parts of the jail and raped them	DC Jail CTF run by CCA	Guards	Violation of Civil Rights, Emotional Distress and Battery, Failure to Properly Supervise, Failure to Train Guards and Investigators Seeking punitive and compensatory damages	<i>Outcome unknown at this time</i>
Florida	Miami-Dade County	11/19/2006	Officer Sues Town for Sexual Harassment	Male officer made off color "sexual" comments to	Police Precinct Between Officers	Police Officers	Sexual Harassment and discrimination- Asking for	<i>Outcome unknown at this time</i>

State	Locale	Date	Article Title	Situation	Setting	Personnel	Allegation/ Charge	Outcome and Penalty
	Miami-Dade County Cont'			females officer			\$15,000.00 compensatory damages plus attorney's fees, mental anguish and loss of dignity	
Mississippi	Hancock County	8/19/2006	April Trial Set for Suit Against Jail	Female inmates claim they were beaten and forced to have sex with guards	Hancock County Jail	Guards Sheriff, County Supervisors and Mayor also named in suit	Failure to provide adequate supervision	<i>Outcome unknown at this time</i>
Missouri	Jefferson County	3/23/2006	Woman Settles Law Suit Over Alleged Rape in Jail Cell	Male inmates raped a female inmate when housed with her by mistake	Jefferson County Jail	Inmate on Inmate		\$30,000 in damages
Missouri	St. Louis County	11/19/2006	Motorists Vulnerable to Sex Abuse and Harassment by Police	3 women filed suit against the police chief for abuse and harassment	Traffic Stops	Police Officer	Abuse of Power	<i>Outcome unknown at this time</i>
New York	Rensselaer, Schenectady and Montgomery Counties	8/24/2006	Strip Search Settlements Cost Jails Millions	Illegal strip searches conducted in jails throughout New York	Rensselaer, Schenectady and Montgomery Counties	Correctional Officers	Illegal Strip Searches	\$7.7 million collectively
North Carolina	New Hanover County	12/28/2006	Former Sheriff's Deputy Sued by Woman Claiming Sexual Assault	A New Hanover deputy was sentenced to 6 months in jail after pleading guilty to a felony count of sex offense by a custodian.	Jail	Sheriff's Deputy and the Sheriff	Negligence, misconduct and misbehavior Is seeking compensation	<i>Outcome unknown at this time</i>
North Dakota	Barnes County	11/15/2006	Suit Against Jailer Details Assault	Jailer sexually assaulted a female inmate	Barnes County Jail	Jailer	Failure to Supervise-suit brought against county and jailer	<i>Outcome unknown at this time</i>

State	Locale	Date	Article Title	Situation	Setting	Personnel	Allegation/ Charge	Outcome and Penalty
Oregon	Lake County	11/7/2006	Former Jailer Accused of Preying on Inmate	Jailer coerced a female inmate into oral sex for tobacco	Lake County Jail	Correctional Officer Also named in the suit are the Sheriff and county	Battery, Intentional infliction of emotional distress and Civil Rights violations.	<i>Outcome unknown at this time</i>
Pennsylvania	Allegheny County	8/4/2006	Former Inmates Settle Law Suit	13 male guards accused of sex scandal with female inmates	Uptown Lock-up	Guard	Institutional Sexual Assault	All guards fired and a settlement of \$27,000.00 for each of the 4 women
Pennsylvania	Philadelphia County	11/2006 11/8/2006	City Freed from Police Sex Suit \$8.3 Million Award in Police Sex Abuse Case	Police Officers forced a woman into their police car and raped her.  NOTE: The officers were previously found guilty and sentenced.	On Duty	Police Officers		The police department was dismissed from liability. The court held that the Philadelphia Police Department did not have a policy or practice of condoning sexual harassment of civilians  The officers were held personally liable and will have to pay out \$8.3 million
Tennessee	Blount County	7/26/2006	Woman Claims Jail Policies Led to Rape by Officer	A non-violent inmate begin transported to a dental appointment was taken to a hotel by the	Transport- Blount County Jail	Jail and Correctional Officer	County had Policies that allowed the victim to be raped	<i>Outcome unknown at this time</i>

State	Locale	Date	Article Title	Situation	Setting	Personnel	Allegation/ Charge	Outcome and Penalty
				transport officer and raped				
Washington	King County	12/6/2006	Justice Department Investigates King County Jail	Suit filed following reports of sexual abuse, inadequate medical care and suicide prevention	King County Jail	Jail Staff	US Department of Justice has opened an investigation regarding alleged Civil Rights Violations	<i>Outcome unknown at this time</i>

**PREA Implications for Law Enforcement Operated Jails and Lock-ups  
News Stories: Criminal Convictions for Off Duty Conduct**

*Note: This is a representative sample of relevant news stories. This is not meant to function as an exhaustive list.*

Sate	Locale	Date	Article Title	Situation	Personnel	Allegation/ Charge	Outcome and Penalty
Alabama	Lee County	11/1/2006  12/15/2006	Former Opelika Cop Guilty of Sex Abuse  Ex Policeman Give 9 Months for Child Sex Convictions	Inappropriately touching a 13 year old family member	Police Officer	2 <sup>ND</sup> Degree Sexual Abuse	2 <sup>ND</sup> Degree Sexual Abuse 9 mos. in jail and 2 yrs. Probation
Alabama	Baldwin County	11/29/2006	ABI Investigator Charged with Sex Abuse	Harassment and sexual abuse involving a juvenile	ABI Investigator	Improperly touching a juvenile	<i>Outcome unknown at this time</i>
California	County of San Francisco	10/30/2006  11/2006	San Francisco Officer Accused of Sex Abuse  Cops Investigated for Sex Trips Overseas	Sexual Abuse of a 14 year old in Cambodia  Police Officers may have had knowledge about cops going overseas to have sex with minors- have the obligation to enforce the law	Police Officer	Sex Offense Against a Child Is facing 10-20 if convicted	Officer killed himself in a Cambodian Jail
District of Columbia	Washington	8/9/2006	Capital Police Officer Released from Jail in Teen Sex Case	Officer had sex with a girl working as a prostitute for a Maryland high school coach	Capitol Police Officer	Child Sex Abuse. Suspended and monitored by ankle bracelet pending trial	<i>Outcome unknown at this time</i>
Florida	Broward County	11/1/2006	Lake Deputy Arrested for Reported Child Sex	Deputy sexually assaulted a 7 year old repeatedly	Police Officer	Indecent Assault, Sexual Battery of a Child, Lewd and Lavatious	<i>Outcome unknown at this time</i>

<sup>8</sup> In this news article, it specifically states that the jurisdiction where the abuse took place was Broward County, however, the deputy was employed as a Lake County

Sate	Locale	Date	Article Title	Situation	Personnel	Allegation/ Charge	Outcome and Penalty
			Abuse <sup>28</sup>			Molestation	
Kansas	Wichita County	7/3/2006	Former Cop Sentenced for Sex Crimes	Sexual Abuse of a female child	Police Officer	Child Sex Crimes	Repeated Aggravated Criminal Sodomy 10 years and 3 mos.
Louisiana	Evangeline County	10/5/2006	Turkey Creek Police Chief Accused of Molesting Teenage Girl	Chief accused of molesting a 15 year old family member before his election	Police Chief	Molestation Up to 15 years if convicted	<i>Outcome unknown at this time</i>
Maryland	Dorchester County	11/29/2006	Sex Abuse Case Against Former Hurlock Cop on Hold	Sexual Assault of an 8 year old girl	Police Officer	2 <sup>nd</sup> Degree Rape	Case on hold for 3 years- if officer gives up his certification and seeks sex offender counseling the case will be dismissed
Maine	Worchester County	11/24/2006	Former Jail Guard Convicted of Rape	Jail guards raped a women after she agreed to have coffee with him after he promised he could help her get a job as a CO	Jail Guard	Facing 6-8 years	Rape, Assault and Battery
Massachusetts	Worchester County	12/20/2006	Former Police Officer Facing Child Sex Charges	Officer pled guilty to charges of sexually assaulting an 11 year old girl	Police Officer	Indecent assault and battery on a child under the age of 14 and statutory rape of a child	<i>Outcome unknown at this time</i>
New Hampshire	Strafford County	12/20/2006	Former Trooper Admits Sexual Conduct, Argues for Lesser Charge	A former state trooper admitted to molesting a 13 year old boy. His lawyer is arguing that he should be facing a lesser charge because	State Trooper	Aggravated felonious sexual assault	<i>Outcome unknown at this time</i>

Sate	Locale	Date	Article Title	Situation	Personnel	Allegation/ Charge	Outcome and Penalty
				there was implied consent. The officer met the boy through a mentoring program and supervised the boy for 2 years prior to the incident			
New Jersey	Bergin County	8/1/2006	Jail Officer Charged with Having Sex with Girl 15	Jail officer had oral sex with a 15 year old after telling her it was okay because he was a deputy	Police Officer	A sexual offense Facing termination pending investigation	<i>Outcome unknown at this time</i>
New Mexico	Santa Fe County	11/28/2006	Former Santa Fe Police Officer Pleas Guilty	Officer arranged to meet a 15 year old girl from the internet for sex in a hotel	Police Officer		Harassment , Child solicitation by a computer, Attempted criminal sexual penetration and an Alford plea to Burglary on an unrelated incident
North Carolina	Brunswick County	9/15/2006	NC Police Officer Charged with Statutory Rape	Officer solicited a 14 year old from my space	Police Officer	Statutory Rape, Statutory Sex Offense and Indecent Liberties with a Child	Currently on unpaid leave pending outcome
North Carolina	Polk County	11/2006	NC Sheriff-elect Faces Rape Charges	Sheriff accused of raping 2 girls, aged 10 and 11, 20 years ago	Current Police Chief in Columbus/ Sheriff-elect in Polk City	Statutory Rape Sex Offense Facing removal from duty if convicted	<i>Outcome unknown at this time</i>
Ohio	Wood County	11/3/2006	(Title not on File)	Sexually assaulted a woman	Police Officer	Rape	Paid leave after allegation- termination after indictment
South Carolina	Florence County	11/22/2006	Florence Police Officer Arrested in Child Porn Case	Pictures of children engaged in sexual activity found on home computer of the officer	Police Officer	2 <sup>nd</sup> and 3 <sup>rd</sup> Degree Exploitation of a Minor	Fired
Tennessee	Sumner County	12/21/2006	Former Gallatin	One police officer is	Police Officer	Statutory Rape	<i>Outcome unknown at</i>

Sate	Locale	Date	Article Title	Situation	Personnel	Allegation/ Charge	Outcome and Penalty
			Officer Charged with Statutory Rape	charged with statutory rape and two other officers resigned after being accused of failure to report the abuse.			<i>this time</i>
Tennessee	Hardin County	12/27/2006	Demopolis Police Officer Fired After Being Charged with Rape	A Demopolis police officer was charged with allegedly having sex with an underage female on three separate occasions, one of which was while he was on duty.	Police Officer	3 Counts- Rape	Fired
Tennessee	Claiborne County	1/8/2007	Claiborne Sheriff Accused of Rape in Federal Law Suit	A federal lawsuit filed on behalf of a girl and her mother accuses the Claiborne County Sheriff of raping the girl while hunting with her. He is accused of threatening the girl with his service weapon and holding her against her will and sexually molesting her. This is also under investigations with the TN Bureau of investigation	Sheriff	Rape The Sheriff continues to perform his duties	
Texas	Tom Green County	11/1/2006	Ex-Assistant Police Chief in San Angelo Avoids Trial	Chief handcuffed a woman who refused to give him oral sex	Ast. Police Chief	Unlawful Restraint	Charges dropped pending completion of 9 mos. supervised probation
Utah	Utah County	11/30/2006	Ex-Jail Worker Pleads Guilty to Abusing 3 Girls	Sheriff's Deputy guilty of touching girls inappropriately	County Jail Commander	1 <sup>st</sup> degree felony sexual abuse of a minor	6 counts of sexual abuse of a minor- reduced from charge

Sate	Locale	Date	Article Title	Situation	Personnel	Allegation/ Charge	Outcome and Penalty
							after plea deal
Virginia	Newport News City (an Independent city with no county affiliation) Newport News Cont'	12/9/2006	Ex-state Trooper will Serve One Year in Prison	Oral sex with a teenager	State Trooper with the State Department of Police		2 counts of carnal knowledge of a child older than 13 but younger than 15 10 years- 9 suspended NOTE: Cases with 3 other girls dropped in exchange for plea
Wisconsin	Douglas County	10/25/2006	Jailer Gets Prison Time in Douglas County Internet Case	Jailer developed a relationship with 14 year old girl on the internet and met for sex	Jailer		2 <sup>nd</sup> Degree Sexual Assault of a Child under 16 13 years on parole and sex offender registration

## About the Authors

### Susan W. McCampbell

Ms. McCampbell is President of the Center for Innovative Public Policies, Inc., (CIPP) a not-for-profit company specializing in public policy consulting, established in 1999. Ms. McCampbell also currently serves as the Special Master in the matter of the United States of America v. the Territory of the Virgin Islands, et. al., appointed by the Federal Court in April 2006. Ms. McCampbell serves as an expert witness in corrections and law enforcement litigation.

CIPP has worked on a number of projects with the U. S. Department of Justice's National Institute of Corrections (NIC): develop strategies for community corrections to address recruitment, retention and preparation of first line supervisors and other workforce issues; to provide technical assistance to state and local correctional agencies regarding the issues associated with staff sexual misconduct and PREA; and to revise the curriculum for the National Sheriffs' Institute. Since 1999, CIPP has provided training and technical assistance to over 75 entities on the topic of staff sexual misconduct with offenders, and has developed numerous publications, guides, and curriculum in this topic. CIPP will be working with the Bureau of Justice Assistance to help educate and prepare agencies having the responsibility for arrestee lock-ups about the impact of PREA.

CIPP also performed work for the Henry J. Kaiser Family Foundation, The Collins Center for Public Policy, the School Board of Broward County, Florida, Women in Distress of Broward County, Inc., and the Broward County, Florida, Sheriff's Office.

Prior to founding CIPP in 1999, Ms. McCampbell was the Director of the Department of Corrections, Broward County, Florida, Sheriff's Office for four (4) years. During this time, Ms. McCampbell oversaw the daily operations of a jail system with 4,200 inmates, three facilities, and a staff of 1,600. During her tenure, the agency received their initial accreditation from the Commission on Accreditation for Corrections, and re-accreditation, the largest agency of its kind to receive simultaneous accreditation for all facilities. Other highlights of her term as Director include implementation of an objective inmate classification system, dramatic improvements in the management and treatment of inmates with a diagnosis of mental illness in the jail system, the planning for a new 1,000 bed men's direct supervision facility, and a 1,000 bed women's jail. While with the Broward Sheriff's Office, Ms. McCampbell served as Chief Deputy/Acting Sheriff for six (6) months following the death of the Sheriff.

Prior to working in Broward County, Ms. McCampbell was Assistant Sheriff for the City of Alexandria, Virginia, Sheriff's Office for eleven (11) years, a Program Director for Police Executive Research Forum in Washington, D. C., and a regional criminal justice planner in Northern Virginia.

**Elizabeth Layman** is President of Price Layman, Inc., a criminal justice consulting firm. After graduating from Virginia Tech, Ms. Layman was a police officer/detective for 9 years in Arlington, Virginia, and subsequently spent 16 years with the Department of Corrections Probation and Parole, and the Parole Commission in the State of Florida. For 9 years of those years, Ms. Layman was the Regional Director for the Florida Parole Commission, managing agency operations in the eight-county region of South Florida.

Since 1997, Ms. Layman has worked with NIC on numerous cooperative agreements including technical assistance and training, and curriculum development, including: Training for Investigators of Staff Sexual Misconduct; Managing a Multi-Generational Workforce; FutureForce: Developing a 21<sup>st</sup> Century Workforce for Community Corrections; co-authorship of A Resource Guide for New Wardens, and Staff Sexual Misconduct with Offenders Policy Development Guide for Community Corrections; and co-authorship of publications on the issue of Staff Sexual Misconduct in various periodicals, including *American Jails*, *Perspectives*, and *Sheriff* magazines.