

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]**

May 2007

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, or telephone (239) 597-5906.

To request technical assistance, please contact:

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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>Module Road Map - 65 Minutes</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) OPTIONAL</p> <p>1.6 Conclusions (5 minutes)</p> | |
| <p>PROGRAM OPENING</p> <p>Program Objectives:</p> <p>The objectives of this program to are:</p> <p>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.</p> <p>7. Overview legal issues.</p> <p>8. Provide recommendations to both:</p> <p style="padding-left: 20px;">a. assure arrestee and detainee safety from sexual violence and</p> <p style="padding-left: 20px;">b. prevent and address staff sexual misconduct with arrestees and detainees</p> <p>9. Highlight prevention activities.</p> <p>10. Identify resources.</p> <p>Definition: For the purposes of this training the term “prison” applies to all federal, state,</p> | <p>(15 minutes)</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>“What do you know?” QUIZ</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"> • Develop standards for detection, and punishment of prison rape. • Collect and disseminate information on the incidence of prison rape. • Award grants and technical assistance to help state governments implement the Act. <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"> 1. Establish a zero-tolerance standard for the incidence of rape in prisons in the United States. 2. Make the prevention of prison rape a top priority in each prison system. 3. Develop and implement national standards for the <i>detection, prevention, reduction, and punishment</i> of prison rape. 4. Increase available data and information on the incidence of prison rape. 5. Standardize the definitions used for collecting data on the incidence of | |

prison rape.

6. Increase the accountability of prison officials who fail to *detect, prevent, reduce, and punish* prison rape.

7. Protect the Eighth Amendment rights of federal, state, and local prisoners.

8. Increase the efficiency and effectiveness of federal expenditures *through grant programs* such as 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

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| <ul style="list-style-type: none"> • Safer environment for inmates [arrestees] and staff • Protects public health from sexually transmitted diseases inmates [arrestees] may contract in prison • Protects public safety by releasing inmates [arrestees] into the community who have not been sexually assaulted in prison/jail/detention setting | |
| <p>1.2.2. How sexual violence is measured</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>Nonconsensual sexual acts</p> <ul style="list-style-type: none"> • Contact of any person without his or her consent, or of a person who is unable to consent or refuse; and • Contact between the penis and the vagina or the penis and the anus including penetration, however slight; or • Contact between the mouth and the penis, vagina, or anus; or • Penetration of the anal or genital opening of another person by a hand, finger, or other object. <p>Abusive sexual contacts</p> <ul style="list-style-type: none"> • Contact of any person without his or her consent, or of a person who is unable to consent or refuse; and • Intentional touching, either directly or through the clothing, of the genitalia, anus, groin, breast, inner thigh, or buttocks of any person. • Excluding incidents in which the intent of the sexual contact is to harm or debilitate rather than sexually exploit. | <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> |

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| <p>Staff sexual misconduct</p> <ul style="list-style-type: none"> • 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"> ○ Intentional touching of the genitalia, anus, groin, breast, inner thigh, or buttocks with the intent to abuse, arouse, or gratify sexual desire; or ○ Completed, attempted, threatened, or requested sexual acts; or ○ Occurrences of indecent exposure, invasion of privacy, or staff voyeurism for sexual gratification. <p>Staff sexual harassment</p> <ul style="list-style-type: none"> • 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"> ○ Demeaning references to gender or derogatory comments about body or clothing; or ○ Profane or obscene language or gestures. | |
| <p>1.2.3 Development of Standards</p> | |
| <ul style="list-style-type: none"> • 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. • Draft in Federal Register in 2008 for public comment • Standards will not contain any elements which impose substantial costs on states • Approved by the NPREC and then forwarded to Attorney General • Attorney General has one year from date of receipt to approve and transmit | |

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| <ul style="list-style-type: none"> • 90 days after that rules can become final • Tied to accreditation – accrediting bodies will be asked to adopt these standards | |
| <p>1.2. 4 BJS Reporting</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>1.3 Why Now for Law Enforcement Agencies?</p> | <p>(5 minutes)</p> |
| <ul style="list-style-type: none"> • Name of law is somewhat imprecise when it comes to law enforcement • Problem of arrestee/arrestee sexual violence not widely recognized; staff sexual misconduct in law enforcement seen as a “few bad apples” • Emphasis placed since PREA became law on institutional corrections • Funding to state departments of corrections for PREA initiatives – few involved sheriffs and law enforcement <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>1.3.1 What law enforcement executives say about PREA.</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"> 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. 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. 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. 4 Employee buy-in is crucial to increasing efforts to safeguard arrestees and that buy-in isn't there. 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. 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. 7 Training for police/law enforcement officers doesn't often include information on the pathways of women and other vulnerable victims | <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> |

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| <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 4th, 8th and 14th 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.

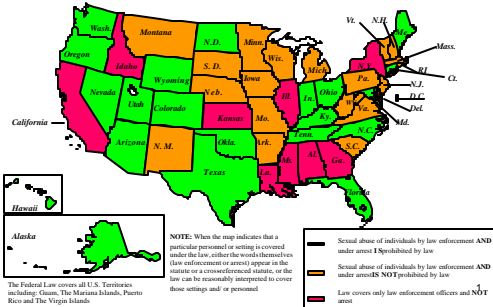
This is intended to be an overview of legal issues highlighting potentially new information regarding PREA and police lock-ups/short term holding facilities.

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

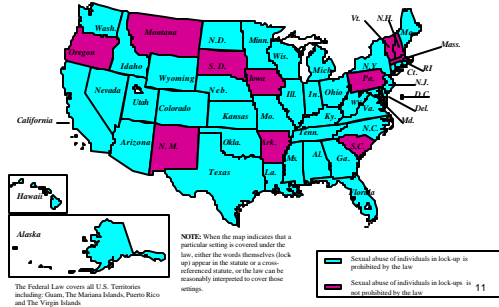
*State Criminal Laws Prohibiting the Sexual Abuse of Individuals by Law Enforcement
Smith Consulting – January 2007*

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)



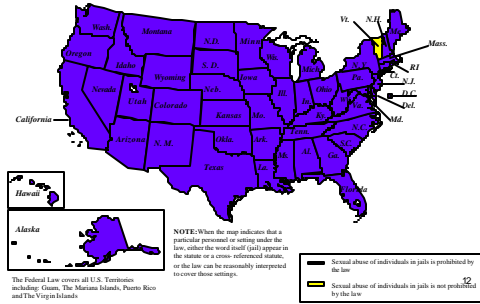
*State Criminal Laws Prohibiting the Sexual Abuse of Individuals in Lock-Ups
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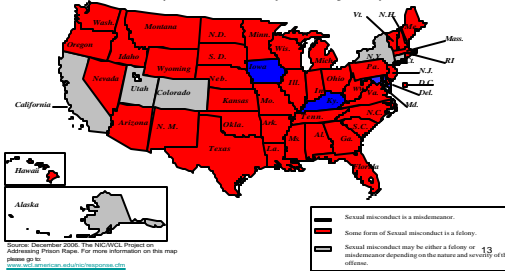
State Criminal Laws Prohibiting the Sexual Abuse of Individuals in Jails

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

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.

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| <p style="text-align: center;">Sexual Misconduct Laws</p> <ul style="list-style-type: none"> • All 50 states, the federal government and DC have laws specifically covering the sexual abuse of persons in custody • 32 states cover law enforcement officers • 21 states cover arrests • 39 states cover police lockups • 49 states cover jails | <p style="text-align: center;">Other State Criminal Laws</p> <ul style="list-style-type: none"> • Sexual Assault • Statutory Rape • Sodomy • Sex Offender Registration <ul style="list-style-type: none"> – Juveniles – Adults • Vulnerable Adult Statutes • Licensing • Malfesance in Office/Official Misconduct • Obstruction of Justice • Making False Statements to a government official • Mandatory Reporting • Notification | <p>Note to Instructor: 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;">Civil Liability -- Constitutional Claims</p> <ul style="list-style-type: none"> • Most commons legal bases for challenges <ul style="list-style-type: none"> – 42 U.S. C. 1983 – Eighth Amendment – Fourth Amendment – Fourteenth Amendment – State tort claims | <p style="text-align: center;">42 U.S. C. 1983</p> <ul style="list-style-type: none"> • Creates a federal cause of action for the vindication of rights found elsewhere • Key elements <ul style="list-style-type: none"> – Deprived or a right secured by the constitution or law of U.S. – Deprivation by a person acting under color of state law | |
| <p style="text-align: center;">Eighth Amendment</p> <ul style="list-style-type: none"> • Prohibits cruel and unusual punishment • Legal standard is deliberate indifference <ul style="list-style-type: none"> – Established in a prison rape case Farmer v. Brennan, 511 U.S. 825 (1994) – Two part test <ul style="list-style-type: none"> • the injury must be objectively serious and must have caused an objectively serious injury • 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 | <p style="text-align: center;">What the court looks for</p> <ul style="list-style-type: none"> • Deliberate indifference to inmate vulnerability -- safety or health <ul style="list-style-type: none"> – Official knew of and disregarded an excessive risk to inmate safety or health – 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 | |

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

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.

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| <p>1.5 Burning Issues – OPTIONAL EXERCISE</p> | <p>(10 minutes)</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>1.6 Conclusion of Module One</p> | <p>(5 minutes)</p> |
| <p>This module has addressed:</p> <ul style="list-style-type: none"> • What is PREA • Why now an issue for law enforcement • Legal issues • Burning issues (if used) <p>Module two will address next steps - What Should Your Agency Be Doing About PREA? Assuring Arrestee and Detainee Safety</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

§ 7th 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 implementation¹

¹ Brenda V. Smith, Nairi Simonian, Washington College of Law, February 28, 2006
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> <ul style="list-style-type: none"> 2.1 Effective strategies – systemic approach (5 minutes) 2.2 Policies and procedures (10 minutes) <ul style="list-style-type: none"> 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) <ul style="list-style-type: none"> 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) <ul style="list-style-type: none"> 2.6.1 Prevention Strategies) 2.7 Program Close-Out (5 minutes) | |

| 2.1 Effective Strategies | (5 minutes) |
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| <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"> ○ Policies and procedures ○ Arrestee risk assessment ○ Physical plan assessment ○ Stakeholder involvement <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"> ○ Policies/procedures ○ Training ○ Professional boundaries ○ Supervision of employees ○ Supervision of detainees ○ Advising arrestees of their right to be safe during the time they are held by the agency and ways to report allegations of misconduct ○ Risk assessment ○ Adequate physical plant ○ Effective investigations ○ Corrective actions ○ Prosecution | <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) |
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| <ul style="list-style-type: none"> • How to develop policies and procedures <ul style="list-style-type: none"> ○ 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. ○ Many organization engage in a short-term “try-out” of policies before the final is implemented. ○ Operational practice must match written policies and procedures • What are specific policies your organization should consider when addressing arrestee/arrestee sexual violence • What are critical issues to be covered in policy? <ul style="list-style-type: none"> ○ Definition of misconduct between arrestees/employees ○ Commitment to operate safe, secure, Constitutional holding facilities <ul style="list-style-type: none"> ▪ Risk assessments/screenings ▪ Medical and mental health attention ▪ Physical plant assessment/inspection/repair ○ Commitment to train employees <ul style="list-style-type: none"> ▪ Recognizing trouble – medical/mental health ▪ Safeguarding vulnerable arrestees ▪ Recognizing arrestees who are potential predators ○ Operational practice follows policy – a challenge to first line supervisors and managers. • 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. | <p>Collaboration is important in developing policies and procedures.</p> |

| 2.1.1 Investigation of Allegations | |
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| <p>Important components to assuring arrestee safety include, but are not limited to:</p> <ul style="list-style-type: none"> ○ Mechanisms for complaints/allegations to reach investigators – regardless of whether these allegations involve only arrestees or staff and arrestees. ○ Mandates that all employees report allegations of arrestee/arrestee sexual violence and staff sexual misconduct with arrestees. ○ Commitments to fully investigate all allegations. ○ Commitments to refer for prosecution sustained allegations. ○ 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. <p>Here are BJS' definitions regarding outcomes of investigations:</p> <ul style="list-style-type: none"> ○ <u>substantiated</u>, if they were determined to have occurred ○ <u>unsubstantiated</u>, if the evidence was insufficient to make a final determination that they occurred ○ <u>unfounded</u>, if they were determined not to have occurred ○ <u>investigation ongoing</u>, if a final determination had not been made at time of data collection. | <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> |

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| 2.2.2 Compliance/Data Reporting | |
| <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> |
| 2.2.3 Training | |
| <p>Who? - Train everyone – all staff, including sworn, non-sworn, volunteers, contractors, vendors, medical personnel, etc.</p> <p>What ? - Training should include, depending on job assignments:</p> <ul style="list-style-type: none"> ○ Agency policies ○ How to report ○ Mandatory reporting ○ Penalties for not reporting ○ State statute and other relevant laws ○ Definitions of misconduct ○ Sanctions for involvement in misconduct or not intervening to prevent harm to arrestees ○ Special populations – women arrestees, lesbian, gay, bi-sexual, transsexual, intersex inmates [arrestees] ○ Recognizing the need for medical and mental health care ○ Proficiency in the agency’s arrestee risk assessment instrument ○ Handling allegations of arrestee/arrestee violence and/or staff sexual misconduct ○ Inspection procedures and how to request repairs/maintenance <p>When?</p> <ul style="list-style-type: none"> ○ Pre-service | |

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| <ul style="list-style-type: none"> ○ In-service ○ Reinforced through open discussions at staff meetings, and other venues. | |
| <p>2.3 Arrestee Risk Assessment</p> | <p>(10 minutes)</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"> ○ Needs medication and/or medical care? ○ Exhibits behavior indicating mental illness and/or drug or alcohol withdrawal/reactions? ○ States they are a victim of sexual assault/abuse while in your custody? ○ Indicates he/she is a transsexual? ○ States she is pregnant or nursing? ○ Indicates they are fearful of a particular other arrestee? ○ Appears to staff as a potential victim? ○ Appears to staff as a potential predator? ○ Past criminal history indicates violence? | <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>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.</p> |

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| <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>2.4 Physical Plant Assessment</p> | <p>(10 minutes)</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>Note: this is intended to spark participant consideration of what they</p> |

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| | <p>might be doing to improve arrestee safety – and NOT intended as a lengthy discussion of each element of the list.</p> |
| <p>2.5 Stakeholder Involvement</p> | <p>(5 minutes)</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"> ○ Investigating authority <ul style="list-style-type: none"> ○ Same agency investigative functions ○ Sexual Assault Treatment Center ○ Medical/Mental Health Providers/Pharmacies ○ Prosecutors <ul style="list-style-type: none"> ○ Education ○ Other MOUs? <p>Investigating Authority</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"> ○ Delineation of responsibilities – who will do what ○ Progress reports to the agency – when, in what format, how often, by whom and to whom ○ Coordination between the investigative agency and the target agency about the exchange of information ○ When the investigative agencies determines that criminal | <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;

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

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

Leadership Module Two July 1, 2007

- 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

Leadership Module Two July 1, 2007

- 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

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

Reports/Articles:

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Sexual Violence Reported by Correctional Authorities, 2004

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

Sexual Violence Reported by Correctional Authorities, 2005

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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

Prison Rape Elimination Commission www.nprec.us

Stop Prisoner Rape – 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

| STATE AND STATUTE | 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 |
|---|--------------------------------|---------------------|------------------------------------|----------------------------------|--|--|---|
| Alabama Custodial Sexual Misconduct ALA. CODE § 14-11-31 (2005). | v | v | v ² | | Volunteers not covered | v | v |
| Alaska 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 ³ | Consent is not addressed |
| Arizona Unlawful sexual conduct; correctional employees; prisoners; classification ARIZ. REV. STAT. | v | v | v ⁴ | v | Volunteers not covered | v ⁵ | 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.

² 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).

³ 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 |
| Arkansas 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 |
| California 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 ⁶ | | v ⁷ | v | v |
| Colorado 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 |
| Connecticut 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 |

⁴ 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).

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

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

⁷ 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). | | | | | | | |
| Delaware Sexual relations in detention facility; Class G felony DEL. CODE ANN. tit. 11, § 1259 (2006). | v ⁸ | v ⁹ | v ¹⁰ | | Volunteers and contractors are not covered | v ¹¹ | v ¹² |
| District of Columbia 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 ¹³ | | Volunteers are not covered | v | v |
| Florida Authorized use of Force; malicious battery & sexual misconduct Florida Cont' 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 |
| Georgia Sexual assault against persons in custody; sexual | v | v | v | | Volunteers not covered | v | v |

⁸ 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).

⁹ 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).

¹⁰ 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).

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

¹² 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).

¹³ 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).

¹² 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). | | | | | | | |
| Hawaii 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 ¹² | v | Volunteers not covered | v | Consent is not addressed |
| Idaho Sexual contact with a prisoner. IDAHO CODE ANN. § 18-6110 (2006). | v | v | v | | Volunteers not covered | v | Consent is not addressed |
| Illinois Custodial Sexual Misconduct 720 ILL. COMP. STAT. ANN. 5/11-9.2 (2005). | v | v | v ¹⁵ | | Volunteers not covered | v | v |
| Indiana Sexual misconduct by service provider with detainee IND. CODE ANN. § 35-44-1-5 (2006). | v | v | v ¹⁶ | v | v | v | v |
| Iowa Sexual misconduct with offenders and juveniles IOWA CODE § 709.16 (2005). | | v | | | v | | Consent is not addressed |
| Kansas | v | v | v | | Volunteers | v | v |

¹⁵ 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).

¹⁶ 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 | | |
| Kentucky Sexual Abuse in the Second Degree. KY. REV. STAT. ANN. § 510.120 (2006). | v | v | v ¹⁷ | v | Community Corrections employees are not covered | | Consent is not addressed |
| Louisiana 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 |
| Maine 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 ¹⁸ | v | Volunteers not covered | v | Consent is not addressed |
| Maryland 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 ¹⁹ | v | Volunteers not covered Contractors not covered | | Consent is not addressed |

¹⁷ 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).

¹⁸ 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).

¹⁹ 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>Massachusetts</p> <p>Punishments for sexual relations with inmate. MASS. ANN. LAWS ch. 268, § 21A (2006).</p> | | v | | | Volunteers not covered | v | v |
| <p>Michigan</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>Minnesota</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>Mississippi</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>Missouri</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>Montana 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>Nebraska 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>Nebraska Cont' 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>Nevada 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 ²¹ | The defense of consent may be implied because the inmate is also penalized for the conduct |
| <p>New Hampshire 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>New Jersey</p> | | v | v | | Volunteers | v | Consent |

²¹ 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 |
| New Mexico Criminal sexual penetration. N.M. STAT. ANN. § 30-9-11 (2006). | | v | | | Volunteers not covered | v | Consent is not addressed |
| New York 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. ²² | v | v |
| North Carolina 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 |
| North Dakota 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 |
| Ohio Sexual Battery, OHIO REV. CODE ANN. § 2907.03 (LexisNexis 2006). | v | v | v | v | Volunteers not covered | v | Consent is not addressed |
| Oklahoma 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 |

²² 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). | | | | | | | |
| Oregon 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 |
| Pennsylvania Institutional sexual assault 18 P.A. CONS. STAT. § 3124.2 (2005). | | v | | | Volunteers not covered | v | Consent is not addressed |
| Rhode Island Correctional employees — sexual relations with inmates — felony R.I. GEN. LAWS § 11-25-24 (2006). | | v ²³ | v ²⁴ | | Volunteers not covered | v | Consent is not addressed |
| South Carolina Sexual misconduct with an inmate, patient or offender S.C. CODE ANN. § 44-23-1150 (2005). | | v | | | v | v | Consent is not addressed |
| South Dakota 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 |
| Tennessee Sexual contact with inmates TENN. CODE ANN. § 39-16-408 (2006). Sexual battery by | v | v | v ²⁵ | v | v | v | Consent is not addressed |

²³ 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).

²⁴ 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). | | | | | | | |
| Texas 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 |
| Utah Custodial sexual relations – custodial sexual misconduct – definitions – penalties – defenses UTAH CODE ANN. § 76- 5-412 (2006). | v | v | v | v | v | v | v |
| Vermont Sexual exploitation of an inmate VT. STAT. ANN. tit. 13, § 3257 (2006). | | | | | v | | Consent is not addressed |
| Virginia 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 |
| Washington 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 |
| West Virginia Imposition of sexual intercourse | | v | v | | Volunteers not covered | v | v |

²⁵ 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). | | | | | | | |
| Wisconsin 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 |
| Wyoming 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>United States</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 ²⁷ | v | v | v | v | v | Consent is not addressed |

²⁶ 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 st 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 st Degree Official Misconduct and 2 nd Degree Sex Abuse Inmate may face administrative sanctions | 1 st degree official misconduct 1 year in jail (suspended) and 2 years of probation |
| Maryland | Cecil County | 11/6/2006 | 2 nd 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 th degree sex offense, 2 nd 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 RD 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 RD 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 rd 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 | 4/29/2006 | 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 nd Degree Sexual Assault of an inmate by a CO, 2 nd 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 nd 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 ND Degree Sexual Abuse | 2 ND 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> |

⁸ 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 ²⁸ | | | 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 nd 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 nd and 3 rd 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 st 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 nd 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 21st 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.