

NATIONAL INSTITUTE OF CORRECTIONS
MOSS GROUP, INC.
SUMMARY REPORT
REGIONAL WORKSHOPS

INTRODUCTION

One of the key strategies proposed by the Moss Group in conjunction with the National Institute of Corrections and the other "Federal Partners," to include the Bureau of Justice Statistics, Bureau of Justice Assistance and National Institute of Justice in the first year of implementation was a series of four executive level regional workshops. These workshops were publicized to each component of primarily the adult correctional system, *i.e.*, prisons, jails and community correctional agencies and targeted executive-level administrators and policy makers.

The workshops were designed to (1) disseminate the most current information concerning PREA, (2) encourage peer interaction and information sharing, especially concerning on-going implementation strategies, practices, and program initiatives in the region, and (3) generate ideas for implementation strategies and areas where NIC and the other federal partners may be of assistance. As part of the primary objective of the first year initiative to inform the field and "name the issue," participants were provided an introduction and overview of the purpose and requirements of the Prison Rape Elimination Act. The specific role of each of the Federal Partners, as well as the National Prison Rape Elimination Commission, was discussed. The workshops provided a critical venue to garner valuable feedback from the field with respect to their insights concerning implementation issues, potential barriers and obstacles, and areas where the Federal Partners could assist jurisdictions to meet the mandates of the law. The workshops further enhanced the process of "naming the issue" and helped to remove or diminish perceptions, by some correctional administrators, of implied blame and calm fears through positive information sharing. The workshops laid the groundwork for a process to create a systemic perspective which stresses the interrelatedness of issues related to staff sexual misconduct, institutional culture artifacts and the problem of inmate-on-inmate rape and sexual assault.

ORGANIZATION AND STRUCTURE

The first workshop was held in Portland, OR on December 1-2, 2004. This was followed by workshops in: New Orleans, LA on December 8-9, 2004; Baltimore, MD on December 13-14, 2004; and Chicago, IL on December 15-16, 2004. A total of 134 people participated in the four workshops. Due to the busy

schedules of the participants the workshops were conducted over a two-day period with the program starting on the first day with a working lunch and concluding by 1:00 PM on the second day with a debriefing and close-out session. Each session was designed to maximize participant involvement through the use of small group process and large group discussion. Didactic presentations were kept to a minimum and focused on the transmission of basic information about the law, the role of the Federal Partners, and the outline of a systemic approach to the development of implementation strategies.

At each of the four sessions, panels comprised of four to five top-level executives discussed a leadership response to the PREA law. These executives shared strategies being utilized by their agencies to begin meeting the mandates of the law. A valuable aspect of the panel presentations was an update on the progress of those states that received Bureau of Justice Assistance grant awards. They shared information concerning the goals of their projects and the current stage of implementation. This sharing of ideas, strategies, plans and programs proved extremely helpful in dissemination information reflecting the current status of various PREA related activities throughout the country.

In addition to NIC staffers representing all divisions, Andrew Goldberg and Chris Innes from the National Institute of Justice provided updates from the federal partners.

It was especially significant that members of the National Prison Rape Elimination Commission attended all four sessions: Commissioner Jim Aiken attended sessions in Portland, New Orleans, and Chicago; Commissioners John Kaneb and Jamie Fellner attended the session in Baltimore, and; Commissioner Gustavus Puryear attended the Chicago workshop. Their support and interest was a valuable asset to the overall success of the Regional Workshops. The presence of Commission members at all four sessions sent a clear message of support to the field.

The executive-level correctional administrators participating in the workshops provided valuable feedback through participation in roundtable discussions addressing the following three questions:

- What are the top 3-5 issues you currently face in the successful implementation of the intent of PREA?
- What are barriers/obstacles you may encounter as you implement the elements of PREA? Any ideas on how these might be overcome? Are there existing practices within your agency upon which you might build to facilitate the implementation?

- What kind of support would be helpful from NIC? From other federal partners (BJS, BJA, NIJ) or agencies?

Feedback from each session was preserved to become an important part of the knowledge base that will be used to further inform the field and guide future strategies.

For purposes of the following Executive Summary, data from all four workshops has been synthesized into basic thematic responses to each of the three discussion questions posed to the Executive Roundtable Groups. At the end of the Executive Summary a fuller exposition of this rich data base is presented as it impacts and relates to each of the four major target populations – prisons, jails, community corrections and, to a much lesser degree, juveniles.

EXECUTIVE SUMMARY OF FEEDBACK

Critical Issues Currently Faced in the Successful Implementation of PREA

- There is a continuing need to inform and educate the field relative to the broad nature of the application of the law to all areas of corrections, *i.e.*, prisons, jails, community corrections and juveniles.
- It will be a challenge to identify the full range of players and stakeholders and develop effective strategies to inform and educate them concerning the mandates of PREA. Public education efforts will be required to inform community leaders, offender families, legislators and other elected officials, and the general public about PREA.
- Most jurisdictions are still dealing with significant budget shortfalls, gaining access to sufficient funding resources to effectively implement the mandates of PREA is an issue.
- The culture of many correctional agencies mitigates against the successful implementation of the PREA mandates. Sexual assault has been accepted in the past, by both offenders and staff, as a “fact” of prison life and one of the “pains of imprisonment.” Cultural change is difficult to effectuate.
- The lack of research and hard data on the prevalence of inmate-on-inmate sexual assault and staff sexual misconduct fosters the opinion among many administrators and staff that, in fact, this issue poses not real problem in the corrections environment. The Prison Rape Elimination Act is simply the federal government’s current issue of the day or “flavor of the month.” This lack of data to support the efforts mandated by PREA

reinforces among correctional administrators an uncertainty concerning the nature of data the law requires be maintained. If correctional staff understand what types of data must be gathered, that there are consistent procedures in place and why the data is necessary they will support the efforts. We need to make sure, however, that we are counting the right things. Many correctional administrators fear that unfounded "over estimates" of the prevalence of sexual assault have prompted an "over reaction" to an issue that does not really constitute a major problem in prison administration. This attitude leads to resistance to seeing sexual assault as a real problem and complacency in taking needed corrective action.

- The diversity of the various elements of the correctional system will make it difficult to develop, implement and monitor consistent policy and procedures.
- As awareness of this issue is raised and more incidents are reported there may be negative consequences for correctional administrators, even those trying to do the "right thing."
- Reporting expectations need to be clarified and enforced.
- As more incidents of sexual assault are reported, increased resources must be developed in the investigative arena. Funding to hire and train staff will be important. Standardized interviewing protocols will be essential.
- Developing procedures and facilities to deal with both victims and perpetrators is a serious issue. As more education and orientation is conducted with offenders and staff and more victims choose to report incidents of sexual assault it will be important that victims are effectively protected from further assault and retaliation without being "punished" by having their freedom restricted.
- Addressing the issue of what may constitute "consensual sex" and how to realistically distinguish it from true rape or sexual assault. Clearly defining the distinction between "coercive" and "consensual." In most cases, state laws and their definitions of "sexual assault" differ from the definitions found in the PREA. It will be critical to make efforts to standardize legal and statutory language to insure consistent enforcement.
- Confidentiality is a major issue. Defining the limits of information sharing among agencies, advocacy groups, medical and mental health professionals (HIPPA), especially with increasing levels of electronic data transfer will be problematic. The role of Probation and Parole Officers and their responsibilities for liaison with prison staff concerning reports of

sexual assault or staff sexual misconduct occurring during an inmate's incarceration, but being first revealed upon release will need to be more clearly defined. Conversely, what standards will govern the prison staff's responsibility for informing Parole Officers of victims or perpetrators upon release?

Barriers/Obstacles Which May Be Encountered in the Implementation of the Elements of PREA

The following issues, many reflected in the discussion of critical issues, were identified as barriers or obstacles to the successful implementation of PREA mandates:

- Lack of national standards, lack of clear definitions and guidelines for reporting incidents of sexual assault to insure timely and credible reports and data
- Lack of interest/concern by the general public and many jail staff over the issue of inmate on inmate sexual assault
- Lack of adequate funding
- Problems in coordination and communication with law enforcement and prosecutors
- Changing offender and staff cultures to create understanding and ownership
- Current lack of truthfulness, on the part of both staff and offenders, in the process of identifying instances of sexual assault and staff sexual misconduct
- Need to build trust in actions so that the offenders will have confidence that if they report they will be treated fairly and protected without being punished
- Lack of support and interest among politicians and legislators
- Inadequate offender classification and management systems and practices in many correctional settings
- Lack of access to technology
- Need for more objective investigations and additional staff resources to conduct investigations
- Lack of collaboration and information-sharing among agencies
- Lack of information about current "best practices"
- Restricted access to federal grant funding such as the grants available through BJA which must be awarded at the state level
- Physical plant limitations and facility design problems such as the lack of electronic surveillance capability and linear designs of older prisons and jails will pose major obstacles to preventing sexual assaults
- Confidentiality issues

- Costs associated with implementation of strategies, compliance with the mandates, and increased investigative capacities
- Costs associated with staff training and orientation
- Prison and jail crowding
- Development of inmate orientation programs
- Continuing perceptions by both inmates and staff that sexual assault is just a normal artifact of the prison culture
- Lack of consistency in state and legal definitions of what constitutes sexual assault
- Need for networking with other correctional systems to share information and the establishment of a national clearinghouse for the dissemination of PREA related information
- Continuing perceptions by both inmates and staff that sexual assault is just a normal artifact of the prison culture
- Difficulty in educating legislators and gaining their support for PREA related initiatives
- Challenge of educating, training, orienting, and motivating various levels of prison staff which, even within individual facilities, represent disparate and often disconnected components
- Even when there are sound investigative procedures and competent, well-trained investigators, it is often difficult getting to the true facts of a case of alleged staff sexual misconduct of inmate on inmate sexual assault. The manipulative nature of inmates, problems with reporting mechanisms and a general attitude of acceptance, all exacerbate the problem of ferreting out the truth and dealing appropriately with both victim and perpetrator.

The Kind of Support That Would Be Helpful From NIC and the Other Federal Partners (BJS, BJA, NIJ).

NIC and the other Federal Partners can be helpful to correctional administrators and staff by:

- Providing interpretations of the law and clarification of definitions relative to the nature of sexual assault. [Does PREA assume that any homosexual relationships in prison cannot be consensual? Can there ever be a truly "consensual" homosexual relationship in prison? How do prison administrators know the difference between coerced and potentially and admitted consensual relationships? Must all homosexual relationships,

- even if no complaint is filed be treated as sexual assault? What are the limits of liability for prison administrators in such cases?]
- Clarifying data collection requirements of the law [Do administrators document prevalence solely on the basis of allegations or wait until it is fully investigated? Data collections requirements must be consistently enforced across the states to insure equal treatment.]
 - Providing continued help with training and targeted technical assistance
 - Providing more money for operational implementation
 - Identifying national “best practices,” model policies and protocols for dealing with staff sexual misconduct and making information about them readily available to the field through a centralized national “clearinghouse”
 - Making it clear that PREA applies equally to all correctional settings even private sector correctional facilities and programs
 - Providing guidance and technical assistance to establish appropriate reporting mechanisms, data gathering and retention protocols and process evaluation strategies
 - Assisting in the improvement of existing classification tools to better identify potential victims and perpetrators in the prison environment by including probing questions about sexual assaults in county jails and fear of victimization
 - Developing and disseminating procedures and supporting material to assist in inmate orientation
 - Providing resources and assistance to correctional administrators to help effectuate cultural changes in both the staff and inmate populations by raising consciousness on issues of homophobia, male victimization and female perpetrators of sexual assault
 - Developing a brochure and other public education materials that can be used with the general public and especially inmate victim’s families to educate and inform
 - Being a national catalyst to mobilize support for PREA among existing and potential stakeholders such as rape crisis centers, labor organizations, inmate advocacy groups in more unified and vocal support for the goals of PREA
 - Continuing to educate state legislatures and Governors to increase support for PREA and inform congressional leaders to maintain and increase federal funding for PREA
 - Developing generalized public education programs to inform the public that inmates can be victimized also and that sexual assault, even in prison, is an egregious human rights violation

- Developing a toll-free national hotline to facilitate reporting of sexual assault and staff sexual misconduct and working to help reduce the amount of money inmates are charged for collect phone calls from inside the walls to increase access to outside resources to report incidences of sexual assault
- Helping the field with implementing PREA by educating staff to the complexities of sexuality in the prison environment, creating discussion around the more subtle forms of assault such as protective pairing and female family constructs
- Supporting the development of a Prevention Ideology by enhancing classification processes to focus on the identification and protection of vulnerable institutional populations like lesbian, bi-sexual, gays, trans-sexual and youthful offenders
- Providing assistance to correctional administrators in the development of programs for victims of sexual assault inside the walls informed by similar programs for victims of domestic violence and rape in the free-world
- Providing assistance to prison administrators in making protective custody environments less punitive and more therapeutic so that being “protected” does not, in fact, become a deterrent to reporting sexual assaults
- Continuing to assist states in defining priorities associated with PREA compliance
- Coordinating with and informing the National Prison Rape Elimination Commission to the end of developing standards that will serve the field well and have a real impact on the goal of zero tolerance of sexual assault and not unrealistic standards that simply de-motivate concerned and committed correctional administrators
- Facilitating additional regional workshops and networking seminars, inclusive of diverse levels of staff to share existing policies and protocols and collaboratively and creatively develop new strategies to assist prisons to successfully meet the mandates of PREA
- Facilitating dialogue between prison administrators and sister agencies and organizations like Prosecutors and mental health providers to increase cooperation and understanding

Community Corrections

- **The critical issues currently faced in the successful implementation of the intent of PREA**

The current attitude of many, if not most, people who work in Community Corrections is because it is poorly titled as the "Prison" Rape Elimination Act it simply, by definition, does not apply to them. Part of the education process must include increased clarity of definitional language in the law and a clear articulation of exactly "how" the law affects Community Corrections before administrators and staff will "buy into" the mandates of PREA. Emphasizing the concept of "safe-guarding communities" as an ultimate goal of the law should help people to understand the important societal impact of effectively addressing the issue of sexual assault, thus minimizing or eliminating its potential long-term deleterious consequences for communities.

The PREA has a far-reaching and diverse impact on Community Corrections because of its complex nature, *i.e.*: parole, probation, jail standards, purchased halfway house beds, construction and operation of community corrections facilities to include housing of lower risk felons/ violators/revocees, programs such as day reporting, ISPO, drug treatment, jail and prison diversion. PREA also impacts independent (privately-contracted) housing that states have established. "Community Corrections" means different things to different people.

It will be a challenge to identify the full range of players and stakeholders and develop effective strategies to inform and educate them concerning the mandates of PREA and that the law does apply to Community Corrections. Organizations, both public and private, involved in offender transport will be impacted by the law.

In addition to simply educating and training stakeholder at all levels, they need to be inspired to care about the issue, because many people simply do not see it as a problem.

Training new and existing staff with respect to the broad nature of PREA *i.e.*, that the law covers not only inmate on inmate sexual assault, but all aspects of staff sexual misconduct with clients under correctional supervision.

The investigation process will be a significant issue with Community Corrections agencies because investigations are generally done internally and may lack objectivity. Policy and procedures must be developed and enforced

which reflect sound investigative practices in Community Corrections agencies. Investigative practices used in an institutional setting may need to be modified for Community Corrections. Allegations investigated by Community Corrections agency staff may cross jurisdictional lines and require enhanced communication and coordination between various independent or semi-autonomous organizational units.

The reporting process in Community Corrections agencies must be clearly defined. Who do offenders report to? Who do victims report to? Do they feel comfortable reporting to a supervisor? Offenders supervised in Community Corrections agencies may need investigative/counseling resources available to them which are outside the formal agency organizational structures.

The 50% match for the BJA grant program may be too high. Additional funding must be made available for aftercare/mental health services for probationers and parolees.

Community Corrections staff must be more aware of existing and potential community resources which can assist victims. Service gaps must be identified and efforts made to fill them with appropriate service delivery systems.

Policy and procedure must clearly define aftercare and reporting responsibilities for Community Corrections staff who receive victims of sexual assault in their caseloads. Clearly defined offender orientation procedures must be in place to assure that the offenders understand the process for lodging grievances against staff for sexual misconduct. Many Community Corrections staff are resistant to providing this information to offenders for fear of precipitating investigations against colleagues.

Probation/parole officers may be the "first responders" to victims of sexual assault, either inmate-on-inmate or by staff, released from incarceration. They need to be specifically trained to adequately fulfill this critical role.

The development and enforcement of consistent policy and procedures with respect to PREA in Community Corrections agencies will be a challenge. Most Community Corrections agencies are very open organizations, generally geographically dispersed, and with decentralized administrative controls. Even when sound policy and procedures are developed and adopted by an agency all of these factors mitigate against their consistent application in practice.

The potential for lawsuits relating to sexual assault and staff sexual misconduct will increase as staff and offenders understand more about PREA and more incidents are discovered and/or reported.

There needs to be more effective collaboration between prison/jail administrators and Community Corrections staff in transition planning and information sharing. There should be established processes in place between these components with respect to which offenders may be identified as actual or potential victims or perpetrators. This information sharing must be a two way process. Issues of confidentiality must be addressed and clarified particularly with respect to sharing medical and mental health information. In most jurisdictions, it would be helpful to have joint training sessions including both prison/jail staff and Community Corrections staff. Particularly around issues related to sexual assault there should be more comprehensive “wrap-around” services which bridge institutional and community settings.

- **Barriers/obstacles which may encountered in the implementation of the elements of PREA**

Denial will be a significant barrier. The general feeling among Community Corrections staff is that there really isn't a problem. It will take a major staff cultural shift to facilitate the acknowledgement that sexual assaults and staff sexual misconduct do occur in Community Corrections settings.

Addressing the sense of isolation experienced by Community Corrections staff working in small agencies will be an obstacle. The nature of supervision in many jurisdictions means working solo with a high degree of autonomy and minimal administrative direction and support.

Issues related to confidentiality and a lack of established information sharing processes will be a significant issue.

Lack of community tax dollars and resources agencies will need treatment dollars to address both perpetrators and victims in community.

Physical plant issues related to old facilities. It is hard to get money from county commissioners to do any upgrades with community correctional facilities. Politically appointed administrators do not want to bring issue up for fear of not being re-elected.

Some halfway houses run on profit. They may not want incidences brought up for fear of publicity and losing contracts. They also have a less skilled employment pool.

The current lack of valid data defining levels of prevalence is a barrier to educating people relative to the real extent of the problem with both inmate on inmate sexual assault and staff sexual misconduct, especially in Community Corrections. Collecting data will be problematic due to lack of automation and consistent procedures.

Probation staff that send violators to jail or prison for first time need to be sensitive to issue and understand the potential for victimization and significant community public health issue.

Addressing the following staff-related issues:

- ✓ Perception that PREA is being “shoved down their throats” and is not really needed
- ✓ Lack of understanding of exactly how the mandates of PREA impact Community Corrections staff
- ✓ Training and sensitizing new staff to the importance of setting appropriate and professional boundaries with offenders

Many Community Corrections agencies have governing boards which will need to be educated *vis-à-vis* the mandates and impact of PREA. They must be prepared to address public relations issues associated with an increased awareness of the extent of, and most likely increased reporting of, sexual assault. Funding sources, legislators and the general public must be educated and/or mollified.

The development/enforcement/monitoring of a consistent body of policy and procedures addressing the mandates of PREA will pose a challenge due to the diversity of Community Corrections agencies. Can a single entity be identified in each state/major political jurisdiction and given the responsibility to monitor and enforce the process?

The national standards will not be promulgated for at two-three years. How will ACA and APPA coordinate accreditation efforts and requirements in the interim? Standards should drive the development of policy and it may be a problem for agencies to move ahead with policy development before the national standards are set.

Inconsistencies in definitions of what constitutes a “sexual assault” impacts incidence reporting levels. There is a need for more standardization of definitions. The field needs a single definition which is nationally accepted.

Community Corrections agencies have to deal with very heterogeneous and mixed populations, *i.e.*, experienced and inexperienced offenders, who are

often housed together in less restricted halfway house or community residential settings making adequate supervision more problematic. Most Community Corrections agencies have very high caseloads. Addressing issues related to PREA may not be considered a priority by staff due to time constraints.

- **The kind of support that would be helpful from NIC and the other federal partners (BJS, BJA, NIJ).**

NIC could include modules providing basic information on the mandates of PREA *vis-à-vis*, staff sexual misconduct and inmate on inmate sexual assault, in training programs and Academy course offerings like jail design, correctional management, suicide prevention, etc.

NIC can increase the availability of technical assistance (TA) grants to Community Corrections agencies and perhaps conduct joint TA projects with local jails and Community Corrections staff to maximize resources and enhance collaboration and communication on PREA.

NIC should conduct training and provide informational presentations at the annual conference for Chief Probation Officers. This group is not “on board” yet and represent what may be a “tough sell.”

NIC should conduct regional workshops for Community Corrections mid-managers and not just executive level administrators. The mid-managers will be the individuals who actually orchestrate implementation strategies.

NIC should work with the APPA and ICCA to incorporate PREA training into their regular training offerings. There must be strong and continuing communication with all of the Community Corrections related professional organizations. There is a strong need to convince Community Corrections leaders/managers that PREA really does apply to them.

Agencies need more direction and clearer definitions on issues related to data collection, *i.e.*, what elements are required/needed, in what format, and what exactly are we trying to measure.

Training specific to Community Corrections agencies/staff should be developed. The name of the law and the content of the first two videos really do not speak or connect to Community Corrections. NIC should identify PREA related issues that are “unique” to Community Corrections.

Focus groups should be conducted with Community Corrections agencies.

NIC and the Federal Partners need to orchestrate more public education campaigns to educate and promote the law. This should enhance the public’s understanding of the basics of the law. It should emphasize the potential impact on the enhancement of public safety by reducing levels or offender

(victim) anger and effectively identifying and addressing the public health aspects of sexual assault.

NIC should work with ACA to develop PREA related guidelines specifically for Community Corrections agencies and relate this effort to ACA accreditation.

The Federal Partners and the National Commission should provide more information about the process and timelines for the development of national standards. As agencies begin to develop and implement PREA related policy there needs to be some mechanism to make sure that such efforts are synchronized with the work of the National Commission.

NIC should provide a consistent, easily accessed, informational point of contact or "clearinghouse," where Community Corrections agencies can go to get specific information about PREA. This site should provide information and examples of what agencies are currently doing to implement the law, *i.e.*, policy, procedures, videos, posters, etc. so that others do not have "to reinvent the wheel." There should be a website or specific link tailored to the needs of Community Corrections agencies.

NIC can take the lead in getting information about PREA out to the small rural jurisdictions and jails that are often left out or do not have access to training and informational resources available to larger agencies.

There needs to be an organizational/responsibility chart which clearly illustrates the organizational placement, specific responsibilities and relationships among all of the Federal Partners involved in the implementation of PREA.

Prisons

- **The critical issues currently faced in the successful implementation of the intent of PREA**

The impact of continuing and severe budget restraints does not allow money to fund the implementation of PREA. There has been no real assessment of how much money it may cost to meet the mandates of the law.

The lack of resources to effectively train staff and the ability to free up staff to actually conduct and attend training is an issue. The current stereotypical training approach to addressing prison rape represents a negative cultural artifact that must be changed. Prison staff must be educated to know that the PREA applies to both staff sexual misconduct and inmate on inmate sexual assault. Prison staff must be trained in how to respond to sexual assaults. Being "first responders" requires a higher level of training. The high degree of staff turnover in most prison systems will make it even more difficult to adequately train staff.

The very culture of many prisons mitigates against the successful implementation of the PREA mandates. The focus needs to be on facility staff and the emphasis must come from leadership so that rank-and-file staff understand that this is serious business. There must be a strong commitment to PREA from leadership. Sexual assault has been accepted in the past, among both inmates and staff, as a fact of prison life and one of the "pains of imprisonment." There has been an expectation that it will occur. In some prison environments practices exist that encourage or facilitate sexual assault. These attitudes challenge prison administrators to change the culture of both inmates and staff. It will require "out of the box" thinking to address this need for basic cultural change.

As awareness of this issue is raised and more incidents are reported there may be negative consequences for prison administrators, even those who are trying to do the "right thing."

Developing procedures and facilities to deal with both victims and perpetrators is a serious facility issue. As more education and orientation is conducted with inmates and more victims come forward to report how will they be effectively protected from further sexual assault or perpetrator-related retaliation? Placing a victim in protective custody is often seen as punishment.

Reporting expectations need to be clarified and enforced. Clearly defined reporting procedures and multiple methods for inmates to report incidents of sexual assault or staff sexual misconduct must be established.

If the number of sexual assaults reported significantly increases, additional human resources will be needed to document, track, and investigate allegations. Prison staff will have to be given specialized training in sound investigate practices.

The lack of research and hard data to support the efforts mandated by PREA. There exists among prison administrators an uncertainty concerning the nature of data the law requires be maintained. If prison staff understand what types of data must be gathered, that there are consistent procedures in place and why the data is necessary they will support the efforts. We need to make sure, however, that we are counting the right things. Many prison administrators fear that unfounded "over estimates" of the prevalence of sexual assault have prompted an "over reaction" to an issue that does not really constitute a major problem in prison administration. This attitude leads to resistance to seeing sexual assault as a real problem and complacency in taking needed corrective action.

The levels of fragmentation and gaps in the correctional system in this country make it difficult to effectively communicate information.

Different federal laws dictate what agencies must do many times creating conflicting agendas and priorities. Is the current PREA initiative just the "flavor of the month" and will funding soon be cut?

There exist major physical plant issues with older prisons like double-bunking and the continued use of open-wing dormitories which mitigate against the successful implementation of PREA.

Addressing the issue of what may constitute "consensual sex" and how to realistically distinguish it from true rape or sexual assault. Clearly defining the distinction between "coercive" and "consensual." In most cases, state laws and their definitions of "sexual assault" differ from the definitions found in the PREA. It will be critical to make efforts to standardize legal and statutory language to insure consistent enforcement.

Effective processes for reporting incidents, collecting data, and effecting prosecutions. The role and duties of prosecutors must be clarified. They lack resources and do not see prosecuting inmates for sexual assaults as a priority.

For prison staff, developing strategies to obtain partner, *i.e.*, law enforcement, prosecutors, etc., "buy in" will be critical. Quite often prison staff will be held accountable for the results of inaction by other elements of the criminal justice system. Prosecutors in many rural areas where prisons are located simply will not prosecute cases of inmate on inmate sexual assault if it occurs in a prison.

Confidentiality is a major issue. Defining the limits of information sharing with community partners, advocacy groups, medical and mental health professionals (HIPPA), especially with increasing levels of electronic data transfer will be problematic. The role of Probation and Parole Officers and their responsibilities for liaison with prison staff concerning reports of sexual assault or staff sexual misconduct occurring during an inmate's incarceration, but being first revealed upon release will need to be more clearly defined. Conversely, what standards will govern the prison staff's responsibility for informing Parole Officers of victims or perpetrators upon release?

A strategy needs to be developed to get people to care and acknowledge that the issue of sexual assault should be on their agenda. The "teeth" in the PREA law are not sufficient to make this happen.

There is a difference in the way sexual assault is viewed in male and female prison environments. Administrators and staff of female prisons must deal with the imbedded practice of "inmate families." In this context, it is often times very difficult to clearly identify coercive elements.

With increasing awareness of the mandates of the law, there is a concomitant increase in urgency among prison administrators to begin "to do something." There is a growing feeling that the field cannot wait for the national

standards to be released, but prison administrators have to jump off with the information they have and begin to implement procedures and strategies to address the requirements of the law and avoid increased liability. Prison leadership is struggling with the development of agency-wide plans, interim facility plans, and roll-out strategies to begin to be perceived as proactive.

It is important to address the diversity of prison systems across the country and tailor PREA implementation strategies to meet individual system needs. California has over 50,000 staff, turnover is very high and training resources are strained just to meet basic operational needs. California also receives 1,200 new inmates each day.

- **Barriers/obstacles which may encountered in the implementation of the elements of PREA**

Within the prison setting in many jurisdictions union resistance may be a significant barrier.

The degree of difficulty and length of time involved in cultural change initiatives may prove to be a barrier to the implementation of PREA in many prisons. It may be difficult to establish and enforce expectations on staff at the same time trying to change their attitudes and obtain their "buy in" to the process. Under any circumstances, staff must be held accountable for dealing with sexual assault in a professional and, with victims, compassionate manner.

Prisons will need to modify and refine classification procedures to better identify victims and perpetrators and assess risk levels. This will require special and separate housing for both victims and perpetrators and that will lead to greater staffing needs.

In prisons which house youthful offenders and/or juveniles sentenced as adults, issues related to adolescent development and sexual behaviors will require special attention and perhaps a somewhat different protocol for addressing sexual assaults.

As awareness is raised, managing the anticipated increased volume of complaints from many different sources, *i.e.*, incarcerated inmates, advocacy groups, inmate families, community corrections staff, paroled inmates, etc., will require additional human resources, especially trained investigators, but also contract specialists like psychologists and counselors to help deal with associated trauma.

Raised awareness may also lead to an increase in reported incidents of sexual assault which will lead to increased public scrutiny and generate political heat for administrators and other key prison stakeholders such as legislators.

Many issues previously identified may be also considered barriers or obstacles such as:

- ✓ Confidentiality issues, getting informed consent when needed
- ✓ Costs associated with implementation of strategies, compliance with the mandates, and increased investigative capacities
- ✓ Costs associated with staff training and orientation
- ✓ Crowded prison conditions
- ✓ Development of inmate orientation programs
- ✓ Lack of national standards and clear performance measures making it difficult to establish benchmarks and determine levels of success
- ✓ Continuing perceptions by both inmates and staff that sexual assault is just a normal artifact of the prison culture
- ✓ Lack of consistency in state and legal definitions of what constitutes sexual assault
- ✓ Difficulty in educating legislators and gaining their support for PREA related initiatives
- ✓ Need for networking with other prison systems to share information and the establishment of a national clearinghouse for the dissemination of PREA related information
- ✓ Challenge of educating, training, orienting, and motivating various levels of prison staff which, even within individual prisons, represent disparate and often disconnected components

Even when there are sound investigative procedures and competent, well-trained investigators, it is often difficult getting to the true facts of a case of alleged staff sexual misconduct of inmate on inmate sexual assault. The manipulative nature of inmates, problems with reporting mechanisms and a general attitude of acceptance, all exacerbate the problem of ferreting out the truth and dealing appropriately with both victim and perpetrator.

- **The kind of support that would be helpful from NIC and the other federal partners (BJS, BJA, NIJ).**

NIC and the other Federal Partners can be helpful to prison administrators and staff by:

- ✓ Providing interpretations of the law and clarification of definitions relative to the nature of sexual assault to assist prison administrators in operationalizing compliance with PREA in a prison setting [Does PREA assume that any homosexual relationships in prison cannot be

consensual? Can there ever be a truly "consensual" homosexual relationship in prison? How do prison administrators know the difference between coerced and potentially and admitted consensual relationships? Must all homosexual relationships, even if no complaint is filed be treated as sexual assault? What are the limits of liability for prison administrators in such cases?]

- ✓ Clarifying data collection requirements of the law [Do administrators document prevalence solely on the basis of allegations or wait until it is fully investigated? Data collections requirements must be consistently enforced across the states to insure equal treatment.]
- ✓ Providing continued help with training and targeted technical assistance
- ✓ Providing more money for operational implementation
- ✓ Identifying national "best practices," model policies and protocols for dealing with staff sexual misconduct and making information about them readily available to the field through a centralized national "clearinghouse"
- ✓ Making it clear that PREA applies equally to all prison settings even private sectors correctional institutions
- ✓ Providing guidance and technical assistance to establish appropriate reporting mechanisms, data gathering and retention protocols and process evaluation strategies
- ✓ Assisting in the improvement of existing classification tools to better identify potential victims and perpetrators in the prison environment by including probing questions about sexual assaults in county jails and fear of victimization
- ✓ Developing and disseminating procedures and supporting material to assist in inmate orientation
- ✓ Providing resources and assistance to prison administrators to help effectuate cultural changes in both the staff and inmate populations by raising consciousness on issues of homophobia, male victimization and female perpetrators of sexual assault
- ✓ Developing a brochure and other public education materials that can be used with the general public and especially inmate victim's families to educate and inform
- ✓ Being a national catalyst to mobilize support for PREA among existing and potential stakeholders such as rape crisis centers, labor organizations, inmate advocacy groups in more unified and vocal support for the goals of PREA

- ✓ Continuing to educate state legislatures and Governors to increase support for PREA and inform congressional leaders to maintain and increase federal funding for PREA
- ✓ Developing generalized public education programs to inform the public that inmates can be victimized also and that sexual assault, even in prison, is an egregious human rights violation
- ✓ Developing a toll-free national hotline to facilitate reporting of sexual assault and staff sexual misconduct and working to help reduce the amount of money inmates are charged for collect phone calls from inside the walls to increase access to outside resources to report incidences of sexual assault
- ✓ Helping the field with implementing PREA by educating staff to the complexities of sexuality in the prison environment, creating discussion around the more subtle forms of assault such as protective pairing and female family constructs
- ✓ Supporting the development of a Prevention Ideology by enhancing classification processes to focus on the identification and protection of vulnerable institutional populations like lesbians, bi-sexuals, gays, trans-sexuals and youthful offenders
- ✓ Providing assistance to prison administrators in the development of programs for victims of sexual assault inside the walls informed by similar programs for victims of domestic violence and rape in the free-world
- ✓ Providing assistance to prison administrators in making protective custody environments less punitive and more therapeutic so that being "protected" does not, in fact, become a deterrent to reporting sexual assaults
- ✓ Continuing to assist states in defining priorities associated with PREA compliance
- ✓ Coordinating with and informing the National Prison Rape Elimination Commission to the end of developing standards that will serve the field well and have a real impact on the goal of zero tolerance of sexual assault and not unrealistic standards that simply de-motivate concerned and committed prison administrators
- ✓ Facilitating additional regional workshops and networking seminars, inclusive of diverse levels of staff to share existing policies and protocols and collaboratively and creatively develop new strategies to assist prisons to successfully meet the mandates of PREA

- ✓ Facilitating dialogue between prison administrators and sister agencies and organizations like Prosecutors and mental health providers to increase cooperation and understanding

Jails

- **The critical issues currently faced in the successful implementation of the intent of PREA**

One of the biggest issues with jails will be the continued need to “name the issue” and clearly define and educate jail administrators at all levels of the mandates of the PREA law and specifically how and why it does apply to all jail settings, no matter how small.

The lack of curricula for the proper education and training of jail staff is an on-going problem. Assisting jurisdictions to improve the quality and content of their training, in general, for staff plus including material about PREA will be clear challenge.

Definitions in the law need clarification as they specifically relate to jails. The reporting definitions and requirements are still unclear. Reporting issues are especially critical in jails, *i.e.*, how will incidents be measured, reporting requirements and expectations, what will be the reporting process and through what agencies, will jails report directly to the federal agencies or through state departments of corrections.

Because of the diversity among various types of jail systems, it will be difficult to develop, implement and monitor consistent policy and procedures to implement the mandates of PREA. Many small jails do not even have current written policy and procedures. Jails need to work collaboratively to engage in a formal process to develop standardized policy and procedures in a strategic and systematic fashion. Perhaps AJA and the NSA could work with NIC to facilitate this process.

One of the biggest issues, which cannot be stressed enough, is the diversity among jail systems. Jails range in size and complexity from Los Angeles County to hundreds of small lock ups and “mom and pop” jails in rural areas.

Many small jail systems will not have access to adequate funding. For jails, determining what the need is, seeking support from governing/oversight bodies, and obtaining adequate funding will be a huge issue. Many smaller jails are already struggling with budget issues and other “unfunded mandates” from the federal government and PREA just exacerbates the problem of adequate funding and resources to meet legal mandates.

Since most jail systems are very much local and community-connected, public education programs to build knowledge and support among key stakeholders and citizens for PREA will be essential to success.

Implementation plans and strategies must address cooperation and collaboration between agencies, such as probation and parole, prosecutors, local law enforcement, and state corrections.

The high turnover of both staff and offenders in the jail setting will make attitudinal and changes in organizational culture values difficult. The jail field will need specialized training to raise staff awareness and sensitivity. This training will also need to promote accountability so that people will begin to take ownership of the problem of sexual assault and staff sexual misconduct.

Specialized investigative procedures and protocols will have to be developed for the many diverse jail settings. Jail staff will need sound, consistent and established protocols to guide in the investigation and prosecution of both inmate on inmate sexual assault and staff sexual misconduct.

- **Barriers/obstacles which may encountered in the implementation of the elements of PREA**

The following issues, many reflected in the discussion of critical issues, were identified as barriers or obstacles to the successful implementation of PREA mandates:

- ✓ Lack of national standards, lack of clear definitions and guidelines for reporting incidents of sexual assault to insure timely and credible reports and data
- ✓ Lack of interest/concern by the general public and many jail staff over the issue of inmate on inmate sexual assault
- ✓ Lack of adequate funding
- ✓ Problems in coordination and communication with law enforcement and prosecutors
- ✓ Changing inmate and staff cultures to create understanding and ownership
- ✓ Current lack of truthfulness, on the part of both staff and inmates, in the process of identifying instances of sexual assault and staff sexual misconduct
- ✓ Need to build trust in actions so that the inmates will have confidence that if they report they will be treated fairly and protected without being punished
- ✓ Lack of support and interest among politicians and legislators
- ✓ Lack of adequate space in older jail facilities

- ✓ Inadequate inmate classification and management systems and practices in many jail settings
- ✓ Lack of access to technology by many smaller jails
- ✓ Direct supervision settings may, in fact, make it more difficult to prevent sexual assaults
- ✓ Need for more objective investigations and additional staff resources to conduct investigations
- ✓ Lack of collaboration and information-sharing among agencies
- ✓ Lack of information about current "best practices" in jail systems
- ✓ Restricted access to federal grant funding such as the grants available through BJA which must be awarded at the state level
- ✓ Physical plant limitations and facility design problems such as the lack of electronic surveillance capability and linear designs of older jails will pose major obstacles to preventing sexual assaults

- **The kind of support that would be helpful from NIC and the other federal partners (BJS, BJA, NIJ).**

NIC can assist jail systems by providing technical assistance with PREA audits, training, templates for the development of policy and procedures and follow-up regional workshops to continue the dialogue.

BJS can assist jails by creating an "on-line" system for reporting incidence and setting up a toll-free "hotline" for jail administrators to obtain current information and feedback concerning data management and reporting issues.

BJA can make grant funds to assist in the implementation available to individual jail systems and smaller jails.

All of the Federal Partners and other federal agencies can support PREA implementation in jails by:

- ✓ Providing grants/money for hardware like surveillance cameras
- ✓ Providing technical assistance grants for staff training
- ✓ Conducting training for line staff on a regional basis to help insure consistency by making sure all jail staff receive the same message about PREA
- ✓ Inform the field about research, resources, current issues and on developing changes to the law and other national initiatives which may impact or facilitate the implementation of PREA in the jails
- ✓ Encouraging and facilitating networking between jail systems and smaller jails with similar implementation problems to share and develop "best practices"

- ✓ Developing “Train-the-Trainer” programs for jail staff to facilitate the spread of information about PREA
- ✓ Working with AJA, ACA, and NSA to develop new standards governing jail design and construction which facilitate achieving the zero tolerance for sexual assault required by PREA
- ✓ Establish standards of practice for providing training on PREA to jail staff
- ✓ Develop and disseminate low cost strategies to assist jails in complying with PREA and minimizes the potential negative impact of the law on jails

Juvenile Justice

[Of the 134 participants in the four regional workshops, there were only two representatives of the juvenile justice field, one in the Portland session and one in the Chicago session. The following data represent their input.]

- **The critical issues currently faced in the successful implementation of the intent of PREA**

Administrators and policy makers in the juvenile justice field need clarification of the specific application of the law in a juvenile setting and what are the desired outcomes in the context of juvenile justice.

How will the groundwork being laid in the adult field inform and assist the juvenile justice administrators in implementing PREA?

There is a perception among juvenile justice administrators and policy makers that the “Prison Rape Elimination Act” is very “adult-focused.” How will definitions in the law affect and apply to juveniles, given the age-based complexities inherent in the current definitions? Kids are not adults and the application of PREA to the juvenile setting must take into account the basic differences in adult and juvenile populations *vis-à-vis* adolescent sexuality and developmental issues. “One size fits all” does not really apply in the juvenile system.

As juvenile justice agencies move toward performance-based standards how will PREA relate to this effort?

A critical issue in the juvenile justice arena is simply getting everybody on board with the initiative by developing strategies to communicate information to all concerned parties, including juvenile's families. Education strategies must be targeted at getting through staff biases and getting staff to recognize the importance of the issue and that the PREA law does apply to juveniles.

Unlike adult Departments of Correction, state Departments of Juvenile Justice are not responsible for all of the state's juvenile institutions. Most juvenile justice systems are very fragmented. There are more private contractors involved in providing juvenile justice services than in adult prisons and jails. How will all of these diverse elements be brought into a collaborative, cooperative system?

The financial implications of PREA could move it from front burner to back burner.

If the process of implementing the mandates of PREA is a "marathon," then at the halfway mark, there will be different people in charge in most juvenile justice agencies due to politics and high staff turnover.

The juvenile justice field is even more prone to public scrutiny than adult corrections. The public relations impact and implications of dealing with the cases of sexual assault that are founded will be significant. There is a dilemma between holding people accountable and making public the sexual assault incidents.

- **Barriers/obstacles which may encountered in the implementation of the elements of PREA**

The following issues represent potential barriers and obstacles to the successful implementation of PREA in juvenile justice settings:

- ✓ Getting everybody on board from many diverse settings, *i.e.*, most major cities have separate juvenile detention facilities, many facilities are operated by private vendors, state juvenile justice systems are in various places in state bureaucracies with significantly different philosophical orientations
- ✓ Getting staff at all of the diverse sites to define, document, and report it in same manner
- ✓ Lack of any base line research on prevalence

- ✓ Staffing differences between different institutions
 - ✓ Administrators very defensive and will be very reluctant to report “dirty laundry”
 - ✓ Issue of middle management not taking implementation of PREA seriously because they realize the top management are short termed (problem worse in juvenile justice compared to adult corrections)
 - ✓ Very geographically dispersed institutions – difficult to get on site quick
 - ✓ Due to the nature of complaints *i.e.*, some exaggeration, but some truth, staff tend to dismiss the entire allegation
 - ✓ Juvenile victims changing story prior to trial or refusing to testify at trial on testimony already given *i.e.*, they get released, thus making it harder to stay in contact with them
 - ✓ Communicating with other state cabinets that are responsible for juvenile housing placements *i.e.*, foster care
 - ✓ Overcrowding, facility design and capacity restricting treatment options and classification (especially sex offenders)
- **The kind of support that would be helpful from NIC and the other federal partners (BJS, BJA, NIJ).**

NIC and the Federal Partners can support the implementation of PREA in the juvenile justice arena by:

- ✓ Providing technical support and materials to assist in getting information out
- ✓ Developing a video that addresses training and specifically aims at juvenile justice that all staff can understand
- ✓ Providing technical assistance to help juvenile justice agencies make better use of technology
- ✓ Providing technical assistance and training that addresses staff sexual misconduct as well as juvenile on juvenile sexual assault

- ✓ Providing technical assistance in how to set up databases in how to collect PREA relevant data
- ✓ Sharing information on juvenile justice promising practices with other juvenile justice departments
- ✓ Providing technical assistance in educating media outlets on PREA and implications of incidents that are documented and reported
- ✓ Providing technical assistance with locating and using classification instruments that identify potential predators and victims