

## More NIC Resources:

- “Staff Sexual Misconduct with Inmates: A Policy Development Guide for Sheriffs and Jail Administrators” ([www.nicic.org/pubs/2002/017925.pdf](http://www.nicic.org/pubs/2002/017925.pdf))

## Other PREA Resources:

- Bureau of Justice Statistics Report on Sexual Violence ([www.ojp.usdoj.gov/bjs/abstract/svrca04.htm](http://www.ojp.usdoj.gov/bjs/abstract/svrca04.htm))
- Bureau of Justice Assistance ([www.ojp.usdoj.gov/BJA/](http://www.ojp.usdoj.gov/BJA/))
- ACA’s “Performance-Based Standards for Adult Local Detention Facilities” ([www.aca.org](http://www.aca.org))
- National Prison Rape Elimination Commission ([www.nprec.us](http://www.nprec.us))
- Stop Prisoner Rape ([www.spr.org](http://www.spr.org))

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# PREA

PRISON RAPE ELIMINATION ACT

NIC / The Moss Group, Inc. Cooperative Agreement #05S18GJI0



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## Prison Rape Elimination Act and Local Jails:

# The Facts



## What is PREA?

The Prison Rape Elimination Act (PREA) of 2003 is a Federal law established to address the elimination and prevention of sexual assault and rape in correctional systems. PREA applies to all federal, state, and local prisons, jails, police lock-ups, private facilities, and community settings such as residential facilities. The major provisions of PREA are to:

- Develop standards for detection, prevention, reduction, 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



To read the PREA law, go to [www.nicic.org/Library/018994](http://www.nicic.org/Library/018994), or request a copy from Dee Halley, National Institute of Correction (NIC) Program Manager at (800) 995-6423, ext. 4-0374.

## How Does PREA Apply To Jails?

PREA seeks to insure that jails and other correctional settings protect inmates from sexual assault, sexual harassment, “consensual sex” with employees, and inmate-inmate sexual assault. These violations affect security and staff safety, and pose long-term risks to inmates and staff inside jails, and to the public when victimized inmates are released into the community.

PREA requires jails to keep data regarding inmate-inmate sexual assaults, nonconsensual sexual acts, and staff sexual misconduct. For more information about the PREA data collection efforts, go to [www.ojp.usdoj.gov/bjs/abstract/dcprea03.htm](http://www.ojp.usdoj.gov/bjs/abstract/dcprea03.htm).

## Resources

Here are just a few of the many resources available to help you develop your response to PREA.

### NIC Resources:

- NIC Web site - [www.nicic.org](http://www.nicic.org)
- To attend NIC’s PREA training programs or request technical assistance:

Contact Dee Halley, NIC Special Projects Division  
(800) 995-6423, ext. 4-0374  
[dhalley@bop.gov](mailto:dhalley@bop.gov)

- American University, Washington College of Law offers training programs on prison rape under a Cooperative Agreement with NIC. For materials from past trainings, go to:  
[www.wcl.american.edu/faculty/smith/conferences.cfm](http://www.wcl.american.edu/faculty/smith/conferences.cfm)

Contact Jaime Yarussi  
(202) 274-4385  
[jyarussi@wcl.american.edu](mailto:jyarussi@wcl.american.edu)

- Technical Assistance and training is offered under NIC cooperative agreement with The Moss Group, Inc., a criminal justice consulting firm that uses experienced practitioners to assist the field.

Contact Ania Dobrzanska  
(877) 546-1444  
[aniad@mossgroup.us](mailto:aniad@mossgroup.us)

- “Prison Rape Elimination Act (PREA) Considerations for Policy Review.” This document is designed to help you create the initial draft of your PREA policies when requesting technical assistance from NIC. Contact The Moss Group, Inc. or Dee Halley at NIC for a copy.
- These videos are available through the NIC Information Center. Call 1-800-877-1461 to order copies:

*Facing Prison Rape, Part 1*

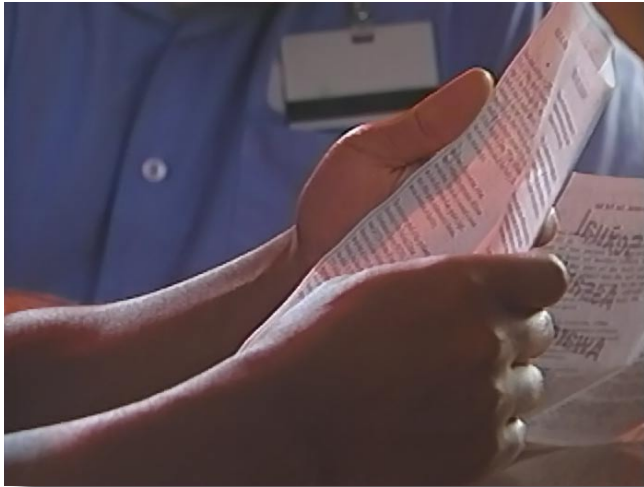
*Responding to Prison Rape, Part 2*

*Speaking Up: Discussing Prison Sexual Assault* (inmate orientation video)

## More FAQs

### 7. What about inmates who either manipulate the system using PREA or make false allegations against employees?

Often, administrators or employees are understandably concerned that addressing PREA-related issues in policy and procedure, and educating inmates of their right to be safe while incarcerated, may result in inmates wrongly accusing employees or other inmates of misconduct. Experience has shown that there may be an initial spike in reporting, or reports that “test” the system. However, this usually stops when both employees and inmates realize that there will be thorough and timely investigations—of all offenders—and consequences for staff and inmates who make false reports.



### 8. What if the prosecutor isn't interested in cases of allegations of staff sexual misconduct or inmate-inmate sexual assault?

Educating prosecutors about the security implications of sexual misconduct and inmate-inmate sexual assault can help gain the support of prosecutors. The prosecutor can provide advice about how to better investigate cases, and having the prosecutor's cooperation increases the likelihood of a prosecution. Even if a local prosecutor ultimately decides not to review or prosecute a case, your jail still has an obligation to thoroughly investigate allegations and present your findings.

## What Should My Jail Be Doing Now?

NIC Technical Assistance and training is available to help all jails (large and small) develop an approach to respond to PREA. This pamphlet outlines recommendations developed by NIC through years of work on staff sexual misconduct with offenders, and inmate-inmate sexual abuse.

While some of these strategies require greater resources, all jail settings can find low-cost, effective ways to address sexual abuse and violence.

### Systemic Approach:

NIC recommends a “systemic approach” using multiple strategies to develop a response to PREA. In a systemic approach, sheriffs and jail administrators should review their current policies, procedures, training, classification systems, and inmate services addressing sexual violence and abuse.

(The NIC video, *Responding to Prisoner Rape*, explains this systemic approach and is available through the NIC Information Center. See the section on “Resources” for information on how to obtain this video.)



### Other Suggestions:

- Examine your state's laws on custodial sexual misconduct, as well as laws regarding sexual assault, sex offender registration, licensing and mandatory reporting.
- Review your policies and procedures regarding staff sexual misconduct and inmate-inmate sexual assault.
- Assess training provided to employees, medical and mental health providers, volunteers, and contractors regarding your policies, procedures, and reporting requirements.
- Evaluate how offenders are oriented to the facility's rules, and how effectively and consistently the rules are enforced.

## More Suggestions:

- Review services to inmates who are victims of sexual assault.
- Evaluate the effectiveness of your grievance procedures.
- Evaluate the effectiveness of your investigative process.
- Collect data consistent with the Bureau of Justice Statistics's definitions.
- Check with your state department of corrections to join their initiatives and identify non-profit groups in your area that provide services to sexual assault victims (for example, Rape Crisis Centers, public health departments, women's commissions).
- After your review, consider developing a plan of action to address gaps in your current policies, procedures, operations, training, investigations, and medical and mental health services.
- Identify resources and stakeholders who can help make your jail operations even safer, and begin the process of implementing your plan.

## FAQs

### 1. Are there currently standards that we must comply with?

No. In 2007, the Prison Rape Elimination Commission (PREC) will publish standards applicable to all jails. These standards will be forwarded to the U.S. Attorney General (A.G.) for review and dissemination. The A.G. will allow a year for accrediting agencies to review the standards before finalizing them.

### 2. Can I be sued for not complying with PREA?

No. PREA does not create any right to sue. However, you are already required by federal and state law to operate a Constitutional jail and assure the safety of those in your custody. All states have laws prohibiting sexual misconduct.

### 3. What are the consequences to my jail for not complying with PREA?

If your jail does not comply with the standards when they are disseminated, you will face a 5% reduction of federal funding for each year you fail to meet the standards. Failure to comply with the standards could also be evidence in a civil trial that you are not meeting the standard of care necessary to ensure inmate's safety.

### 4. What if my jail is a small jail?

NIC recognizes that many jails have limited resources and personnel. Small jails particularly need to identify community resources that may be helpful in developing sound practice in addressing sexual incidents. Educating community partners and creating procedures with local hospital and law enforcement is critical. Administrators are further encouraged to consider the resources available through the NIC Jails Division and NIC Information Center for guidance in policy and practice for small jails.

### 5. Can I get resources or funding to help implement all this?

The Bureau of Justice Assistance (BJA) has completed two rounds of funding to state departments of corrections. Many of these states have indicated that they would like to collaborate with sheriffs and jails. For more information, contact:

Julius Dupree, Policy Advisor  
Bureau of Justice Assistance  
(202) 514-1928, Julius.Dupree@usdoj.gov

In addition to these grant funds, you can receive technical assistance from NIC to work directly with your jail.

### 6. We have no reports of staff sexual misconduct or inmate-inmate sexual assault. Why should I be concerned about PREA?

Jails, large and small, around the country are not immune to staff sexual misconduct and inmate-inmate sexual assault. Some jails may find that they don't receive reports about incidents because of a lack of training, a strong "code of silence," or unclear or compromised reporting mechanisms for employees and inmates. Organizations that have no reports of such incidents should examine their reporting processes to insure that the jail administrator is receiving allegations and investigating them appropriately.

