

**Annual Report to Congress**

**National Institute of Corrections**

**Prison Rape Elimination Act (PREA)**  
**Public Law 108–79**

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# Introduction

This report fulfills the requirement in section 5(b) of the Prison Rape Elimination Act of 2003 (PREA) for the National Institute of Corrections (NIC) to submit an annual report to Congress and to the Secretary of Health and Human Services, summarizing the activities of the Department of Justice regarding prison rape abatement for the preceding year. This report is also available to the Director of the Bureau of Justice Statistics.

## ***Background***

On September 4, 2003, President Bush signed the Prison Rape Elimination Act of 2003 into law (Public Law 108–79). The PREA is a broad statement of zero tolerance for rape and sexual assault in prisons. The PREA defines “prison” as “any confinement facility of a Federal, state, or local government, whether administered by such government or by a private organization on behalf of such government, and includes any local jail or police lockup and any juvenile facility used for the custody or care of juvenile inmates.”

The law gives several agencies within the Department of Justice (DOJ) specific tasks:

- **Bureau of Justice Statistics (BJS)** – BJS will collect, review, and analyze the incidence and effects of prison rape. The analysis will include “the common characteristics of both victims and perpetrators, and prisons and prison systems with high incidence rates.”
- **Review Panel** – The PREA mandates the DOJ to create a Review Panel that will conduct hearings on prison rape. This Review Panel will have subpoena power to call officials who run the three facilities with the highest incidence of prison rape and the two facilities with the lowest incidence of prison rape in each category of facilities (prisons, jails, and community corrections).
- **National Institute of Corrections (NIC)** - The PREA mandates NIC to offer training and technical assistance, and provide a national clearinghouse for information. NIC is also required to produce an annual report to Congress.
- **Attorney General’s Office** - The Attorney General is authorized to award grants to states to assist with the implementation of PREA requirements. The Bureau of Justice Assistance (BJA) and the National Institute of Justice (NIJ) are responsible for the development and administration of these grant programs.

In addition, the Attorney General will publish national standards for the detection, prevention, reduction, and punishment of prison rape. These standards will be developed and recommended by the National Prison Rape Reduction Commission established under Section 7 of the PREA.

**NOTE:** Because the National Prison Rape Reduction Commission is not part of the Department of Justice, the activities of that Commission are not included in this report.

# Activities and Accomplishments

This report describes the activities of the Office of Justice Programs, the National Institute of Justice, the Bureau of Justice Statistics, the Bureau of Justice Assistance, and the National Institute of Corrections.

## ***Office of Justice Programs (OJP)***

The Department of Justice's Office of Justice Programs (OJP) was created to provide leadership in developing a national capacity to prevent and control crime, administer justice, and provide assistance to victims of crime. OJP and its various components accomplish this through partnerships with other Federal, state, and local agencies, plus national and community organizations.

Congress included all FY 2004 funds for PREA in the OJP appropriation. OJP included funds for the tasks required under PREA in the budgets of the appropriate OJP components. OJP made funding available to NIC for PREA activities through an Inter-Agency Agreement (IAA) between the two agencies.

The PREA activities of the following components of OJP are described in this report:

- National Institute of Justice
- Bureau of Justice Statistics
- Bureau of Justice Assistance

## ***National Institute of Justice (NIJ)***

### **Legislative Mandate**

Although the issue of prison rape has been studied, Congress noted in its findings that "insufficient research" has been conducted and "insufficient data reported." One of the purposes for passing the PREA was to "increase the available data and information on the incidence of prison rape, consequently improving the management and administration of correctional facilities."

Section 4 of the PREA mandates the development and implementation of a major research effort. While a significant portion of the work is to be carried out by BJS, the Attorney General is also authorized to provide grants to carry out research. NIJ was tasked to process and award these research grants.

The following information describes the NIJ activities to date in accordance with this mandate.

## **Literature Review**

Because there are different approaches, methodologies, and definitions for describing prison rape in the existing research, the reported rates of incidence and prevalence for prison rape vary greatly. In March 2004, NIJ published a comprehensive literature review of the existing research titled "Prison Rape: A Critical Review of the Literature." This review of the literature on prison sexual victimization describes the research conducted since 1968 and notes that conducting such research in correctional institutions presents a unique set of challenges. The review includes a discussion of the problems and issues when comparing facilities of different size, security levels, missions, types of inmates housed, and other dimensions, and it offers suggestions to help guide future research.

## **Rape and Coercive Sex in American Prisons: An Ethnography of Prison Inmate Culture**

In Fall 2003, immediately after the passage of the PREA, NIJ awarded a grant to Dr. Mark Fleisher of Case Western Reserve University to conduct an anthropological study of inmate culture. At this time, Dr. Fleisher is examining male and female inmates in medium and maximum-security state adult facilities. This project constitutes one of the first nationally-based research projects on prison rape. As outlined in "Prison Rape: A Critical Review of the Literature," no studies have been conducted that examine prison rape at the national level. Moreover, no study has examined prison rape from the perspective of the inmate culture and in terms of the socio-sexual prison climate.

This study is designed to identify and clarify definitions of sexual activity in prisons, and to help policymakers and practitioners better understand the differences between consensual, coercive, and predatory sex in corrections institutions. An interim report of findings from Dr. Fleisher's study is attached to this report (APPENDIX A).

## **Research Solicitations and Funded Projects**

In November 2003, NIJ released the first in a series of solicitations requesting research proposals on sexual violence in corrections. This request for proposals identified what NIJ considered to be four of the most important topics needing exploration: (1) identification and evaluation of sexual victimization prevention programs in corrections facilities; (2) creation and validation of risk assessment instruments for both victims and predators; (3) the impact sexual victimization has on the inmate (medical and psychological); (4) the impact sexual violence has on the incidence of, and treatment for, HIV/AIDS and other sexually transmitted diseases.

The applications NIJ received addressed the topics of program identification and risk assessment almost exclusively. Of the proposals that were recommended for funding, NIJ made four awards in September 2004, two under each of these two topics.

### **Program Identification Projects**

One of the program identification projects is designed to identify existing sexual victimization prevention programs in men's and women's prisons. In the other project, researchers will identify prevention programs used in jails and juvenile facilities. Researchers in each project will use objective measures to identify successful programs by employing performance measures and evidence-based practices. Case studies and descriptions of the best programs will help corrections administrators develop similar programs in their own jurisdictions.

### **Risk Assessment Projects**

The two risk assessment projects will focus on developing instruments to guide corrections practitioners in identifying sexual predators and potential victims. One project will use existing official reports of sexual violence over the past three years from a state that rigorously investigates all allegations of prison rape in their system. Using these reports, the researcher expects to identify the characteristics of inmates most likely to be sexual predators or victims.

The other project will also develop a risk assessment instrument to help identify potential victims and predators of sexual violence in prisons. This project will analyze the characteristics of inmates who were victims or predators and the prison environment in which these assaults occurred. Both projects will produce a publicly available risk assessment instrument that correctional staff can use to better evaluate incoming inmates.

NIJ continues to develop its research agenda in this area and plans to release more requests for proposals. Included in future solicitations will be subjects that were not responded to in previous requests for proposals, as well as other topics the agency deems important for understanding the prison rape issue and assisting corrections practitioners in addressing the problem.

## **Research on Sexual Violence in Corrections and the Protection of Human Subjects**

Research on prison sexual violence is highly sensitive in nature, especially if it involves the interviewing of inmates. A great deal of attention is currently being given to protecting the privacy and rights of human subjects of research, including those who are incarcerated.

NIJ has acknowledged the growing difficulties faced by researchers in conducting corrections-based research. Under PREA, research in this area could include the review of incident reports, medical records, psychological examinations, and other confidential documents. Such research, if not conducted with the highest level of security and sensitivity, could invade the privacy of an individual. It is important for researchers and institutional review boards (IRBs) to understand human rights protection policies in order to allow and conduct effective research without infringing on the rights of inmates or corrections staff.

To avoid problems in this area, on September 27-28, 2004, NIJ will conduct the first in a series of meetings to address the protection of human subjects. Experts on corrections research, human subjects policies, and prison sexual violence will meet to develop a set of protocols to inform and educate researchers and IRBs on conducting human subjects research in a corrections setting.

# **Bureau of Justice Statistics (BJS)**

## **Legislative Mandate**

In keeping with the Congressional finding of “insufficient research” and “insufficient data reported,” Section 4 of the PREA tasks BJS with conducting a “comprehensive statistical review and analysis of the incidence and effects of prison rape.” BJS is charged with several complex tasks including:

- Defining rape for purposes of the study
- Determining how data will be collected
- Determining how facilities will be categorized
- Determining how the data will be adjusted to account for differences in the facilities from which the data is collected

The following information describes the BJS activities to date in accordance with this mandate.

## **Expert Panel Meetings**

In addition to its own considerable expertise and resources, BJS called upon practitioners, researchers, and other stakeholders and professionals to offer input to help guide the agency’s research plan. This input was solicited at two separate meetings held in Washington, DC.

The first meeting was held from December 15-16, 2003. The participants included researchers, advocates, statisticians, attorneys, health professionals, criminal justice consultants, and correctional practitioners. One member of the National Prison Rape Reduction Commission was present, plus representatives from the U.S. Census Bureau, Centers for Disease Control and Prevention, American Correctional Association, Federal Bureau of Prisons, National Institute of Justice, National Institute of Corrections, National Sheriff’s Association, National Jail Association, and Stop Prisoner Rape.

BJS staff provided participants with an overview of the PREA. Representatives of inmate interest groups, the corrections profession, and the research community made presentations as well. BJS officials presented information regarding definitions, the planned review of administrative records, and various self-reporting methodologies (including Audio Computer-Assisted Self Interview [ACASI]). After each presentation, BJS facilitated a discussion and requested input from the group. During the second day of the meeting, participants divided into several work groups to discuss the issues further and to provide recommendations to BJS.

The second meeting was held from February 5-6, 2004, and was convened to address the implementation of the juvenile portion of the PREA. Participants included representatives from the Office of Juvenile Justice and Delinquency Prevention, along with a number of juvenile justice practitioners and advocates. The group explored the unique challenges of collecting information from juveniles and juvenile facilities, including consent, confidentiality, comprehension of youthful subjects, and issues related to the use of human subjects.

Combining their in-house expertise with the input from participants of these two expert panel meetings, BJS decided to collect data on prison rape using a three-pronged approach:

- Written Questionnaires
- Administrative Survey Collections
- Victim Self-Report Survey Collections

BJS believes that this broad-based approach will provide the best possibility for getting accurate information on prison rape. Efforts in these approaches are described below.

### **Written Questionnaires**

BJS is evaluating the use of a written data questionnaire. Whether using a written survey or some other type of self-administered computer-assisted questionnaire, there will be two distinct collections covering separate populations:

- **Exit Questionnaire** – This questionnaire will be administered to inmates who are soon to be released from local jails. Due to the high turnover in local jails, interviewing at time of exit provides the best representation for the population that flows through jails over the course of a year.
- **Parolees Questionnaire** – This questionnaire will be administered to state parolees on active supervision. The questionnaire will be given in parole offices. Because the offender is no longer in the prison environment, he/she may be more likely to give truthful feedback on this sensitive topic. This approach excludes the estimated 20 percent of inmates who come out of state prison unsupervised, but given the reluctance to report sexual victimization while incarcerated, this approach may potentially provide the most accurate measure of prison rape.

### **Administrative Survey Collections**

BJS will ask a sample of juvenile and adult correctional facilities to provide data on reported incidents of sexual violence contained in administrative records. For the 2004 collection, BJS will collect aggregated counts of sexual violence for the period from July 2003-July 2004. In 2005, BJS will collect data on each reported incident.

Other activities related to administrative survey collection are as follows:

- The DOJ has revised prison, jail, and juvenile survey forms based on input from the participants at the expert panel meetings described above, and from members of the Association of State Correctional Administrators (ASCA) and the American Correctional Association (ACA). DOJ provided revised draft survey forms to members of ASCA leadership and to several correctional and juvenile administrators for feedback.
- The sampling methodology for juvenile facilities is being refined. The 2004 data collection is expected to include all state systems and a 10 percent sample of local and private juvenile facilities.



- Draft questionnaires were submitted for approval by the Office of Management Budget in July 2004. Approval of the data collection method is expected in October 2004.
- A pretest of the data collection methodology and forms is expected in October or November 2004.
- The collection agent for the 2005 and 2006 administrative records survey will be the U.S. Census Bureau.

## **Victim Self-Report Survey Collections**

The use of ACASI has been found to increase survey response by as much as 25 percent for sensitive behaviors such as drug use, sexual activity, and criminal involvement. Juvenile and adult ACASI are slated to be implemented nationally in 2006.

Other activities related to victim self-report survey collection are as follows:

- BJS issued an Adult Request for Proposals (RFP) in October 2003 and received seven responses to design and test adult ACASI and to prepare a national implementation plan for 2006. A two-year cooperative agreement was awarded to Research Triangle Institute (RTI). The draft questionnaire is under development and RTI is planning to pretest the survey in up to 25 correctional facilities by the end of 2004.
- An RFP for a collection agent for juvenile facilities was released at the end of April 2004. BJS received six proposals and an 18-month cooperative agreement was awarded to Westat. An initial meeting with Westat is scheduled for October 2004.
- A collection agent for supplemental surveys of soon-to-be-released jail inmates and former state prisoners has not yet been identified. Negotiations over design, deliverables, schedule, and costs are underway.
- To assist in the development of the supplemental surveys, a prominent scholar and researcher has joined BJS as part of the BJS Fellows program. Richard Tewksbury from the University of Louisville joined BJS in June 2004. Howard Snyder of the National Center for Juvenile Justice will also join BJS as a consultant on matters related to collecting data from juveniles.

## **Coordination Efforts**

Activities that BJS has conducted and will conduct in the future to coordinate its efforts are as follows:

- BJS staff met with NIC staff in March 2004 to discuss and coordinate completion of the annual report to Congress mandated under the PREA.
- BJS staff presented an overview and status report on the implementation of the PREA to the American Correctional Association/Office of Juvenile Justice and Delinquency Prevention - Juvenile Issues Forum, in Ft. Lauderdale, FL, on March 21, 2004.
- In August 2004, BJS staff participated in an intensive skills workshop at the American Correctional Association's conference in Chicago, IL.
- In October 2003, BJS staff served as members on an advisory board for a study on sexual activity in state and Federal prisons. The meeting was held in Cleveland, OH. Mark Fleisher is conducting the study through a grant from NIJ (described earlier in this report).
- BJS staff will attend a conference on Institution Review Boards sponsored by NIJ in Hartford, CT, on September 28-29, 2004. Issues to be discussed include collecting sensitive information from adult prisoners and jail inmates.

## ***Bureau of Justice Assistance (BJA)***

### **Legislative Mandate**

Some key reasons for passage of the PREA were the harmful effects on the victims of prison rape, the disruption to institutional operations, and the demand placed on the communities to which these victims return. To help ensure that budgetary circumstances and reduced spending for correctional purposes at state and local government levels do not compromise efforts to "protect inmates and safeguard communities," Section 6 of the PREA authorizes the Attorney General to award grants to the states, the District of Columbia, and all United States territories and possessions for personnel, training, technical assistance, data collection, and equipment.

The PREA specified three requirements to be met by the applicants: (1) grant awards were to be made for a period of not more than two years; (2) awards must include a 50 percent match by the applicant; and (3) awards must not exceed \$1,000,000. The PREA stipulated that the application is to include: (1) a certification that the state has adopted, or depending on the date of the application, will consider adopting all national prison rape standards promulgated under the Act; and (2) a description of the preventive, prosecutorial, or administrative activities to be undertaken using the grant funds. In addition, the PREA prescribed requirements for reports to be submitted and disseminated at the conclusion of the grant period.

The Bureau of Justice Assistance (BJA) provides a range of services to the criminal justice field with the goal of making American communities safer. To accomplish this goal, BJA provides training, technical assistance, information, and funding to state and community criminal justice programs. BJA was given the task of designing and administering the FY 2004 “Protecting Inmates and Safeguarding Communities Discretionary Grant Program.” The Congress appropriated \$20 million for the grant program.

The following information describes the BJA activities to date in accordance with this mandate.

## **Solicitation Preparation Meetings**

A critical step in the process was the development of a grant solicitation to accurately reflect the purpose and intent of the PREA, ensure the efficient use of resources, and establish parameters that would encourage the development of strategies, programs, and products to address prison rape. To assist in developing this solicitation and help ensure that maximum value would be gained from the grant funds, BJA called upon a diverse group of professionals during two meetings held in Washington, DC, in March 2004. Participants at these meetings included legislators; law enforcement representatives; correctional, jail, and community corrections officials; prosecutors; mental health experts; academic researchers; and community leaders.

## **Community Safety**

The first meeting, coordinated by the Council of State Governments, was held on March 12, 2004. Participants discussed and explored the system-level issues that impact community safety. The discussion focused on information systems, risk assessment, offender supervision, and community analysis. Participants also offered insights on the role that correctional officials can play in safeguarding communities, and they offered input regarding the selection of sites to receive awards.

Discussions resulted in several suggested activities:

- Maximize the use of data to manage and prevent overcrowding (Participants felt that overcrowding in correctional facilities can lead to and exacerbate prison rape.)
- Find or develop tools to:
  - assess the needs and risks to the community of offenders who have exhibited or been victims of predatory sexual behavior;
  - inform the decision to release;
  - indicate the level of post-release supervision required.
- Identify the deficits and the resources in communities to which offenders return upon their release. Participants suggested the preparation of maps that illustrate the following: the concentration of returning offenders; the allocation of resources by agencies involved in offender supervision, law enforcement, health and human services, and labor and child welfare; and the availability of services and support organizations.

- Provide funds for activities that promote collaboration and problem solving among criminal justice agencies, service providers, and community leaders. This included funding to identify community-based organizations to serve ex-offenders who pose a risk to the community or require special services due to their victimization.

Participants also discussed the roles of correctional administrators, law enforcement officials, and other criminal justice practitioners. Historically, these groups have focused on the accomplishment of their own missions and mandates. Correctional administrators do not always see a role for themselves or their agencies in the safeguarding of communities. Similarly, law enforcement and court officials have not always considered their role in safe operation of correctional institutions or the successful transition of offenders back into their communities. Community policing is an example of an element of the criminal justice system that shifted its role by implementing policies and practices designed to enhance community safety. Using the community policing model, the group recommended activities to bring correctional administrators and public safety officials into the effort to safeguard the communities to which ex-inmates are returning. Participants encouraged the preparation of materials that enhance strategic planning efforts, agency policies, and research to assess the impact of these partnerships.

To maximize the value of the grant funds, the group recommended that BJA award grants to applicants that could:

- Demonstrate a history and/or commitment to collaboration;
- Identify and develop non-traditional funding sources;
- Provide evidence of a commitment to consider safe communities within the context of individual neighborhoods (instead of state systems only).

### **Protecting Inmates**

On March 22, 2004, BJA convened a second meeting to discuss the portion of the grant solicitation that addresses the protection of inmates. A discussion of “sexual victimization within correctional settings” focused on several key matters, including:

- Victims generally report multiple incidents;
- Disclosure is uncommon;
- Staff estimates of prevalence are often similar to estimates given by inmates;
- Juveniles may be at increased risk levels.

Meeting participants also discussed:

- Statistical findings which seem to conflict;
- The impact of under-reporting;
- Variations in definitions;
- Differences in research methodologies ;

- The need for continuing and additional examination of sexual victimization;
- Challenges faced by corrections officials in managing sexual victimization within their institutions. The discussion highlighted several organizational characteristics and their potential effects, such as: facility design and housing options, operational concerns, classification systems, staffing patterns and response times, and the need for specialized training.

Participants also discussed the less clearly understood area of organizational and inmate culture and raised issues related to: attitudes about the type of victims requiring assistance, complacency, and correctional climates in which administrators and staff fail to recognize the seriousness of the issue. Participants also raised some very important issues including the effects of timely or untimely reporting of incidents, effective responses to victim's needs, quality investigations, and successful prosecutions.

The group then discussed strategies for the management of sexual victimization, including investigation and prosecution, victim services, and prevention. These three areas provided the framework for the group's final recommendations, which focused on:

- Investigation and Prosecution
  - Protocols to guide investigations
  - Internal policies to promote accountability among inmates who commit sexual violence
  - Community partnerships to help ensure effective investigation and prosecution
  - Specialized training for investigators and prosecutors
- Victims Services
  - Provision of crisis intervention
  - Safe-keeping for victims
  - Interventions consistent with community standards of care
  - Immediate and ongoing specialized mental health care
  - Advocacy and support services throughout the investigative and legal proceedings
- Prevention
  - State-of-the-art technologies and equipment for reducing opportunities to victimize
  - Classification systems that identify potential aggressors and victims
  - Expanded use of specialized housing and placement options
  - Focused inmate orientation and education
  - Specialized pre-service training and ongoing training for correctional staff

## **Recommended Criteria for Awarding the Grants**

Participants made the following recommendations for awarding grants:

- A clear articulation of the overall issue
- Strategies specific to the needs of a particular setting or jurisdiction
- Commitment at all organizational levels to prevent sexual violence
- A demonstration of a clear, reasonable link between the resources and the problem of sexual violence
- Community partnerships
- Data collection and analysis
- Development of innovative and replicable models relating to investigation, prosecution, victims services, and prevention
- Systemic change
- Efforts to address the unique needs of special populations

## **Solicitation**

The insights and recommendations of both groups resulted in the development of a comprehensive solicitation package. BJA posted the solicitation on the BJA web site in Spring 2004. States made their applications online using the OJP's Grants Management System (GMS). Applicants were required to register for the program by June 1, 2004, with the final applications due by June 4, 2004.

## **Review Process**

BJA identified several individuals to review the applications. To bring multiple perspectives to the review process and enhance inter-agency collaboration, BJA enlisted reviewers from several different agencies and offices. This group met on June 8, 2004, to receive guidance on the review criteria and process, as well as instruction on the use of the GMS online scoring system. The application review panel completed their reviews by June 20, 2004, and met a second time with BJA representatives to finalize their recommendations.

BJA expects to award these grants in the near future.

# **National Institute of Corrections (NIC)**

## **Legislative Mandate**

Section 5 of the PREA addresses three primary tasks to be undertaken by NIC:

- **Training and Education** - NIC will provide periodic training programs at all levels of government to agencies responsible for prevention, investigation, and punishment of prison rape.
- **National Clearinghouse** - NIC will provide information and assistance to Federal, state, and local authorities responsible for the prevention, investigation, and punishment of instances of prison rape
- **Reports** - At the end of September each year, NIC will submit a report to Congress and the Director of Health and Human Services summarizing the activities of the DOJ regarding prison rape abatement. This report shall be available to the Director of the Bureau of Justice Statistics.

The following information describes the NIC activities to date in accordance with this mandate.

## **Training and Education**

NIC began to meet its mandate of providing education and training soon after the PREA was passed. To begin addressing its tasks, NIC awarded two cooperative agreements to The Moss Group, Inc., which allowed for the development of an initial plan for NIC's approach to the PREA and the implementation of several activities under this plan. Under the first cooperative agreement, The Moss Group developed an overall strategic plan for FY 2004 and 2005. Several of these activities were initiated, including the completion of a 23-minute video production titled *Facing Prison Rape - Part 1*. NIC awarded a second cooperative agreement to The Moss Group to further develop, enhance, and expand the PREA activities.

## **Professional Associations: Focus Groups**

A key element of NIC's mandate is to disseminate information. As recognized by NIC and laid out in the overall approach developed by The Moss Group, one of the first tasks is to inform the field of the passage of the PREA and acquaint correctional practitioners, criminal justices officials, and stakeholders from related fields with the law's key elements. While doing this, NIC began to: (1) assess the field's understanding and perspective on the law and the issues which drove its passage; and (2) collect information about current practices and responses to the issue of prison sexual assault.

NIC used the annual conferences held by the Nation's key professional correctional organizations to begin this task. NIC secured permission from each group to conduct a series of focus group meetings at the following conferences:

American Correctional Association	January 2004
American Jail Association	March 2004
National Sheriff's Association	June 2004
American Probation and Parole Association	July 2004

### **Focus Group Format**

Between three and five focus group meetings were conducted at each of the aforementioned conferences. The team conducting the session began by presenting attendees with an overview of the PREA and NIC's role in providing assistance. The focus group participants were then asked what they already knew about the PREA and, given what they knew and the information presented, to offer their perspectives about the new law. This led to discussions on attitudes, projected problems with implementation, questions about the law itself, and several recommendations. The recommendations focused on several areas, including strategies to reach correctional practitioners and those in other fields with an interest in the issue, and responses to the problem of prison rape. Finally, attendees were asked for recommendations regarding the best way for NIC to provide assistance.

To allow for an accurate comparison between the groups and obtain high quality data, each of these sessions was conducted in the same manner and the same questions were asked. To ensure consistency, a researcher who served as a member of the presentation team documented the meetings. A total of 67 practitioners attended the focus group sessions over the four conferences. The focus group team recorded participant comments verbatim, and NIC is developing this information into a published report. The report will be made available to the participating organizations and to the correctional field at large. NIC staff and resource providers will also use the report to assist them in future planning.

Following are some highlights of the information collected at these focus groups.

### **Focus Group Data**

With respect to the attitude of the extent of the "prison rape" problem, 45 percent of the comments, across all conferences, suggested that the problem was overestimated, compared to 55 percent suggesting that the problem was underestimated. More participants at the earliest conference thought that the problem was overestimated compared to later conferences, suggesting that more information about the issue had been communicated to conference attendees later in the year. This same phenomenon was seen in participant comments pertaining to attitude about the PREA. Forty percent of all comments from all four conferences favored the legislation, compared with 60 percent that did not. Half of the unfavorable comments were noted at the first conference.

The most common problems reported pertained to jails. Most of these comments came from the American Jails Association conference. Comments included issues such as: (1) jail dynamics are very different from that of prisons (shorter stays influence the type of relationships inmates have



with each other); and (2) jails have fewer resources with which to implement the PREA (fewer trained and educated staff, poor record keeping systems, etc.).

Other frequently reported problems included: (1) agency and system differences in defining, documenting, and reporting methodologies; (2) differences in the dynamics, definitions, histories, system and staff response, etc., between male and female inmates; and (3) inmates who may take advantage of the law (making false allegations, increasing litigation, etc.)

Focus group attendees made recommendations in the following areas: what needs to happen now to benefit practitioners, what incentives are needed to get practitioners to comply, how to get the input of practitioners, and what education and training is needed for the correctional field.

Regarding what needs to happen now, participants suggested that NIC could assist them in getting “buy-in” from other divisions of government, clarify what they must do to comply with the PREA, clarify the PREA itself, and continue to conduct conference workshops with more in-depth coverage. The suggested incentives ranged from negative to positive, including ensuring that administrators are held accountable, reminding state officials of the grant restrictions and incentives, and helping staff realize the benefits of eliminating prison rape. Participants also suggested that many of the staff who are in a position to help prison rape victims (counselors, chaplains, etc.) are often in positions that are eliminated when budgets are cut.

Respondents felt that input from and education for groups beyond correctional practitioners would be important. Among these would be government officials who employ correctional staff, prosecutors, insurance company representatives, the public, and offenders. Many of the education and training-related recommendations suggested the need to build awareness of the law, help agencies understand their responsibilities, educate staff about definitions, and train staff to recognize the signs and indicators of sexual assault.

Some recommendations were structural, addressing NIC’s assistance delivery strategies such as the use of professional conferences and video technologies. Others were more operational in nature, e.g., harsher punishments for inmates who sexually assault, review of classification policies, consistent reporting structures, and the involvement of outside investigators and agencies.

## **Informational Video**

For several years, NIC has used video productions to reach large numbers of its constituents. This strategy is cost-efficient, can be implemented relatively quickly, and was clearly suited to disseminating information about the PREA. Work began almost immediately on an informational video production, titled *Facing Prison Rape*. Its purpose was to present an overall introduction of the PREA to a variety of audiences and to convey the importance of the law and the issues that drove its passage.

In the video, viewers hear from victims, institution and community correctional staff, treatment and technical resource providers, members of the legal profession, and selected individuals with responsibilities under the PREA. Content and comments focus on key elements of the legislation and the dynamics and impact of prison rape. Responses from viewers thus far have been very positive. The video has been described as informative, pertinent, and powerful.

NIC also developed a “Facilitators Guide” to accompany the video. This guide provides instructions on preparing for the presentation of the video, using the accompanying materials, and leading a follow-up discussion.

## **Videoconference**

Another effective distance-learning strategy used by NIC is the videoconference. These productions range from 3-hour sessions designed primarily to disseminate information, to sessions that span several days and include both on-air time and targeted off-air activities. The conferences generally follow a one-way video, two-way audio format. Participants attend the conference at specified downlink sites around the country. NIC provides the coordinators at these sites with materials for distribution and instructions to help facilitate sessions after the presentation. Videoconference sessions can include guided discussions and/or action planning, depending on the content of the conference.

During the broadcast, viewers are encouraged to call, e-mail, or fax questions to the studio. Conference presenters can then respond to these questions on-air. More recently, these conferences have been “webcast” over the Internet, allowing viewers to view them at their desktop computers.

On July 21, 2004, NIC presented a 3-hour videoconference titled *How PREA Affects You*. The broadcast reached 400 downlink sites and an estimated 10,000 viewers. The purpose of the videoconference was to disseminate information about the PREA, its key elements, and issues surrounding prison rape. The 3-hour length of the videoconference allowed for a more in-depth discussion by the panelists.

The panel of presenters represented several perspectives on issues of prison rape and included professionals from the legal, correctional, and inmate advocacy arenas. In addition, video clips were inserted throughout the broadcast, featuring speakers who underscored the importance of the PREA and some of the key points being made by the presenters. The speakers on these video clips included one of the PREA’s sponsoring legislators, a representative from the Bureau of Justice Statistics, a medical professional, a member of the United States Parole Commission, and the Chairman of the recently appointed National Prison Rape Reduction Commission.

## **Planning, Production, and Distribution**

NIC staff tracked the progress of the PREA through Congress and, early on, began to discuss strategies about how to respond to the issue of prison rape and the mandates likely to be contained in the final legislation. NIC began planning shortly after the bill was signed into law in September 2003, which allowed for the implementation of early activities immediately upon

receiving the appropriation of funds. During this time, NIC staff collected articles, compiled bibliographies, and developed some early presentations about the PREA.

Once the informational video and the videoconference were completed and ready for distribution, NIC decided to package them together with other informational materials and distribute them as “PREA Tool Kit 1.” This Tool Kit can be used to introduce the key elements of the law, provide users with an overview of the work being done by the Federal partners, help correctional administrators understand and begin to fulfill their responsibilities under the PREA, build background knowledge about the issues, and generate discussion about strategies and responses to the problem of prison rape.

By the end of September 2004, NIC will have distributed approximately 840 PREA Tool Kits each of which contains:

- A copy of the video, *Facing Prison Rape*, and the accompanying “Facilitator’s Guide”
- A copy of the full 3-hour videoconference titled *How PREA Affects You*
- A copy of the Prison Rape Elimination Act of 2003
- A bibliography of reference material
- A PowerPoint® presentation containing an overview and introduction to the PREA

NIC has distributed copies of the PREA Tool Kit to a wide variety of Federal and state organizations within corrections and beyond. Tool Kits are also available upon request from the National Institute of Corrections Information Center.

The following table shows the current Tool Kit distributions (including the group distributed to, the number [#] of tool kits distributed to each group, and any relevant comments):

**Table 1. PREA Tool Kit Distribution**

<b>Group</b>	<b>#</b>	<b>Comment</b>
State Directors of Corrections	59	Included states, territories, and three municipal Departments of Corrections
Outgoing NIC Board	7	
Incoming NIC Board	16	First meeting of the newly appointed members will be October 18-19, 2004
NIC Executive Team	7	
NIC Work Group	7	Inter-divisional team serving as advisors and providers
BOP Executive Staff	15	
National Prison Rape Reduction Commission	12	
Bureau of Prisons Library	3	
NIC Information Center	4	For future distribution
National Correctional Organizations	8	American Correctional Association, American Jails Association, American Probation and Parole Association, National Sheriff's Association
The Moss Group, Inc.	25	Cooperative Agreement recipient assisting with early PREA planning and implementation activities
Center for Innovative Public Policy	5	Conducts training on prison Staff Sexual Misconduct under a cooperative agreement with NIC
Offender Workforce Development Specialist	3	
Large Jail Network	101	
Jail Inspectors	42	
State Sheriff's Associations	44	
State Jail Systems Inspectors	6	
Indian County Administrators	71	Administrators of correctional facilities on tribal lands
State Parole Authority Chairs	57	
State Operated Probation/Parole Chiefs	9	
Large Urban Probation Chiefs	89	
State Training Academies	75	
Juvenile Corrections Administrators	74	
PREA - National Association of Counties State Organizations	54	
PREA - Federal Agencies	16	For example: Centers for Disease Control, Office of the Surgeon General, Dept. of Homeland Security, Bureau of Indian Affairs
PREA - Professional Organizations	28	For example: National Criminal Justice Association, Council of State Governments, National Governors Association, International Community Corrections Association
<b>TOTAL PACKAGES DISTRIBUTED</b>	<b>837</b>	

## **Agency/Staff Focus Groups**

There are four major groups of employees in most correctional institutions: executive staff, mid-level and line supervisors, custodial line staff, and non-custodial or support staff. Each group has a distinct role in carrying out the facility's mission. When considering the collection of information about responses to prison rape, it is important to assess the perspective of each of these groups.

### **Focus Group Protocol**

Working closely with NIC staff, The Moss Group research team developed and pilot-tested a focus group protocol to collect information from agency/staff focus groups. In addition to contributing to NIC's knowledge base, these pilot tests were used to develop detailed documentation to guide a cadre of individuals in conducting agency-based focus groups.

Adhering to strict research principals, The Moss Group and NIC staff identified 10 prison and jail sites representing various sizes, security levels, classifications, and geographic regions as focus group sites. The first focus groups will be conducted at the end of September 2004. Arrangements to conduct the balance of the sessions are currently underway. These focus group sessions are scheduled to be completed by December 2004.

The focus group protocol requires that focus groups be conducted in a similar manner at each site. For comparison purposes, roughly the same types of groups will be invited to participate, and participants will answer the same questions. The responses will be recorded, summarized, and analyzed using a software package designed for social science research. This will allow the data to be reported in a number of ways, with the results used primarily to inform future training and technical assistance response strategies. The data will also be developed into reports that can be used by other agencies in the implementation of their PREA activities.

## **Technical Assistance**

NIC has provided technical assistance to correctional agencies for over 25 years. Technical assistance includes informational presentations, written and visual materials, training events (ranging from 4-hour workshops to multi-phased programs presented over several weeks), and targeted assistance tailored to a requestor's specific needs.

To meet the anticipated technical assistance need for the PREA, The Moss Group assembled a PREA Resource Team. The PREA Resource Team consists of individuals who contribute broad experience in a wide variety of areas including investigations, male violence, medical and mental health care, legal issues, correctional institutional operations, community corrections, faith based programs and resources, and staff sexual misconduct. Other team members have skills in research and evaluation design, facilitation, writing and editing, and video production to enhance the work of NIC. The Moss Group will add expertise in other fields as needed.

NIC currently has processes in place to receive, process, and respond to requests for technical assistance. To date, NIC has received 11 PREA technical assistance requests, and has delivered four technical assistance events. The Moss Group is currently formulating a process for collecting information to evaluate the effectiveness of PREA technical assistance.

NIC anticipates receiving many more formal requests in the future. As anticipated, most of these early requests are for more information regarding the PREA itself. As more information is collected and strategies are developed, these requests for assistance should change to become more operational in nature.

## **National Clearinghouse**

Through a contractual agreement, NIC has provided library and clearinghouse services for the past three decades. The NIC Information Center serves the field of corrections and those with related interests with timely and comprehensive responses to requests. NIC has determined that the most cost-effective response to the PREA requirement for a national clearinghouse service is to use the resources already in place.

As NIC staff were tracking the bill through Congress, the NIC Information Center staff began to scan the field for information and research related to prison rape. Soon after the first appropriation was received, the Information Center assigned a program specialist to receive and manage all requests related to the PREA and issues surrounding prison rape. This individual assists the project in other ways, such as reviewing and recommending materials for distribution, and identifying useful materials for training and presentations.

### **PREA Website (<http://www.nicic.org/prea.aspx>)**

The Information Center is also responsible for the overall management of the NIC Internet website. Information Center staff have developed a separate web page devoted to the PREA (<http://www.nicic.org/prea.aspx>). This website currently displays all information related to NIC's video productions and the PREA Tool Kit, announcements of upcoming PREA events, and contact information for NIC staff and the other Federal partners implementing PREA activities.

The PREA website also includes:

- Downloadable files:
  - a copy of the PREA
  - a summary of the PREA
  - selected and annotated bibliographies
  - "Prison Rape: A Critical Review of the Literature" (Gaes and Goldberg, 2004)
- Link to the NIC Staff Sexual Misconduct website
- Options for viewing the video, *Facing Prison Rape*, as a streaming video online. (The 3-hour videoconference will also be available for streaming in the future.)
- Studies and Commissions related to the PREA
- Links to other Federal websites with information on the PREA

## **Future Clearinghouse Plans**

NIC is currently planning to expand the services and resources available through the Information Center. These plans include: (1) the provision of briefing packages tailored to specific categories of stakeholders; and (2) expanding the existing PREA website to include a section for Frequently Asked Questions (FAQs), discussion groups and/or a list serve, a section for updates on the activities of NIC's Federal partners, and curriculum packages as they are developed.

## **Current Planning**

NIC has planned a multi-year approach to the PREA project. Over time, technical assistance efforts will be enhanced and other training programs and products will be developed. Some of the activities being planned at this time are:

- **A second video production** - The second PREA video titled *Facing Prison Rape - Part 2* is now in production. NIC has identified locations for shooting the video and several of the professionals who will be filmed. NIC is currently securing the services of these professionals. The video producer has written and circulated a video treatment, and the first review meeting was held on September 21, 2004.
- **Regional workshops for correctional administrators** - Four workshops will be held at different locations around the country for correctional executives from prisons, community corrections, and jails. NIC is currently developing the workshop agenda, which will include information about the PREA, the Federal projects underway, and the results of the early focus groups. As with other focus groups and meetings, NIC will collect information from the regional workshop participants regarding current strategies, practices, and recommendations.
- **Subject matter experts conference** - In addition to corrections, other fields are related to the issue of prison rape. Areas such as male violence, medical and mental health, women offenders, investigations, and legal issues are all relevant to the issue of prison rape. Experts from these areas will be brought together at a Subject Matter Experts Conference to share ideas and information.
- **Cooperative agreement** - NIC is in the process of awarding a cooperative agreement to revise the NIC Staff Sexual Misconduct programs and materials to include PREA information. The cooperative agreement will also provide for the research and compilation of an overview of legislation regarding criminal sanctions for offenders perpetrating rape in institutional settings.
- **Investigation and Prosecution Meeting** - NIC is updating the current NIC curriculum on investigating allegations of staff sexual misconduct to include information relevant to the PREA. In addition, NIC is planning a meeting to discuss the ramifications of investigating and prosecuting incidents of inmate-on-inmate sexual assault in Fall 2004.

- **Technical Assistance** - Delivery of technical assistance upon request will continue throughout the coming year as NIC continues to receive, review, and address applications for assistance. NIC will also assess the assistance provided for “lessons learned,” which can be applied to future responses.



**References:**

Gerald G. Gaes and Andrew L. Goldberg (2004). "Prison Rape: A Critical Review of the Literature," Working Paper, National Institute of Justice, Washington, DC.

Prison Rape Elimination Act Of 2003. Public Law 108-79—Sept. 4, 2003.

## **Appendix A: Rape and Coercive Sex in American Prisons: Interim Findings and Interpretation on Preliminary Research**

Mark S. Fleisher, Case Western Reserve University, Mandel School of Applied Social Sciences.

***Note: The interim findings in this report are based on a study of male and female inmates in medium and maximum-security state adult prisons. Some minor editorial changes were made to this report to enhance its readability.***

### ***Introduction***

This research is an outcome of the Prison Rape Elimination Act of 2003 (PREA). This project uses explicit and replicable data collection and analysis techniques. The research protocol includes multiple types of queries driven by a comprehensive understanding of the practicalities of correctional practice and management.

Consensual and coercive sex and rape occur in prison; however, studying coercive sex and prison rape is difficult. This study does *not* yield national statistics on the *prevalence of rape and coercive and consensual sex* in men's and women's prisons. This research focuses on consensual and coercive sex and rape as men and women prison inmates describe and understand such sexual behavior.

Interviews were conducted inside men's and women's prisons; interviews were anonymous and confidential. Participating correctional agencies and institutions are anonymous. This report does not identify regions of the United States where researchers conducted interviews. This report is absent of individual, institution, state, and regional identifiers. The identity of inmate interviewees cannot be determined by any fact or statement analyzed in this project.

To date, 152 private interviews, or approximately 300 hours, with men and women inmates have occurred. Interview length ranged from 75 minutes to three to six hours. Male and female inmates were selected based upon variables including: length of time served in current institution, race-ethnicity, inmate's age, and conviction offense.

### **Prison Rape: National Themes and Patterns**

Across the country, research finds that inmates *use their own prison experiences and fellow inmates' experiences to fashion prison rape accounts and tell these accounts as if they were told to them by a rapist or rape victim*. The outcome is that inmates often sound like they were first-hand observers to tens of dozens of acts of rape. "There are no rapes here now," say inmates, "but there used to be 15 years ago before the riot. There was this dude back then who raped six guys..." Or, "there haven't been any rapes here for awhile but if you go to [another prison in the same state or to prisons in a different state] you'll find there's a lot of rape in those prisons."

The frequency of common patterns and themes and descriptions of acts and events are *not* measures of the prevalence of prison rape. Knowledge of prison rape, the facileness of telling prison rape lore and detailed claims of knowing a rapist or a rape victim are by no means substantive indicators of rape or the number of rapists.

The conversion of raw data into a small finite set of themes and patterns in distinct domains, such as most likely rape targets, techniques rapists use to stalk victims, and strategies inmates use to protect themselves from unwanted sex encounters, ultimately attest to the validity of raw data and its analysis into regional and national patterns and themes. If inmate narratives were fabrications, exaggerations, lies, or glib answers, a careful analysis would find a wide variance in narratives' responses. Such a variance would expand as the number of inmate interviewees increased.

This research has found exactly the opposite: As the number of interviewees increased across America the variance in narratives decreased and focused on a finite set of answers to a wide variety of questions. Interviewees described the most likely target of prison rape in precisely the same way: young, white, small, and feminine physical features and body movements; he has no prison experience; and he has no friends or companions or social support. Interviewees' personal experience with rapists is consistently patterned as well. As the number of inmate interviewees increased across the country, a theme emerged that rapists are relatively unknown, rape victims are relatively low in number, and that inmates' fear of rape is low. The content of this report is supported by a preponderance of inmates' narrative agreement on specific topics in different institutions in regions around the country.

### ***Terms and Definitions***

The complexity of defining and interpreting consensual and coercive sex and rape is inherent in the semantics of the data. Inmates do not often use the terms consensual sex and coercive sex in natural speech in open-ended, free-flowing interviews. Most often, inmates are unfamiliar with the terms coercive sex and consensual sex. We have not yet found inmate terms that capture the precise meaning of these concepts as they are defined in the PREA.

This research studies consensual and coercive sex and rape in the socio-sexual system of behavior in men's and women's prisons. *Social system* denotes an aggregate of inmates' social interactions throughout a prison, in places such as residence units, work places, recreation facilities, food preparation areas, and educational and leisure time areas, among other physical locations. Within this behavioral aggregate, there are patterns of complex social interaction that carry specialized meaning within a prison context. *Sexual system* refers to person-to-person, cohort (two-to-three inmates) and group interactions (more than three inmates) whose purpose is specifically directed at achieving sexual activity or whose purpose includes a broad set of interactions in which sex occurs.

Inmates' social and sexual systems are integrated. Consensual, person-to-person sexual encounters may be brief – a few minutes after lunch – or may extend over weeks of “dating” or may turn into a “domestic” relationships persisting over years. Rape is unlikely in this context. Members of a group, such as a gang or religious group, may overtly proscribe sexual activity, but covertly group inmates may engage in sex with one another or inmates outside the group. Among these men, rape is unlikely. Thus, we can eliminate particular contexts with some assurance that rape is unlikely and focus on a multitude of contexts when social and sexual systems unite to increase the likelihood of rape. Describing and interpreting such contexts and their nuances is the focus of this study of inmates' socio-sexual system.

To interpret socio-sexual behavior, research interviews gather data on *micro-social* dynamics of socio-sexual interactions and then embed these interactions within the broad scope of institution life. Micro-social dynamics refer to the context, purpose, and meaning of interactions among individuals, cohorts, and groups. Micro-social research asks “what acts preceded a rape?” “Why were members of gang A involved in a rape of a member of gang B?” “What role do correctional officers have in the facilitation of coercive sex and rape in a residence unit?” “Do correctional officers' personal sexual preferences influence inmate supervision?”

The most problematic concepts and definitions are those for consensual and coercive sex and rape. PREA's socio-legal definitions are unambiguous, concrete, and denotative; however, consensual and coercive sex and rape are highly ambiguous acts imbued with a range of meaning. The inmate socio-sexual system is relativistic and, thus, consensual and coercive sex and rape have slippery and fuzzy definitions.

### **A Problem in Perception**

PREA and the inmate socio-sexual system offer contrastive denotations and connotations of types of prison sex. Prison sex has some relationship to pre-prison sex; however, most of the existing prison sex does not conform to a crime-victim model but rather to an amoral<sup>1</sup> exchange of *service for service* (sex for protection), *service for property* (sex for cigarettes or commissary items), or a chain of such exchanges. Many exchanges are considered equal among inmates. There are, however, amoral exchanges that are unequal and exchanges that occur with emotional or incentive driven pressure. Such pressure should not be confused with coercion in a "criminal law" model of *mens rea*, proximate cause, and, hence, culpability.

PREA has objectified definitions of rape and coercive sex; however, this research shows that PREA rape and coercive sex criteria are dissimilar from inmates' perceptions and interpretations of coercive sex and rape. Such dissimilarity points to fundamental differences between PREA and inmate socio-sexuality. PREA may define a sex act as coercive or rape; however, peering through the lens of the inmate socio-sexual system, a PREA-defined act of coercive sex may be interpreted as consensual by inmates. When PREA finds rape, inmates see “helping a man come to terms with his own sexuality.” If such inconsistencies are not acknowledged and reconciled,

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<sup>1</sup> We use the term amoral here to denote the unique standing of sexual relations within prisoner populations; within these populations sex can be currency. Currency itself has no morality. For instance, purchasing a sandwich with currency does not have moral connotations. Problems are found when the use of currency violates individual or group morality.

resultant policies can run the gamut of being ineffective to unintentionally causing or facilitating adverse institutional consequences.

### **Knowledge as Adaptation**

Research currently shows that inmates' behavior in the socio-sexual system is predicated on inmates' pre-prison and prison experiences. Such experiences include, but are not limited to: (1) the extent of inmates' exposure to social life in correctional institutions -- juvenile, detention, and adult corrections; (2) inmates' social and sexual experiences outside prison; (3) the style, content, and purpose of inmates' daily interactions among prison correctional officers, counselors, case managers, and other staff; and (4) inmates' personal sexual predilections. These experiences generate inmates' collective and personal knowledge and interpretation of prison sexual life.

A pervasive climate of rape victimization influences perceptions of personal safety and erodes institutional quality of life. Men and women inmates collectively report that prison rape is a more common *topic of conversation* than an actual violent act. Nevertheless, first-time, young inmates are fearful. "Old timers" in county jails tell newcomers rape stories and, before coming into "the system," rape tales are heard on the street and in prison and television movies. Uniformly, inmates say that prison reception adds to their fear of rape; inmates say that the only thing they remember from prison orientation was staff talking about rape. Fear of rape is not balanced against an understanding of institutional safety procedures and inmates' own personal safety strategies until they spend, inmates say, up to 12 months inside. Inmates report the terrifying experience of receiving clothing and a mattress and walking alone into the wilds of a penitentiary where they knew no one. Other inmates remember meeting siblings or cousins or county-jail partners. Those associations enable a faster adjustment and feelings of safety.

### **Sexual Danger in Adjusting to Prison Life**

Years of imprisonment convey experiences and knowledge. Pervasive themes in narrative data, gathered across the country, are that an inmate newcomer with no prison experience will be more vulnerable to prison rape than a recidivist; that inmates learn social mechanisms to create, what inmates call, *safety zones* that insulate them from sexual and other types of violence; and that an inmate population does not deliberately create or wish to prolong a violent environment. In an effort to control violence, the inmate social system has developed collective, violence-reduction strategies. Ironically, violence-control mechanisms include consensual sexual relationships and such relationships that evolve into domestic partnerships. Gang and religious group affiliations are also safety zones, but these safety zones do not rule out "down low" (covert) participation in consensual sex.

Newcomers do not know how to find safety zones, and worse yet, they are “rushed” quickly and covertly. New inmates are unaware of the subtleties of covert sexual hustles. The new inmate is also unaware of the importance of the peer’s assessment of his actions. New inmates judged to be weak are especially vulnerable to sexual coercion and rape. Weakness is assessed in physical traits and social behavior. Social behavior includes the way a newcomer walks and sits, his speed at finding acquaintances (used as a measure of fear of inmates), and his demeanor in the dining hall and on the yard. Inmates say that the best way for a newcomer to protect himself against rape is to find the biggest man on the yard and punch him in the face or hurt him badly enough that he needs hospitalization. Such behavior publicly demonstrates courage and strength, even if newcomer is beaten up.

A harsh judgment is imposed by peers; that judgment determines the level of risk he faces and his social options while in prison. A newcomer judged to be weak will always be weak. Weakness exposes him to a variety of dangers, ranging from sexual victimization to property loss – men will feel comfortable to steal a weak man’s new shoes, radio, or commissary without fear of retribution. Personal weakness and its subsequent dangers move newcomers into sexual relationships to find protection.

A weak man with a strong “daddy” is safe, for a while. If a weak man has family financial support, he can buy protection by supporting his daddy. If he is not financially supported, a weak man may be his daddy’s “sex toy” or be “pimped” or “sold” to another inmate in exchange for cigarettes, loose tobacco, or dry soup. Interviews with strong men in a daddy role yield complex daddy/boy relationships: a daddy may have two, three, four or more “boys” (weak inmates); some he exploits for their family’s cash, others he pimps, and still others he may keep “for his personal use.” Exploitation is not a necessary consequence of a weak man/daddy relationship, but its potential exists.

In the context of cell block sexual hustles, con games, potential violence, and social and economic exploitation, experienced inmates agree that newcomers must decide on their sexual orientation. Our data indicate that a majority of inmates do not engage in sex other than masturbation or occasionally engage in sex but try to reserve their public image as heterosexuals (these are down-low inmates). The socio-sexual system declares that newcomers must *choose* celibacy or *choose* a life course of occasional or persistent sexual activity in a man’s or woman’s role or both. Inmate data are clear on placing the burden of choosing a sexual lifestyle on an individual inmate. Carrying the burden of sexual choice is paradoxical – to choose celibacy is respected, but a newcomer must be able to protect it.

National data show a strong consensus that men and women inmates can side-step sexual involvement. If inmates choose celibacy such a choice is respected, especially if a man or woman inmate has stabbed or is more than willing to stab someone. If newcomers wind their way through the socio-sexual maze of the first two to three months without being successfully hustled, conned, or threatened into sex, inmates say they can then choose how they want to live. Eventually, however, inmates say “time wears you out, and you give in to [sexual] temptation.”

## ***Inmates' Definition of Sexual Coercion and Rape***

Sexual consent and coercion are complex and depend on the relationship of the parties involved, the micro-social processes between the initiator and recipient and the recipient and the *audience*, the post-sex act responses of the recipient, and the general appraisal of the pre- and post-sex act process assessed by an inmate audience's customary perceptions and patterns of sexual acts. The term audience refers to those inmates whose perceptions and interpretation lead to a decision as to whether a sex act was coercive or rape. An audience could be inmates in a cell block or a dorm; they would then convey information to other inmates and staff and the audience grows. Such information eventually molds an inmate's public sexual persona.

The inmate socio-sexual system *disguises and redefines* sex acts that PREA would consider consensual, coercive, and violent coercive (rape) sex. Prison reality adds complexity of the socio-sexual exchange that initiates socio-sexual processes. Black inmates across the country said that white inmates are "weak" and "can't fight." Young white inmates with long hair and an effeminate appearance are at highest risk of rape. A black inmate's decision to "turn out" a white inmate, that is, to slowly encourage him to engage in sex with gifts of material inducements and offers of protection, is not based on race but rather on weakness and helplessness. Even though a white inmate knows he is being pressured to provide sex, he may feel that the benefits of relinquishing to a sex act or a series of them far outweigh the immediate and long-term cost. His decision to engage in this type of sexual relationship is seen by inmates as consensual.

The sex-resource exchange system is conventional behavior. Sex-resource exchanges may develop into *chains of exchanges* (as described earlier in the daddy/boy relationship) between individuals or within and between cohorts and groups. Such chains may extend over days and weeks or even years. An accurate interpretation of a single sex act can become apparent only subsequent to an understanding of the details of the context of sex-exchange series.

The socio-sexual system excludes the possibility of the arbitrariness of rape: if rape occurs, there is always an acceptable explanation of why it occurred in the inmates' encyclopedia of socio-sexual knowledge. Rape's pretext influences the meaning of rape and ascribes to the initiator and recipient personal traits. Rape occurs out of physical weakness, greed, and staff and facility inadequacies, among other reasons. Only in the assessment of inmate-linked contexts of violent sexual behavior does a sex act receive a highly visible collective social consensus.

## **Inmate Classification of Sexual Assailants**

An audience may have a hard time determining the facts of a rape. Prison rape is an infrequently occurring public act. It happens at night in cell blocks when cell doors are closed and locked. Daytime public rape is high-risk; there are staff walking the residence units and inmates wandering about. Rape takes time and the correct location. If inmates work, there may not be enough time to commit rape and get to work on time. Consensual sex can happen wherever staff members have an obstructed view and inmates have a few minutes.

The audience's role in assessing a potential sexual encounter and classifying it as consensual or rape is well supported. Rape, as PREA defines it, is not necessarily classified as a rape in the socio-sexual system. The most common inmate terms that match our definition of a rapist are *bootie bandit* and *predator*. Predator is the term inmates use in natural conversation, although inmates say the term rapist is heard more frequently now than years ago because of rape-reduction programs. Both of these types of rapists commit acts we would label rape; however, inmates discriminate their behavior on the basis of particular qualities of the individual.

Bootie bandit (or bandit) is commonly used as an honorific for older inmates with social standing; a less frequent usage refers to an inmate with "game" who has the reputation of pressuring inmates for sex. Characteristically, a bandit will be known to have multiple sexual relations in one evening or in a series of evenings.

Bandits take pleasure and enjoyment in their reputation as a bootie bandit and will talk openly about their conquests. Bandits are known to have sex without a specific preference to race or age or other personal traits of sex targets and will not turn down any opportunity. If a bootie bandit is caught a couple of times, he cannot deny his behavior; however, bootie bandits bask in their reputation and are accepted and not feared by an inmate population. A bootie bandit is often characterized as a humorous figure, a joker in the prison sex scene. Bootie bandits offer no justification for their behavior. Their objective is finding an easy path to sex.

Predators, however, often use explanations to rationalize, justify, deny, or minimize rape. These explanations transform (our definition of) rape into a loosely conceptualized consensual sex act. Predators are dangerous. A predator is an inmate who has the intention of engaging in violent sex. Predators do not want sex with just anybody; each predator has his own taste. Predators have more skill than a bootie bandit. He is seen as a strong man.

A predator may work alone or with two or three companions. Rape is easier with a cohort of rapists. Inmates say that more than three rapists get in one another's way. Rape happens against walls or on the floor or in a bed. A one-on-one rape is difficult, even if the victim is small and much less powerful than the rapist. Knowing this, a rapist would likely punch a victim unconscious and then rape him. The unconscious rape of a victim is cited as a common context; however, the frequency of such violent rapes seems to be relatively rare. This type of rape is risky for a rapist; a beating will be visible on victim's face, and staff may then initiate an investigation.

Predators are dangerous because they may stalk an inmate whom they have never met and often decide beforehand on a time and place to rape a victim. A predator may jump into a man's cell just as cell doors are being closed for the night. Inside, he will repeatedly commit rape or rape and beat his victim; and when cells doors open in the morning he joins the crowd of inmates walking in the cell block. A predator may hide under a man's bunk and when the cell closes he jumps up and threatens or beats a victim. Predators are said to lay a shank on a victim's pillow and then watch the victim's cell door. When the victim returns, the predator runs into the cell carrying a shank and gives his prey a choice: sex or death. A predator's threat is: "You are going to be with me or in the dirt."



A rapist would say: (1) a victim wanted sex but needed to be pushed into it; (2) a victim enjoyed rough or very rough sex; (3) a victim felt he is desired only if he is “taken hard;” (4) a victim is unwilling to accept his own homosexuality and has to be “pushed” into sex for his own good; (5) a victim really wanted sex, but would feel ashamed and guilty afterward and hides his feelings from the audience with a public proclamation of rape; (6) the victim needed to be close and desirable to someone; and (7) the victim satisfied a sexual desire simultaneously supporting his personal image as heterosexual.

“Predators are sneaky and dangerous. He’ll just get it [sex]. They’re outside the program,” meaning that they do not follow conventional rules of the socio-sexual system.

Rape victimization has consequences that go well beyond physical injuries. After a rape, information flows about the rapist and victim and how the victim responded to the attack. If he relinquished without a fight, he is weak. Once an inmate is weak, he is always weak, independent of how the rape was conducted. If a rapist put a shank to a victim’s throat and the victim conceded, he would still be weak. Fighting helps a victim’s reputation. The best option open to a victim is to kill the rapist. The best time to kill a rapist is during the rape itself. There are rape retaliations, but even if a victim were to kill a rapist a day or week later, the victim would still be weak but his reputation as a killer would create the social distance he needs to prevent future attacks.

About killing a predator during a rape, an experienced inmate said, “It’s better to spend a year in the hole than a lifetime as a ho.”

### ***Conclusion***

This research has gathered detailed interview data across the United States from men and women inmates in correctional institutions. Hundreds of hours of interviews provide insight into inmates’ perceptions of prison socio-sexual life and, more broadly, into the institutional nature of socio-sexual behavior in American prisons. Independent of geographic location, inmates’ consensual and coercive sex and rape narratives yield common descriptions and interpretations of sexual behavior and sexual violence.

The inmate socio-sexual system disguises and redefines sex acts that PREA would consider consensual, coercive, and violent coercive (rape) sex. PREA has objectified definitions of rape and coercive sex; however, this research shows that PREA rape and coercive sex criteria are dissimilar from inmates’ perceptions and interpretations of coercive sex and rape. Such dissimilarity points to fundamental differences between PREA and inmate socio-sexuality.

Prison sexual violence and rape accounts are uniquely characterized by the absence of a time dimension; however, when an act is embedded in a temporal reference scale, the sex act is most commonly on a historic time scale. It is common to hear rape reports conveyed in the following manner. To paraphrase, “before the riot of 19??, there were a lot of rapes;” or “when I was at [high-security prison] in 1983, rape was really bad then;” or “there ain’t no rape now, but back when I first came into the system, a lot of dudes were raped.”

Accounts of sexual violence told by on-the-spot observers of such acts are rare; nevertheless, acts of sexual violence are reported in the voice of inmates alleging to be physically close to such violent acts and in such a style as to suggest that sexual violence is an act commonly occurring today. Analysis of narrative reports of consensual and coercive sex acts and acts of rape show rape reports to be composites of themes widely distributed across the country, third- or fourth-hand reports, and institution gossip and innuendo.

Prisoners do not abide rapists. If a rapist has companions, the relationship motive (companion to rapist) is fear; that is, companions feel as if friendship excludes them from becoming rape targets, but these inmates are not necessarily rapists or condone rape. Outside that small circle, inmates avoid rapists and, should a rapist harm a well-liked inmate or a gang-affiliated inmate, a rapist himself may become the target of homicide, a violent beating, or a beating and rape.

Sexual violence and, more generally, sexual extortion are controlled by the inmate social system through collective adaptive strategies. Rape-prevention control includes consensual sexual relationships and gang and religious-group affiliation; however, such group affiliation does not exclude members from consensual sexual relationships and becoming the agents of violent, non-sexual and sexual behavior.