3.2—Summary of the PREA Law

PREA consists of ten sections:

- **Section One** provides the title of the Act and a Table of Contents.

- **Section Two** describes a variety of research findings and data (i.e., how under-reporting complicates estimates of prevalence, the relationship between rape and communicable diseases, etc.) and discusses the impact of rape and prison sexual abuse on public safety, public health, and institutional violence.

- **Section Three** establishes a **zero-tolerance standard** for the incidence of inmate sexual abuse and rape; requires prevention of inmate sexual abuse and rape a top priority in each corrections facility; requires the development and implementation of national standards for the detection, prevention, and punishment of prison rape; mandates an increase in available data and information on the incidence of inmate sexual abuse and rape; standardizes the definitions used for data collection; increases accountability of corrections officials who fail to detect, prevent, reduce, and punish prison rape; and protects the Eighth Amendment rights of federal, state and local inmates.

- **Section Four** directs the **Bureau of Justice Statistics (BJS)** to conduct annual comprehensive statistical reviews and analyses of the incidence and effects of prison rape. It requires: (1) the reviews and analyses to be based on a sample of not less than ten percent of all Federal, State, and county prisons, and a representative sample of municipal prisons that includes at least one prison from each State; and (2) Federal, State, or local officials or facility administrators that receive a request from the Bureau to participate in the national survey and provide access to any inmates under their legal custody.

  Section Four also establishes within the Department of Justice the **Review Panel on Prison Rape.** See Appendix Section 3.4 for more information on the Review Panel's activities.

  Additionally, Section Four requires the Attorney General to submit an annual report to Congress and the Secretary of Health and Human Services on Bureau and Panel activities regarding prison rape and authorizes appropriations for FY 2004 through 2010.

- **Section Five** establishes within the **National Institute of Corrections (NIC)** a national clearinghouse for the provision of information, assistance, and training to Federal, State, and local authorities for the prevention, investigation, and punishment of prison rape.

- **Section Six** directs the **Attorney General to provide grant funding to assist States** in PREA implementation to ensure that budgetary circumstances do not compromise efforts to protect inmates and to safeguard the communities to which inmates return. Appropriations are authorized for FY 2004 through 2010, with a limitation.

- **Section Seven** establishes the **National Prison Rape Elimination Commission**. See Appendix Section 3.3 for more information.

- **Section Eight** directs the Attorney General, within one year after receiving these recommended standards, to publish a final rule **adopting national standards**. This section provides for a five percent reduction of any amount of grant funds to prisons that a State would otherwise receive for a fiscal year, unless the chief executive of the State submits to the Attorney General: (1) a certification that the State has adopted, and is in full compliance with, the national standards; or (2) an assurance that not less than five percent of such amount shall be used only to enable the State to adopt and achieve full compliance with such standards, so as to ensure that such certification may be submitted in future years. This section also requires the Attorney General to publish an annual report listing each grantee that is not in compliance with the standards.

- **Section Nine** prohibits accreditation organizations that fail to adopt accreditation standards for the detection, prevention, reduction, and punishment of prison rape from receiving Federal funding.

- **Section Ten** defines **sexual assault and rape** to include: (a) the carnal knowledge, oral sodomy, sexual assault with an object, or sexual fondling of a person, forcibly or against that person's will; (b) the carnal knowledge, oral sodomy, sexual assault with an object, or sexual fondling of a person not forcibly or against the person's will, where the victim is incapable of giving consent because of his or her youth or his or her temporary or permanent mental or physical incapacity; or (c) the carnal knowledge, oral sodomy, sexual assault with an object, or sexual fondling of a person achieved through the exploitation of the fear or threat of physical violence or bodily injury.

The text of Public Law 108-79 can be found in many places on the Internet. One such location is http://www.ojjdp.gov/about/PubLNo108-79.txt**.**