



Prison Rape: Research Explores Prevalence, Prevention

by Pat Kaufman

An estimated 60,500 inmates—4.5 percent of the Nation’s prisoners—report experiencing sexual violence ranging from unwanted touching to non-consensual sex, according to a recent Bureau of Justice Statistics (BJS) survey of Federal and State inmates.¹ A separate BJS survey found that more than 6,500 official allegations of prison sexual violence were reported to correctional officials in 2006.²

The two BJS studies offer different data that contribute to our understanding of the prevalence of prison sexual violence. For years, there were limited data on the topic, and the few researchers who ventured into this complex and controversial area were confronted with a host of obstacles, including:

- Low response rate from victims due to embarrassment or fear of reprisal.
- Challenges in verifying victims’ self-reports.
- Lack of common terminology to describe sexual abuse.³

All that began to change in 2003 when the U.S. Congress crafted a wide-ranging legislative response. The Prison Rape Elimination Act of 2003 (PREA), passed unanimously by the House and the Senate, established a “zero-tolerance standard” for prison rape and mandated that the U.S. Department of Justice (DOJ) “make the prevention of prison rape a top priority in each prison system.”⁴

One of the goals of PREA was to increase the data and information on the incidence of prison rape to help improve management and administration in regard to sexual violence in correctional facilities. The law also created an independent National Prison Rape Elimination Commission, which was charged with studying the impact of sexual assault in correction and detention facilities and developing national standards to address the problem.⁵

Today, 4 years after PREA became law, we have a more complete picture of sexual

THE PRISON RAPE ELIMINATION ACT OF 2003 DEFINES RAPE

In the Prison Rape Elimination Act of 2003, “rape” is defined as “carnal knowledge” (contact between the penis and the vulva or penis and the anus, including penetration of any sort, however slight), “oral sodomy” (contact between the mouth and the penis, the mouth and the vulva, or the mouth and the anus), sexual assault with an object, or sexual fondling of a person:

- Forcibly or against that person’s will.
- Not forcibly or against the person’s will, where the victim is incapable of giving consent because of his or her youth or temporary or permanent mental or physical incapacity.
- Achieved through the exploitation of the fear or threat of physical violence or bodily injury.

violence in prisons, providing prison officials and policymakers with the information and assistance they need to address this complex problem.

Congress Responds to Prison Rape

When Federal lawmakers wrote PREA, they cited concerns of inadequate training of prison staff, under-reporting by victims, threats to prison security, and the danger to public safety posed by abused inmates after they are released. The Act’s imperative was clear: obtain an accurate understanding of the extent and effects of prison rape in Federal, State, and local institutions.⁶

Taking a multipronged approach, PREA assigned specific responsibilities:

- A comprehensive statistical review by BJS of the incidence and effects of prison rape.
- The creation of a DOJ review panel to conduct hearings, with subpoena power over officials who run the three facilities with the highest incidence and the two facilities with the lowest incidence of prison rape.
- The requirement that the National Institute of Corrections (NIC) provide training and technical assistance and serve as a national information clearinghouse.
- The award of grants—developed and administered by the Bureau of Justice Assistance (BJA)—to assist States in implementing PREA’s requirements.
- The award of research grants by the National Institute of Justice (NIJ) to address issues exclusive of the

prevalence or extent of the problem of prison rape, which the U.S. Congress put on BJA’s agenda.

- The creation of a Federal commission to develop national standards for the detection, prevention, reduction, and punishment of prison rape, with the caveat that the commission would not be able to recommend standards that would add costs to prison administration.⁷

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To accomplish these goals, annual appropriations of \$60 million for each fiscal year from 2004 through 2010 were authorized. In the Act, the U.S. Congress issued a stern warning to State officials who demonstrated “indifference” to protecting prisoners from sexual assault, stating, “States that do not take basic steps to abate prison rape by adopting standards . . . are not entitled to the same level of Federal benefits as other States.”⁸

NIJ’s work under PREA has yielded important research-based evidence to improve knowledge, practice, and policy to address sexual violence in prisons. Three major research efforts are discussed below.

The Nature of Prison Sexual Violence

In 2006, James Austin, Ph.D., and his associates at the JFA Institute issued findings regarding sexual violence in the Texas prison system,⁹ the third largest prison

FOUR YEARS LATER: PROGRESS ON MANY FRONTS

Today, 4 years after the Prison Rape Elimination Act of 2003 (PREA) became law, progress has been made on many fronts:

- The Bureau of Justice Statistics (BJS) has developed uniform definitions of sexual violence, and in 2007, it released the results of its third annual national survey of reported allegations and the outcome of follow-up investigation in adult correctional facilities. The sample included 344 local jail jurisdictions that participated in the survey, assisting BJS in developing and implementing survey instruments and protocols. According to this review of administrative records, 47 percent of the estimated 6,528 official allegations of prison sexual violence in 2006 involved sexual violence between inmates and 53 percent involved corrections staff.¹⁰
- In a separate 2007 study, BJS reported victimization based on anonymous surveys completed by a sample of male and female inmates currently in State prisons (and not, as in the BJS annual national survey referenced above, based on official allegations reported to correctional officials). According to the survey, approximately 27,500 inmates reported an incident of sexual victimization involving another inmate; 38,600 reported an incident involving facility staff.¹¹ (For more information on the methodology of both studies, see www.ojp.usdoj.gov/bjs.)
- The Review Panel on Prison Rape held its first hearing in November 2006 at the California State Prison in Sacramento. (For more information, see www.ojp.usdoj.gov/reviewpanel.)
- The National Institute of Corrections (NIC) has held workshops across the Nation for senior correctional administrators to share ideas, strategies, plans, and programs related to PREA initiatives. In addition, NIC has developed a package of materials that includes videos (*Responding to Prisoner Rape* and *Assessing Your Agency's Response to Prison Sexual Assault*), a resource CD, and a slide presentation about PREA.¹² (For more information, see www.nicic.org.)
- The Bureau of Justice Assistance has awarded more than \$10 million to 16 States to train staff, buy and install surveillance equipment, develop advisory boards, pay for medical services for victims and predators, supply additional housing to safeguard victims, and add sexual assault awareness to inmate orientation programs.¹³ (For more information, see www.ojp.usdoj.gov/bja.)
- The eight-member National Prison Rape Elimination Commission—which operates independently of the U.S. Department of Justice—has held public hearings around the country to, as Congress ordered, “carry out a comprehensive legal and factual study of the penological, physical, mental, medical, social, and economic impacts of prison rape in the United States.”¹⁴ The commission is in the process of developing national standards for the detection, prevention, reduction, and punishment of prison rape. (For more information, see www.nprec.us.)

system in the Nation. The researchers chose this system because it had the highest rate of alleged incidents (550 alleged incidents, for a rate of 3.95 per 1,000 prisoners); on the other hand, it also has one of the lowest substantiation rates (less than 3 percent). In studying the number and nature of sexual assault allegations in this system from 2002 to 2005, they assembled “lessons learned” to help reduce sexual assaults across all correctional systems.

Among their findings in *Sexual Violence in the Texas Prison System*:

- **White inmates are attacked more than any other race.** Nearly 60 percent of the 43 “sustained” incidents—those proven to be true by an investigation—involved a white victim.
- **Victims are generally younger than their assailants.** The average age of victims in “sustained” cases was 3 years younger than the assailants.

- **Mentally ill or intellectually impaired inmates are more likely to be victimized.**

Although only 12 percent of the allegations involved a mentally ill or intellectually impaired prisoner, this percentage is 8 times the proportion of mentally ill inmates in the general prisoner population (1.6 percent).

- **Cellblocks with solid cell fronts may contribute to sexual assault.**

Solid cell fronts, while permitting privacy for the inmates and reducing noise within the unit, also provide the degree of privacy that permits sexual assaults to occur. Unlike older prison designs, in which the cell fronts consist of bars, solid doors limit visual observation by staff and, to some degree, soundproof the cells to the point that staff have difficulty hearing what is going on in individual cells.

The researchers made several recommendations, including that officials provide more structured opportunities to report sexual assault and that prisoners who have been implicated in such incidents be closely monitored. The researchers also recommended that a better system of categorizing victims and assailants be considered and provided a characteristics checklist for correctional officials to use to help identify potential victims and assailants.

The Prisoner's View

In another NIJ-funded project, researchers under the direction of Mark Fleisher, Ph.D., of Case Western Reserve University and Jessie Krienert, Ph.D., of Illinois State University conducted a sociocultural study of prison sexual violence in men's and women's high-security prisons across the United States.¹⁵ The investigators interviewed a large cross section of inmates (408 males and 156 females in 30 prisons across 10 States) and allowed them to express their perceptions on prison sexual violence. In their report *The Culture of Prison Sexual Violence*, the investigators identified major attitudes and beliefs that inmates have about prison sexual assault, including:

- Inmate culture has a complex system of norms on sexual conduct. An act of sexual violence that occurs in one

context may be interpreted differently in another context. Interpretation depends on the pre-assault behavior of the victim and the assailant, as well as other inmates' perceptions of the causes of the sexual violence.

- Inmates "self-police" against unwanted sexual predators and maintain protective relationships to facilitate safety from physical and sexual abuse.
- Inmate sexual culture allows inmates to disagree on the meaning of sexual violence in similar contexts. Some inmates may interpret sexual violence as rape, whereas other inmates may interpret a similar act as other than rape. The response of a victim toward an aggressor after the act of sexual violence plays a key role in an inmate's interpretation of sexual violence.
- Inmates judge prison rape as detrimental to the social order within the prison community—prison rapists are unwelcome.

The researchers offered approaches for observing and supervising inmates that would help correctional officers identify sexual aggressors and preempt violent encounters—such as having officials observe who prisoners spend time with and which prisoners appear fearful of using the shower—to gain direct input on potential pairings of sexual aggressors and victims. They also recommended orientation for new inmates that provides a balanced account of sexual and other types of violence and improved mechanisms for victims to report rape.

Correctional Departments Address Prison Sexual Violence

In 2006, Janine Zweig, Ph.D., of the Urban Institute, Rebecca Naser, Ph.D., of Peter D. Hart Research Associates, Inc., John Blackmore of the Association of State Correctional Administrators, and Megan Schaffer of the John Jay College of Criminal Justice issued the report *Addressing Sexual Violence in Prisons: A National Snapshot of Approaches and Highlights of Innovative Strategies*.¹⁶ This wide-ranging study

WEB SITE, WEB CHAT ON SEXUAL VIOLENCE IN PRISON

For more information on sexual violence in prisons—including an overview of the Prison Rape Elimination Act of 2003 (PREA), current research findings, descriptions of ongoing work by the National Institute of Justice (NIJ) and other Federal agencies to address prison rape, and links to additional resources—see www.ojp.usdoj.gov/nij/topics/corrections/prison-rape.

NIJ, along with the Government Innovators Network at Harvard University's John F. Kennedy School of Government, sponsored a Web chat on prison sexual violence on February 7, 2008. Web chat participants discussed the status of PREA research, as well as innovative practices to prevent sexual violence in prisons. For more information, see www.innovations.harvard.edu/xchat.html.

provided a national snapshot of U.S. Department of Corrections (DOC) initiatives to address prison sexual violence and identified specific practices that are particularly promising or innovative in nature.

The NIJ-funded research consisted of written surveys and telephone interviews with DOC officials in 45 States and site visits to selected facilities from November 2004 to September 2005 to gain insight into States' overall approaches to prison sexual violence. At the time of the survey and interviews—just over a year after PREA became law—33 of the 45 State departments had prison sexual violence policies in place. Twenty-three departments had comprehensive policies addressing prevention and detection of prison sexual violence, response to incidents, training, and services for victims; 10 other States had policies relating to most of these issues. Meanwhile, nine additional States were actively developing comprehensive prison sexual violence policies. Since this study was completed, many States have created, enhanced, or changed their policies in response to PREA.

Many States share a common theme in their new policies and procedures: a commitment at the most senior levels to change the correctional culture, thereby affecting the attitudes of staff and inmates. The researchers highlighted several States with promising practices, such as Oregon, which mandates training for all staff on inappropriate sexual

conduct and sexual violence and offers inmate education on reporting mechanisms and services for victims. But the researchers also found a familiar litany of barriers to the effective investigation and prosecution of prison sexual violence in many States, including inmate unwillingness to report victimization, staff fear of false allegations, lack of staff training, and delayed reporting of incidents.

Working Together

Correctional authorities continue to address this complex problem, participating in training offered by NIC and working together with Federal agencies on research and program development. With the implementation of PREA and the active engagement of correctional officials, a multifaceted effort to understand the extent of prison sexual violence and to identify solutions for reducing it is well under way.

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Notes

1. The survey was done via an audio-assisted computer program in which the inmates, using a touch-screen laptop, answered a questionnaire and followed instructions via headphones. Inmates were asked about sexual victimization that occurred at the facility during the last 12 months; those who had served less than 12 months were asked about their experience since they had arrived at the facility. The study looked at a range of sexual victimization by inmates and staff: oral, anal, or vaginal penetration; handjobs; touching of the inmate's buttocks, thighs, penis, breasts, or vagina in a sexual way; and other sexual contacts. See Beck, A.J., and P.M. Harrison, *Sexual Victimization in State and Federal Prisons Reported by Inmates, 2007*, Bureau of Justice Statistics Special Report, December 2007 (NCJ 219414), available at www.ojp.usdoj.gov/bjs/pub/pdf/svspfri07.pdf.
2. Following an investigation, more than half of the allegations (55 percent) were unsubstantiated; more than a quarter (29 percent) were determined not to have occurred. Seventeen percent of the allegations were substantiated. See Beck, A.J., P.M. Harrison, and D.B. Adams, *Sexual Violence Reported by Correctional Authorities, 2006*, Bureau of Justice Statistics Special Report, August 2007 (NCJ 218914), available at www.ojp.usdoj.gov/bjs/pub/pdf/svrca06.pdf.

3. Gaes, G.G., and A.L. Goldberg, *Prison Rape: A Critical Review of the Literature*, working paper submitted to the National Institute of Justice, March 2004 (NCJ 213365), available at www.nicic.org/Downloads/PDF/2004/019813.pdf.
4. Prison Rape Elimination Act of 2003, Public Law 108-79, 117 Stat. 972, U.S. Congress (108th 1st Session), September 2003: Sec. 3, 3, available at www.spr.org/pdf/PREA.pdf.
5. National Prison Rape Elimination Commission Web site, available at www.nprec.us.
6. Prison Rape Elimination Act of 2003, Public Law 108-79, 1.
7. Ibid, 1–19.
8. Ibid, Sec. 2, 2.
9. Austin, J., T. Fabelo, A. Gunter, and K. McGinnis, *Sexual Violence in the Texas Prison System*, final report submitted to the National Institute of Justice, September 2006 (NCJ 215774), available at www.ncjrs.gov/pdffiles1/nij/grants/215774.pdf.
10. Beck, Harrison, and Adams, *Sexual Violence Reported by Correctional Authorities, 2006*, 3.
11. Beck and Harrison, *Sexual Victimization in State and Federal Prisons Reported by Inmates, 2007*, 2.
12. *Report to the Congress of the United States on the Activities of the Department of Justice in Relation to the Prison Rape Elimination Act (Public Law 108-79)*, National Institute of Corrections, September 2006 (Accession number 022675), available at <http://nicic.org/Library/022675>.
13. Ibid.
14. Prison Rape Elimination Act of 2003, Public Law 108-79, Sec. 7, 10.
15. Fleisher, M.S., and J.L. Krienert, *The Culture of Prison Sexual Violence*, final report submitted to the National Institute of Justice, November 2006 (NCJ 216515), available at www.ncjrs.gov/pdffiles1/nij/grants/216515.pdf.
16. Zweig, J.M., R.L. Naser, J. Blackmore, and M. Schaffer, *Addressing Sexual Violence in Prisons: A National Snapshot of Approaches and Highlights of Innovative Strategies, Final Report*, final report submitted to the National Institute of Justice, January 2007 (NCJ 216856), available at www.ncjrs.gov/pdffiles1/nij/grants/216856.pdf.

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