

Report to the United States Congress Activities of the Review Panel on Prison Rape in Calendar Year 2012

In accordance with Section 4(c)(1)(A) of the Prison Rape Elimination Act of 2003 (PREA), Public Law No. 108-117 Stat. 972 (codified as amended at 42 U.S.C. §§ 15601-15609 (2006)), the Attorney General submits this report to Congress on the activities of the Review Panel on Prison Rape (Panel) in the preceding calendar year.

Panel Members

The Panel consisted of the following three members in 2012: Dr. Reginald A. Wilkinson, President and Chief Executive Officer, Ohio College Access Network; Dr. Gary E. Christensen, President, Corrections Partners, Inc.; and Ms. Anne Seymour, a victims advocate.

Purpose of the Panel

According to PREA, the duty of the Panel is to hold annual public hearings, based on data gathered by the Bureau of Justice Statistics (BJS), on the operations of three correctional institutions with the highest incidence of sexual victimization and two correctional institutions with the lowest incidence of sexual victimization in each category of facilities identified under Section 4(c)(4) of the statute. *Id.* § 15603(b)(3)(A). The purpose of the hearings is to identify the common characteristics of (1) sexual predators and victims, (2) correctional institutions with a low prevalence of sexual victimization, and (3) correctional institutions with a high prevalence of sexual victimization. *Id.*

Hearings in CY 2012

As the BJS did not issue any reports in CY 2011 and CY 2012 based on inmate surveys on the incidence of sexual victimization in correctional facilities, the Panel held no public hearings in CY 2012.

Report on CY 2011 Hearings

In April of 2012, the Panel published findings based on its hearings in April of 2011 on prisons and in September of 2011 on jails. Panel on Prison Rape, *Report on Sexual Victimization in Prisons and Jails* (Apr. 12, 2012), available at <http://ojp.usdoj.gov/reviewpanel/reviewpanel.htm> [hereinafter *Panel Report*]. The Panel's hearings in CY 2011 and the resultant report relied on data that the BJS compiled in *Sexual Victimization in Prisons and Jails Reported by Inmates, 2008-09* (Aug. 2010), which is available online at <http://bjs.ojp.usdoj.gov/content/pub/pdf/svpjri0809.pdf>.

The Panel selected the following ten facilities to appear at the hearings: the two prisons representing the lowest incidence of sexual victimization were Elkton Federal Correctional Institution, Federal Bureau of Prisons, Elkton, Ohio, and Bridgeport Pre-Parole Transfer Facility, operated by the Corrections Corporation of America for the Texas Department of Criminal Justice (TDCJ), Bridgeport, Texas; the three prisons representing the highest incidence of sexual victimization were the James V. Allred Unit, TDCJ, Wichita Falls, Texas; the Fluvanna Correctional Center for Women, Virginia Department of Corrections, Troy, Virginia; and the Elmira Correctional Facility, New York State Department of Corrections and Community Supervision, Elmira, New York; the two jails representing the lowest incidence of sexual victimization were the Hinds County Work Center, Hinds County Sheriff's Department, Raymond, Mississippi, and the David L. Moss Criminal Justice Center, Tulsa County Sheriff's Office, Tulsa, Oklahoma; the three jails representing the highest incidence of sexual victimization were the Clallam County Corrections Facility, Clallam County Sheriff's Office, Port Angeles, Washington; the Pre-Trial Detention Center, Miami-Dade County Corrections and Rehabilitation Department, Miami, Florida; and the Orleans Parish Prison (OPP), Orleans Parish Sheriff's Office (OPSO), New Orleans, Louisiana. *See Panel Report 3-5* (explaining the selection criteria and methodology). For each prison or jail, the Panel included in its report a brief description of the facility, the facility's explanation for the reported high or low incidence of sexual victimization, and the Panel's observations of the facility based on onsite visits; interviews with staff and inmates; and hearing testimony from corrections officials, experts, victims, and victim advocates. For each high-incidence prison or jail, the Panel provided facility-specific recommendations. After reflecting on the data collected for each of the hearings, the Panel noted common themes and topics for further study.

Common Themes

Based on the prison hearings, the Panel identified the following common themes:

- Recognizing common characteristics of inmates who are vulnerable to sexual abuse,
- Understanding common differences between male and female facilities,
- Understanding the importance of professional language in establishing a safe environment,
- Recognizing the vulnerability of non-heterosexual inmates and their need for proper treatment,
- Strengthening the integrity of the entire complaint process,

- Providing effective victim services, and
- Equipping staff to respond effectively to inmate sexual victimization.

Based on the jail hearings, the Panel identified the following common themes:

- Acknowledging the importance of facility design,
- Appreciating the value of outside oversight,
- Noting the reluctance to prosecute sexual victimization cases involving inmates,
- Recognizing the resource challenges that jails face, and
- Employing well-trained, professional staff.

Topics for Further Study

Based on the prison hearings, the Panel identified the following topics for further study:

- Why are homosexuality and prior victimization significant indicators of inmate victims of sexual abuse?
- What are the distinctive needs of female facilities in preventing sexual victimization?

Based on the jail hearings, the Panel identified the following topics for further study:

- What are the specific challenges of big-city and rural jails in preventing inmate sexual victimization?
- What are the best practices in classifying and housing lesbian, gay, bisexual, transgender, and queer (LGBTQ) inmates?
- What would encourage the prosecution of crimes involving inmate sexual victimization?

- What are the policies and practices that contribute to a jail culture that has zero tolerance for sexual victimization?
- What are the best practices for monitoring compliance with a jail's zero-tolerance policy for sexual victimization?
- What are the best practices for reliably reporting sexual abuse in jails?

Reception of the Report

On April 9, 2012, the Southern Poverty Law Center of New Orleans, Louisiana, submitted a copy the *Panel Report* as an exhibit in its class-action lawsuit, filed in the U.S. District Court for the Eastern District of Louisiana, against the OPSO concerning the conditions of confinement at the OPP. Plaintiffs' Notice of Supplemental Filing in Support of Class Action, *Jones v. Gusman*, No. 2:12-cv-00959-LMA-SS (E.E. La. Apr. 9, 2012), ECF No. 6.

On April 10, 2012, the OPSO closed the House of Detention, one of the units of OPP that was a topic of the Panel's September 2011 hearings.

Panel representatives held a workshop, titled a Discussion Hosted by Review Panel on Prison Rape: PREA Compliance—Status Update and Resource Challenges Facing the Field, at the American Correction Association's 142nd Congress of Correction in Denver, Colorado, on July 24, 2012. In the workshop, Panel members highlighted the findings from their hearings in 2011, commented on the issuance of the Justice Department's regulations to prevent sexual victimization in correctional facilities (National Standards to Prevent, Detect, and Respond to Prison Rape, 77 Fed. Reg. 37,106 (June 20, 2012) (to be codified at 28 C.F.R. pt. 115)), provided a forum to discuss the resource constraints facing the field in implementing PREA standards, and collected information on beneficial PREA-related resources.

In October 2012, *The New York Review of Books* published *Prison Rape: Obama's Program to Stop It* by David Kaiser, chairperson of the board of directors of Just Detention International (JDI), and Lovisa Stannow, executive director of JDI. David Kaiser & Lovisa Stannow, *Prison Rape: Obama's Program to Stop It*, N.Y. Rev. Bks., Oct. 11, 2012, available at <http://www.nybooks.com/articles/archives/2012/oct/11/>. The article cited extensively the *Panel Report*, acknowledging that the Panel "has thrown light into some very dark places." *Id.* Mr. Kaiser and Ms. Stannow noted that the Panel "gave particular emphasis to the 'significance of institutional culture in creating environments that either prevent or permit sexual victimization.'" *Id.* (citing the *Panel Report*).