

**Report To The United States Congress
Activities of the Review Panel on Prison Rape in Calendar Year 2007**

In accordance with the Prison Rape Elimination Act of 2003 (PREA), Public Law 108-79, 117 Stat. 972 (codified as amended at 42 U.S.C. §§ 15601-15609 (2006)), the Attorney General, in consultation with the Secretary of the Department of Health and Human Services, appointed the members of the Review Panel on Prison Rape (Panel) on March 29, 2006. Members of the Panel in calendar year 2007 were Director Carroll Ann Ellis, Victim Services Division, Fairfax County, Virginia, Police Department; Director Steven T. McFarland, Task Force for Faith-Based and Community Initiatives, U.S. Department of Justice; and Sheriff Ted Sexton, Tuscaloosa County, Alabama, Sheriff's Office.

According to PREA, the duty of the Panel is to hold annual public hearings, based on statistics gathered by the Bureau of Justice Statistics (BJS), concerning the operation of the three prisons with the highest incidence of prison rape and the two prisons with the lowest incidence of prison rape 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 aid in the identification of common characteristics of victims and perpetrators of prison rape, as well as prisons and prison systems that have the highest and the lowest incidence of prison rape. *Id.* Under PREA, each year, prior to June 30, the Attorney General is to submit a report to Congress and the Secretary of Health and Human Services on the activities of the Panel in the preceding calendar year. *Id.* § 15603(c)(1).

The BJS report entitled *Sexual Victimization in State and Federal Prisons Reported by Inmates, 2007*, was published in December of 2007.¹ The BJS report, however, did not provide an exact ranking of the prevalence of sexual assault for the facilities in its statistical survey as required by PREA because BJS' estimates were based on a sample of inmates, and, consequently, its findings were subject to sampling error. BJS was able to statistically identify a

¹A copy of the BJS report is enclosed and is available at <http://www.ojp.usdoj.gov/bjs/pub/pdf/svsfpri07.pdf>.

group of ten facilities with the highest reported rates of sexual victimization in addition to six facilities in which no incidents of sexual victimization were reported by inmates. The BJS report also included appendix tables which set forth in detail the tabulated results of the survey by facility and state. In light of the inability of BJS to provide a rank order of federal and state facilities based on the incidence of sexual assault, the Panel relied on the data in the appendix tables to select the facilities it planned to review at its hearings in 2008.

The Panel initially identified the following two prisons among the federal and state prisons in the United States with the lowest incidence of prison rape to invite to a public hearing: (1) Ironwood State Prison, California Department of Corrections and Rehabilitation (CDCR); and (2) Big Spring Correctional Institution, Federal Bureau of Prisons (BOP). The Panel chose Ironwood State Prison because it was one of three state facilities among the six that the BJS survey identified with no reported incidents of sexual assault (*id.* Table 1). A factor supporting the Panel's choice of Ironwood State Prison was that it was part of the CDCR, the nation's largest state prison system. The Panel chose the Big Spring Correctional Institution because the BJS survey identified it as the only women's facility among the prisons with the lowest incidence of prison rape. Later, the Panel decided to substitute the Schuylkill Federal Correctional Institution for Big Spring Correctional Institution at BOP for the following reasons: (1) the BJS survey incorrectly identified the Big Spring institution as a female facility, whereas it is a male facility; and (2) Big Spring is privately owned, and therefore its procedures might not be fully representative of conditions and policy within the BOP.

The BJS report showed that five out of the ten state and federal prisons in the United States with the highest incidence of sexual assault were part of the Texas Department of Criminal Justice (TDCJ); the five units were the Estelle Unit, the Clements Unit, the Allred Unit, the Mountain View Unit, and the Coffield Unit. *Id.* In light of this result, the Panel planned to hold a separate hearing in Texas to focus on the issues at the TDCJ, especially the Estelle Unit, which had the highest reported incidence of sexual victimization in the country (*id.*), including the third worst record with inmates being victims of sexual assault involving physical force (*id.* Table 4)

and the third worst record with inmates having the highest number of incidents of nonconsensual sexual acts per 1,000 inmates. *Id.* Table 5.

The Panel also identified the following state and federal prisons with the highest incidence of prison rape: (1) Charlotte Correctional Institution, Florida Department of Corrections; (2) Rockville Correctional Facility, Indiana Department of Correction; and (3) Tecumseh State Correctional Institution, Nebraska Department of Correctional Services.

The Panel chose the Charlotte Correctional Institution because it had the highest prevalence of the most serious types of sexual victimization by prison staff (physically-forced, pressured, or assault resulting in physical injury) (*id.* Table 4); it had the worst record for the prevalence of staff sexual misconduct (*id.* Table 2); and the second worst record for incidents of nonconsensual sexual acts per 1,000 inmates. *Id.* Table 5.

The Panel chose the Rockville Correctional Facility because it had the highest prevalence of sexual victimization among female facilities (*id.* Table 1) and for inmate-on-inmate sexual assault resulting in injury (*id.* Table 4), the second worst record for inmate-on-inmate sexual assault involving physical force, and the second worst record for inmate-on-inmate sexual assault involving pressure. *Id.*

Despite the Tecumseh State Correctional Institution's ranking as the facility with the highest number of incidents of nonconsensual sexual acts per 1,000 inmates (*id.* Table 5), the Panel was initially reluctant to identify this facility as one of the prisons with the highest incidence of prison rape because of the relatively low response rate. *Id.* Table 1. However, the Panel was wary of establishing a precedent that made low response rates determinative because that could provide an incentive for facilities to discourage inmate participation in future PREA-related BJS surveys and avoid Panel scrutiny. As a result, the Panel chose to include Tecumseh State Correctional Institution among those facilities with the highest incidence of prison rape that would be the subject of a hearing.

In sum, the Panel held hearings on eight of the ten adult prisons named by BJS as having the highest prevalence of sexual victimization in the country. The Panel conducted hearings in connection with these identified federal and state prisons and prison systems in calendar year 2008. Pursuant to PREA, in the report to Congress and the Secretary of Health and Human Services due June 30, 2009, the Panel will submit findings based on the calendar year 2008 hearings.