

**Report To The United States Congress
Activities of the Review Panel on Prison Rape in Calendar Year 2008**

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 at the end of calendar year 2008 were Gwendolyn Chunn, retired Executive Director of the Juvenile Justice Institute, Center for Criminal Justice Research and International Initiatives, Department of Criminal Justice at North Carolina Central University; Director Carroll Ann Ellis, Victim Services Division, Fairfax County, Virginia, Police Department; and Steven T. McFarland, then-Director of the Task Force for Faith-Based and Community Initiatives, U.S. Department of Justice.¹

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 the BJS in the identification of common characteristics of victims and perpetrators of rape in these correctional facilities, as well as of those facilities and systems that have the highest and the lowest incidence of 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).

¹ As of January 2009, Mr. McFarland is Vice President and Chief Legal Officer, World Vision.

Evaluation of Selected State and Federal Prisons and Prison Systems

In 2008, the Panel conducted hearings in response to the BJS report entitled *Sexual Victimization in State and Federal Prisons Reported by Inmates, 2007*, which was published in December of 2007.² The BJS report did not provide an exact ranking of the prevalence of sexual assault for the facilities in its statistical survey as required by PREA because the BJS' estimates were based on a sample of inmates from 146 state and federal prisons, and, consequently, its findings were subject to sampling error. The BJS statistically identified a group of ten facilities among those surveyed with the highest reported rates of sexual victimization in addition to six facilities in which inmates reported no incidents of sexual victimization. The BJS report also included tables in the body of the survey and in the appendix which set forth in detail the results of the survey by facility and state. In light of the inability of the 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 reviewed at its hearings.

Among the federal and state prisons that the BJS found with the lowest prevalence of sexual abuse, the Panel identified the following two prisons to invite to a hearing: (1) Ironwood State Prison (Ironwood), California Department of Corrections and Rehabilitation (CDCR), and (2) Schuylkill Federal Correctional Institution (Schuylkill), Federal Bureau of Prisons (BOP). The Panel chose Ironwood 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) and because it was part of the CDCR, the nation's largest state prison system. The Panel identified Schuylkill because it was part of the federal prison system and had a relatively high response rate to the inmate survey. *Id.*

² A copy of the BJS report is available at <http://www.ojp.usdoj.gov/bjs/pub/pdf/svsfpri07.pdf>.

The BJS report showed that five out of the ten state and federal prisons surveyed by the BJS with the highest prevalence of sexual assault were part of the Texas Department of Criminal Justice (TDCJ): the Estelle Unit, the Clements Unit, the Allred Unit, the Mountain View Unit, and the Coffield Unit. *Id.* The Estelle Unit had the highest reported prevalence of sexual victimization in the country (*id.*), including the third worst record with inmate-on-inmate (IOI) sexual assault involving physical force (*id.* Table 4) and the fourth worst record with inmates having the highest number of nonconsensual sexual acts per 1,000 inmates. *Id.* Table 5. Given these reported data, the Panel held separate hearings in Texas to focus on the issues at the TDCJ.

The Panel also identified the following state prisons with the highest prevalence of sexual abuse among those surveyed: (1) Charlotte Correctional Institution (Charlotte), Florida Department of Corrections (FDOC); (2) Rockville Correctional Facility (Rockville), Indiana Department of Correction (IDOC); and (3) Tecumseh State Correctional Institution (Tecumseh), Nebraska Department of Correctional Services (NDCS).

The Panel chose Charlotte because it had the fourth highest prevalence of sexual victimization (*id.* Table 3), the third 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 Rockville because it had the highest prevalence of sexual victimization among female facilities (*id.* Table 1) and for IOI sexual assault resulting in injury (*id.* Table 4), the second worst record for IOI sexual assault involving physical force, and the second worst record for IOI sexual assault involving pressure. *Id.*

The Panel selected Tecumseh because of its ranking as the facility with the highest number of incidents of nonconsensual sexual acts per 1,000 inmates. *Id.* Table 5.

The Panel held hearings on March 11, 2008, regarding two of the federal and state prisons among those surveyed with the lowest incidence of prison rape (Ironwood, CDCR, and Schuylkill, BOP). The Panel held hearings on March 12, 13, and 14, 2008, regarding three of the state prisons in the United States with the highest incidence of prison rape (Charlotte, FDOC; Rockville, IDOC; and Tecumseh, NDCS). The Panel also held hearings on March 27, March 28, and April 30, 2008, regarding the TDCJ and its Estelle, Clements, Allred, Mountain View, and Coffield Units.

On September 24, 2008, the Panel released its *Report on Rape in Federal and State Prisons in the U.S.*, which was based on the Panel's hearings and its review of the documentary evidence produced by the participating prisons and prison systems.³

Evaluation of Selected Local Jails

In 2008, the Panel also conducted hearings in response to the BJS report entitled *Sexual Victimization in Local Jails Reported by Inmates, 2007*, which was published in June of 2008.⁴ The BJS report did not provide an exact ranking of the prevalence of sexual assault for the facilities in its statistical survey as required by PREA because the BJS' estimates were based on a sample of inmates from 282 jail facilities rather than a complete enumeration and, consequently, its findings were subject to sampling error. On this basis, the BJS statistically identified a group of eighteen surveyed facilities with the highest reported rates of sexual victimization as well as eighteen facilities in which inmates reported no incidents of sexual victimization. The BJS report also included tables in the body of the survey and in the appendix which set forth in detail the results of the survey by facility and state. In light of the inability of

³ A copy of the Panel's prisons report is available at http://www.ojp.usdoj.gov/reviewpanel/pdfs/prea_finalreport_080924.pdf.

⁴ A copy of the BJS report is available at <http://www.ojp.gov/bjs/pub/pdf/svljri07.pdf>.

the BJS to provide an exact ranking of jail facilities based on the incidence of sexual assault, the Panel relied on the data in the BJS' tables to select the facilities it invited to testify at its hearings in the fall of 2008.

Among the facilities surveyed by the BJS with the lowest prevalence of sexual abuse, the Panel invited the following three jails to testify at a hearing: (1) Northwest Ohio Regional Correctional Center (Northwest Ohio), (2) Culpeper County (VA) Jail (Culpeper), and (3) Hampden County Western Massachusetts Correctional Alcohol Center (Hampden). The Panel chose Northwest Ohio because it had no reported incidents of sexual abuse and would provide a contrast with the Southeastern Ohio Regional Jail (Southeastern Ohio), which was an Ohio jail that had one of the highest prevalence rates of sexual abuse and that would also be participating in the hearings. The Panel identified Culpeper because it, like Northwest Ohio, had no reported incidents but, unlike Northwest Ohio, was a much smaller facility (and thus representative of many of the nation's jails) with about the same response rate. The Panel chose Hampden because it also had no reported incidents and would allow the Panel to examine a specialized jail facility.

The Panel invited to a hearing the following jails with the highest prevalence of sexual abuse among those surveyed: (1) Tarrant County (TX) Detention Facility (Tarrant), (2) Bernalillo County (NM) Metropolitan Detention Center (Bernalillo), (3) Brevard County (FL) Detention Center (Brevard), and (4) Southeastern Ohio.

The Panel chose Tarrant because it had the highest rate of inmate sexual victimization among the 282 jails surveyed (*id.* Table 2), the highest rate of nonconsensual sexual acts or abusive sexual contacts (*id.* Table 4), and the highest rate of staff-on-inmate (SOI) sexual victimization. *Id.* Appendix Table 4. In addition, Tarrant is a privately-run facility owned by

Corrections Corporation of America. The Panel wanted an opportunity to learn more about the risk of sexual victimization in private facilities as compared to public jails.

The Panel chose Bernalillo because it had the third highest rate of inmate sexual victimization (*id.* Table 2), the third highest rate of nonconsensual sexual acts (*id.* Table 4), and the third highest rate of SOI sexual victimization. *Id.* Appendix Table 4.

The Panel chose Brevard because it had the fourth highest rate of inmate sexual victimization (*id.* Table 2), the second highest rate of nonconsensual sexual acts (*id.* Table 4), and the highest rate of IOI sexual victimization. *Id.* Appendix Table 4.

The Panel chose Southeastern Ohio because it had the fifth highest rate of inmate sexual victimization (*id.* Table 2), the third highest rate of nonconsensual sexual acts or abusive sexual contacts (*id.* Table 4), and the second highest rate of SOI sexual victimization. *Id.* Appendix Table 4.

The Panel held hearings on Brevard on August 27, 2008; on Northwest Ohio on September 10, 2008; on Southeastern Ohio on September 11, 2008; on Hampden on September 24, 2008; on Torrance on September 30 and October 31, 2008; on Bernalillo on October 1, 2008; and on Culpeper on November 14, 2008.

On December 29, 2008, the Panel released its *Report on Rape in Jails in the U.S.*, which was based on the Panel's hearings and its review of the documentary evidence produced by the participating jails.⁵

⁵ A copy of the Panel's prisons report is available at http://www.ojp.usdoj.gov/reviewpanel/pdfs/prea_finalreport_080924.pdf.