

The Prison Rape Elimination Act of 2003:

Summary of Focus Group Discussion Points

Prepared by the
Center for Effective Public Policy

for the
U.S. Department of Justice
Office of Justice Programs, Bureau of Justice Assistance

March 25, 2004

Table of Contents

Synopsis.....2

Summary of Discussions:

- Sexual Victimization within Correctional Settings 4
- Key Challenges Regarding the Management of Sexual Victimization within Correctional Settings 6
- Ideal Strategies for the Management of Sexual Victimization within Correctional Settings 9

Synopsis

Subsequent to the enactment of the Prison Rape Elimination Act of 2003, a focus group comprised of researchers, correctional and jail administrators, mental health professionals, and other substantive experts in the area of prison rape was convened to provide guidance to the U.S. Department of Justice, Office of Justice Programs, Bureau of Justice Assistance on the development of a grant solicitation to address the investigation, prosecution, provision of services to inmates who are the victims of inmate on inmate prison rape, and the prevention of prison rape. The focus group was convened on March 22, 2004. Discussions resulted in a set of key recommendations for the elimination of prison rape. These recommendations relate to three broad areas and are summarized below. To effectively prevent, manage, and provide services to those who are victims of prison rape, jurisdictions should:

Investigation and Prosecution

- Establish consistent and specialized protocols to guide the investigation and intervention process;
- Implement internal policies and procedures to promote accountability of inmates who perpetrate sexual violence within the correctional system;
- Develop community partnerships (e.g., law enforcement, courts, victim advocacy, medical) to assure swift and effective investigation and prosecution of these cases; and
- Provide specialized training for prosecution, the courts and the public at large regarding the unique nature and impact of sexual victimization within correctional settings to assure justice in the disposition of these cases.

Services to Victims

- Provide immediate crisis intervention following victim disclosure or identification;
- Assure safety planning and safekeeping of victims of prison sexual assault;
- Deliver timely, thorough, and sensitive interventions consistent with community standards of care;
- Afford specialized mental health services to manage both the acute and ongoing needs of victims; and
- Offer advocacy and supportive services to victims of prison rape throughout the investigative and court processes.

Prevention

- Utilize technologies and other state-of-the-art equipment to enhance monitoring (e.g., eliminate blind spots) and reduce the opportunity for victimizations;
- Implement classification systems that effectively identify potential aggressors and vulnerable inmates;
- Expand the use of specialized housing or placement options for vulnerable inmates;
- Provide inmate education to inform prisoners of the institution's philosophy regarding prison rape, methods to reduce the likelihood of victimization, steps to

take in the event such incidents occur and affirm the institution's commitment to aggressively take action against perpetrators; and

- Conduct specialized pre-service and in-service training programs for correctional staff.

Focus group participants agreed that the following are critical to the establishment or enhancement of efforts to eliminate prison rape:

- Understanding of the unique problem of sexual violence within correctional institutions;
- Formulation of a strategic and deliberate strategy that is responsive to the specific needs of the particular setting or jurisdiction;
- Commitment at all levels of the organization to prevent sexual violence within a particular setting or jurisdiction;
- Establishment of community partnerships to enhance responses to sexual victimization within the correctional setting;
- Collection and analysis of qualitative and quantitative data to evaluate the outcome of prison rape elimination efforts;
- Development of innovative replicable models relative to investigative and prosecutorial practices, services to victims, and/or prevention efforts;
- Establishment or enhancement of existing programs or strategies that are likely to effectuate sustainable and measurable system change; and
- Development of tailored efforts to address the unique needs of special populations (e.g., juveniles, women, developmentally disabled).

Summary of Discussion: Sexual Victimization within Correctional Settings

- There is a dearth of professional literature regarding sexual victimization within correctional settings; the limited findings have revealed the following:^{*}
 - As many as 22 percent of male respondents reported having been the target of forced or coercive sexual threats or acts while incarcerated.
 - Victimization did not appear to be a single event that is subject to misinterpretation. Victims reported experiencing an average of 9 incidents, with an average of 3 perpetrators committing each “incident.” Multiple force/pressure tactics were reported.
 - Disclosure of victimization to prison staff or officials is relatively uncommon; approximately half of the targets did not disclose to anyone, and those who did tended to confide in individuals who were not correctional employees.
 - Targets of sexual victimization within the correctional setting reported serious short and long-term consequences.
 - Staff estimates of the incidence and prevalence of sexual victimization within the correctional system are strikingly similar to estimates of inmates, and are consistent with the actual findings.
 - When female inmates were the focus of the empirical investigations, the reported sexual victimization rates ranged from 6 to 27%.
 - Juveniles in correctional facilities may be at increased risk for victimization.
- Under-reporting has a significant impact on the accuracy of incidence and prevalence data; existing statistics are likely underestimates.
- Definitions of sexual victimization vary within the research designs, which have implications on findings (i.e, broad definitions result in increased reporting rates, while more narrow definitions limit the scope of inquiry and associated rates).
- Differences in the research methodologies and findings (e.g., face-to-face interviews versus anonymous surveys; variations in sample sizes; limited access to correctional institutions; sample selection biases; response rates) may impact the results and make generalizability difficult.

^{*} These data synthesize findings from several local and national studies.

- Additional empirical examinations of sexual victimization within correctional institutions – to include jails, facilities for women, and juvenile justice settings – is warranted.

**Summary of Discussion:
Key Challenges Regarding the Management of
Sexual Victimization within Correctional Settings**

- *Underreporting:* Targets of prison rape or other sexual victimization may be reluctant to disclose victimization to correctional officials, thus limiting the ability to investigate fully or prosecute such cases. Furthermore, a limited understanding of the scope and nature of the problem leads to difficulty in designing effective and responsive prevention efforts.
- *Organizational structure, culture and correctional climate:* An administrative attitude that fails to recognize the serious impact of sexual victimization within the correctional setting will neither promote an environment nor provide sufficient resources that will be conducive to primary, secondary, or tertiary prevention efforts. In some settings, correctional staff may condone, ignore, and even facilitate aggression between inmates.
- *Lack of specialized training:* Many settings and jurisdictions lack specialized training for investigators, or medical, mental health, and other correctional staff involved in the management of these cases. The absence of specialized training can negatively impact responses in the following ways:
 - Failure to preserve the crime scene -- contamination or sanitation often occurs prior to investigation;
 - Limited oversight and quality control over investigation processes;
 - Insufficient or inappropriate interviewing strategies and forensic medical evidence collection/analysis, particularly with respect to male victims;
 - Inadequate crisis responses when victims disclose;
 - Myths and misperceptions about the existence and nature of sexual behavior and victimization within correctional settings influences perceptions and responses to reports or disclosures; and
 - An inability to provide effective mental health interventions to victims.
- *Response time:* Delays in responding to reports of prison rape have dire consequences on the subsequent investigation and prosecution of these cases, as well as the expeditious delivery of services to victims. Delays may occur between:
 - Assault and disclosure;
 - Disclosure and medical examination;
 - Disclosure and formal investigation by law enforcement;
 - Incident and completion of investigative report/process;
 - Investigative report and referral for prosecution;
 - Referral for prosecution and court proceedings; and
 - Disclosure and access to acute or ongoing mental health services.
- *Type of victim:* The veracity of the legal process can be further complicated by the type of individual who is victimized. “Ideal” targets for victimization may:

- Not wish to pursue prosecution for fear of retaliation;
 - Be poor witnesses; and
 - Lack credibility among those charged with protecting their interests.
- *Climate of complacency:* Individuals, organizations, and agencies within the community may fail to prioritize, or lack sensitivity to, cases of sexual victimization that occur within correctional settings. These issues can be reflected in the following ways:
 - Law enforcement resistance to swift and aggressive investigation of these cases;
 - Reluctance of prosecutors to file charges or expedite the processing of prison rape cases; and
 - Juror unwillingness to view inmate on inmate rape as a serious act of significant consequence.
 - *Absence of coordination and partnerships:* In some instances, coordination is lacking among correctional officials and those community-based officials responsible for managing these cases (law enforcement entities, medical authorities, and prosecutors) resulting in problematic transfer of cases, disruptions in the chain of custody of evidence, duplication of services, or neglect.
 - *Limited housing options for vulnerable or victimized populations:* In some instances, the reassignment of victims following disclosure of victimization may result in significant delays with respect to the transfer of personal property, access to personal funds, and approved visitor and phone contacts. Further, protective custody status may have punitive results in that inmates have very limited ability to leave cells and may not have access to the full range of services afforded to other inmates. Further, assignment to protective custody may “mark” inmates as sexual assault victims.
 - *Facility design:* Physical plant and equipment issues may be associated with increased rates of victimization in some settings due to line of sight limitations:
 - “Blind spots” in housing units, community and work areas;
 - Absence of cameras and other surveillance equipment;
 - Linear unit/wing designs;
 - Barracks housing; and
 - Solid cell doors.
 - *Classification:* A lack of appropriate inmate classification may lead to insufficient information regarding those more or less likely to victimize or be victimized. Limitations around the availability of space to appropriately house those vulnerable to victimization or more likely to be aggressors compounds this problem.
 - *Staffing concerns:* The presence of educated, sympathetic and proactive institutional staff offers great potential in reducing the incidence of prison rape. The

following limitations may hamper jurisdictions' ability to effectively address this problem:

- Insufficient staffing patterns;
 - Training needs;
 - Limited ability of officers to maintain a strong, visual presence (e.g., lack of "rovers" to facilitate observation); and
 - Closed supervision housing units (e.g., control centers that limit communication and interaction).
- *Inmate/institutional culture*: The inmate culture is often based on power, control, bullying and "might." Changing this culture is enormously difficult.

**Summary of Discussion:
Ideal Strategies for the Management of Sexual Victimization
within Correctional Settings**

The following strategies emerged to form a framework for an ideal approach to preventing prison rape; investigating and prosecuting incidents of prison rape when they do occur; and providing needed services to the victims of sexual assault.

Investigation and Prosecution

- Strategies that facilitate, rather than suppress, reporting by victims (e.g., inmate access to a telephone “hotline” to the responsible investigating entity such as the Inspector General; a visible, credible and responsive grievance system);
- Policies and practices that ensure that every report is taken seriously and followed appropriately, including administrative review of all critical incidents;
- Utilization of comprehensive and consistent investigative protocols (e.g., interviewing, forensic medical exams/SANE programs, rape kits, and DNA collection) by specially trained investigators analogous to community investigation;
- An investigative entity that has autonomy, authority, and credibility, ideally one that is independent from the day-to-day management of offenders;
- Specialized personnel to review – and provide quality oversight for – investigations at an administrative level;
- Cooperative agreements and partnerships between correctional agencies and community agencies (e.g., law enforcement, hospitals and clinics, rape crisis centers, victim advocates, mental health centers) to facilitate the comprehensive and timely investigation of these cases and the provision of appropriate victim services;
- Close communication, coordination, and collaboration between investigators and prosecutors;
- Open lines of communication between institutional staff and inmates’ families, welcoming information that may reveal abuses that have not been reported;
- Internal responses (e.g., disciplinary hearings, administrative or disciplinary segregation) to manage cases that either fail to meet the threshold for pursuing prosecution or are otherwise not filed or pursued;
- Appropriate and effective methods to gather and preserve evidence (supplies, equipment, knowledge);
- Separation of alleged perpetrators and victims to prevent retaliation or further victimization;
- Trained prosecutors who understand the dynamics and impact of sexual victimization in prison and are expected to pursue these cases as they would cases of sexual assault that occur in the community; and
- Educated members of the public who can serve as fair and compassionate jurors.

Victim Services

- Thorough and victim-sensitive medical examinations and treatment of physical injuries following the assault, including the assessment and treatment of sexually transmitted and other communicable diseases;
- Mental health services in the form of crisis intervention immediately following the disclosure of sexual victimization, and ongoing mental health services to address the short-term and long-term emotional and psychological impact (e.g., rape trauma syndrome, Post-Traumatic Stress Disorder);
- Advocacy and supportive services to assist victims from the point of disclosure through potential court proceedings;
- Standardized protocols for crisis response;
- Timely access to healthcare and mental health services;
- Staff training regarding the provision of effective and empirically supported services for victims of sexual assault;
- Expansion of the role of victim services personnel within correctional agencies;
- Assignment to safekeeping/protective custody, if necessary;
- Interventions for offenders who have severe mental illnesses;
- Expedited transfer of inmate property and other information (e.g., records) when victims are moved for safekeeping purposes;
- Partnerships with victim advocacy groups and treatment services in the community so that they can serve as resources for inmate victims upon release (e.g., the faith-based community can provide and coordinate support to inmates both behind and outside the wall, and may be perceived as a more neutral, objective, and interested party);
- Specialized training for all staff to understand the unique dynamics of victimization and appropriate and sensitive responses to victims;
- Involvement of families in the provision of services to victims; and
- Medical/mental health and advocacy services for victims in prisons that mirror the resources and services available to victims in the community.

Prevention

- Collection of incidence data and examination of trends to determine targets for change;
- Crime mapping within institutional settings to identify increased risk areas;
- Increased staff and supervision in maximum security facilities, where these incidents are more prone to occur;
- Focus on the special needs of vulnerable populations;
- Forwarding notice of all sexual assault reports to key members of the institution's leadership;
- Requirements that administrators report criminal acts to local prosecutors;
- Demonstration of a no tolerance philosophy by key administrators, and aggressive responses to all reported cases;

- An institutional culture that promotes open communication between inmates and staff members;
- Ensuring cultural and other diversity among correctional staff;
- Dedicated personnel who are specifically assigned to address issues of sexual and other violence within the institution;
- Classification systems that identify inmates who may be more likely to victimize or be victimized (and the use of tools like the Institutional Character Profile which aids in the collection of information about institutional climate);
- Direct supervision housing units that provide for the ongoing presence of officers within housing units, rather than the management of offenders from a secure control center, promoting “natural” opportunities for communication and intelligence gathering;
- Communication with inmates and correctional staff regarding awareness and prevention, such as annual written notices to inmates about sexual assault (affirming that sexual assault should be no inmates’ institutional experience), Public Service Announcements (PSAs), and video communications from directors to correctional staff emphasizing the expectation of a safe custodial environment;
- The requirement for the participation of correctional staff in pre-service and in-service training programs designed to raise knowledge and awareness about the potential of sexual violence in institutions, promote a zero tolerance expectation, improve institutional culture, and educate staff about the impact of inmate on inmate violence;
- The establishment of “safekeeping” housing units where particularly vulnerable populations can be housed without fear of victimization or labeling; and
- Explicit inmate orientation programs that include clear definitions of what sexual assault is and how to report it.

Efforts to eliminate prison rape are most likely to be successful if the following additional elements form the basis of the strategies noted above:

Partnerships

The complex nature of sexual victimization in correctional settings requires the development of responses that are likely to be enhanced by partnerships across disciplines, both within the institutional setting and with community entities. Applicants should be expected to demonstrate the commitment to establish or maintain collaborative partnerships to address sexual victimization in correctional settings. For adult correctional systems, such partnerships should include – but are not limited to – the following:

- Custody staff;
- Medical professionals;
- Mental health professionals;
- Substance abuse treatment providers;
- Faith-based organizations;
- Family services/counseling personnel;

- Victim services (community based and criminal justice system);
- Specialized non-profits that have expertise responding to (particularly) male violence;
- Investigators (i.e., inspectors general, local law enforcement, state police);
- Prosecutors; and
- Courts.

When juveniles are the focus of population to be served, in addition to those entities listed above, additional partnerships should include the following:

- Child protective services and child welfare agencies;
- Parents and families;
- Schools; and
- Mentoring organizations.

Critical Relevance: Three broad categories (i.e., investigation and prosecution, victim services, prevention) have been identified as essential components of a comprehensive strategy to address sexual victimization within correctional settings. Priority efforts might include:

- Specialized staff training initiatives that are designed to increase awareness, heighten sensitivity, enhance investigation and prosecution, facilitate the delivery of specialized services to victims, or establish prevention programming relative to sexual victimization within correctional settings;
- Specialized protocol, policy, and procedural development to guide effective interventions and responses relative to sexual victimization within correctional settings;
- Acquisition of equipment (e.g., specialized medical testing/evidence collection kits, cameras that eliminate blind spots, replacement of doors that do not allow for visibility into cells) that will effectively diminish sexual victimization within correctional settings; and
- Dedicated personnel for the exclusive purpose of enhancing the ability of correctional systems to investigate and prosecute sexual assault cases, provide medical and mental health services to victims, and/or prevent victimization within correctional settings.