

**The Prison Rape Elimination
Act of 2003 and
Law Enforcement Agencies:
What Every Law Enforcement
Manager and Supervisor
Need to Know
[draft]**

Objectives

- Educate law enforcement managers and supervisors about PREA and its impact on operations.
- Provide recommendations to assure arrestee and detainee safety from sexual violence
- Provide recommendations to prevent and address staff sexual misconduct with arrestees and detainees
- Outline responsibilities in responding to allegations
- Overview prevention strategies
- Identify resources

Logistics and Introductions

Module One

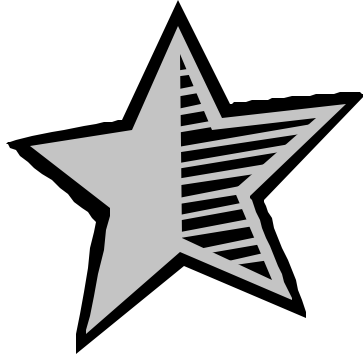
PREA Overview

Quiz!

What Do You Know?

Overview of the 2003 Prison Rape Elimination Act (PREA)

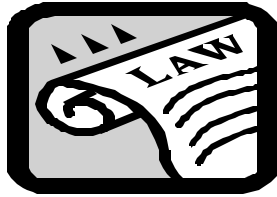
These materials were developed by The Moss Group, Inc. under cooperative agreement #03P21G1Y4 awarded by the National Institute of Corrections.



Highlights of the Act

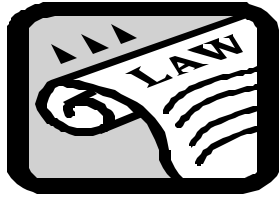
- Supports the elimination, reduction and prevention of sexual assault within the corrections system
- Mandates several national data collection activities
- Provides funding for program development and additional research

Creates a national commission to develop standards and accountability measures



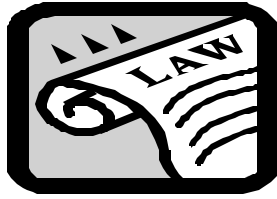
The Law

- Public Law 108–79 signed by President Bush on September 4, 2003
- Applies to all federal and state prisons, jails, police lock-ups, private facilities and community correctional settings such as residential facilities (includes adult and juvenile agencies)
- “Safe communities” has implications for probation, parole and other types of non-residential supervision
- Authorization is \$60 million annually. Appropriations for 2004 at \$40 million – no guarantee that funding will continue at full level (2004 through 2010)



Current Activities Under the Law

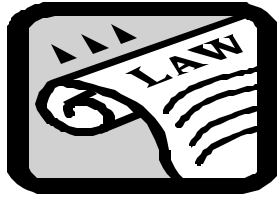
- BJS to collect prison rape statistics
- NIJ to provide grants for research
- NIC to offer training, technical assistance, and clearinghouse functions
- AG's Office authorized to provide grants to corrections to prevent, investigate, and punish (BJA); and create review panel
- National Prison Rape Elimination Commission appointed



The Law

Sec. 2 Findings

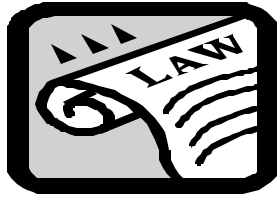
- The PREA law describes a variety of research findings and data, such as:
 - In 1999, there were over 10,000,000 admissions to and discharges from prisons and jails in US
 - Estimates of sexual assault rates and total number of assaulted inmates vary widely
- Discusses the impact of rape and prison sexual assault on:
 - Public safety
 - Public health
 - Institutional violence



The Law

Sec. 3 Purposes

1. Establish a zero-tolerance standard for the incidence of rape in correctional facilities in the United States.
2. Make the prevention a top priority in each correctional system.
3. Develop and implement national standards for the *detection, prevention, reduction, and punishment* of rape in correctional facilities.
4. Increase available data and information on the incidence of rape facilities.



The Law

Sec. 3 Purposes

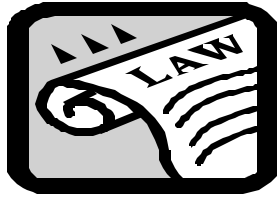
5. Standardize the definitions used for collecting data on the incidence Increase the accountability of prison officials who fail act to *detect, prevent, reduce, and punish* arrestee sexual assault
6. Protect the Eighth Amendment rights of federal, state, and local prisoners.



The Law

Sec. 3 Purposes

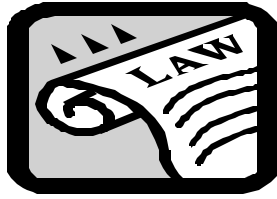
8. Increase the efficiency and effectiveness of federal expenditures *through grant programs* such as health care; mental health care; disease prevention; crime prevention, investigation, and prosecution; prison construction, maintenance, and operation; race relations; poverty; unemployment; and homelessness.
9. Reduce the costs imposed on interstate commerce.



The Law Sec. 4a

Statistics, Data, Research

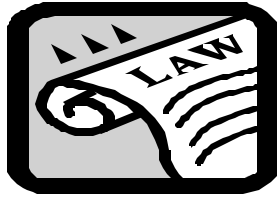
- Bureau of Justice Statistics (BJS)
"shall carry out...a comprehensive statistical review and analysis of the incidence and effects of prison rape."
- Includes national inmate survey and administrative data collection.
- Data collection from lock-ups – administrative record reviews



The Law

Sec. 6 Grants

- Grants are available to help states implement the PREA law.
- Grants provide funds for:
 - Personnel
 - Training
 - Technical assistance
 - Data collection
 - Equipment to prevent and prosecute prisoner rape

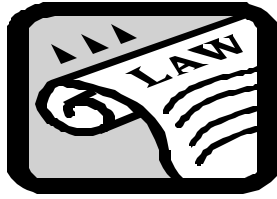


The Law

Sec. 7 Commission

National Prison Rape Elimination Commission

- Nine-member commission appointed by the President and Congress
- After two years, Commission reports to AG:
 - Findings and conclusions
 - Recommendations for national standards to reduce prison rape

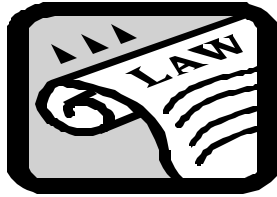


The Law

Sec. 7 Commission

Additionally, the National Prison Rape Elimination Commission will:

- Consult with accrediting organizations in developing its recommendations.
- Conduct public hearings whenever deemed necessary or appropriate.
- Collect any information from federal or state agencies deemed necessary to carry out duties.



The Law

Sec. 8 National Standards

One year after receiving the Commission report, the Attorney General shall publish a final rule adopting national standards for the detection, prevention, reduction, and punishment of prison rape.



The Law Sec. 9

Requirement to Adopt Standards

- An organization responsible for the accreditation of federal, state, local, or private prisons, jails, or other penal facilities *may not receive any new federal grants* during any period in which such organization *fails* to meet any of these requirements

What Does the Law Say About the Costs if We Don't Implement PREA?

- Higher levels of violence in facilities
- Health care expenditures, inside and outside of corrections systems
- Reduces the effectiveness of disease prevention programs by increasing the spread of HIV, AIDS, tuberculosis, hepatitis B and C, and other diseases
- Increases mental health care expenditures, inside and outside of corrections systems
- Increases the rate of post-traumatic stress disorder, depression, suicide, and exacerbates existing mental illnesses among current and former inmates/arrestees

What Does the Law Say About the Costs if We Don't Implement PREA?

- Liability – lawsuits from arrestees who have been sexually assaulted
- Public relations risk – bad press creates ill will in the community and the organization
- Risks of recidivism, civil strife, and violent crime by arrestees/inmates who have been victimized

What Does the Law Say about the Benefits of Implementing PREA?

- Reduced liability exposure to litigation
- Reduced costs in administration, medical, and mental health
- Safer environment for arrestees and staff
- Protects *public health* from sexually transmitted diseases arrestees may contract
- Protects *public safety* by releasing arrestees into the community who have not been sexually assaulted

Measuring Sexual Violence

Nonconsensual sexual acts

- Contact of any person without his or her consent, or of a person who is unable to consent or refuse; and
- Contact between the penis and the vagina or the penis and the anus including penetration, however slight; or
- Contact between the mouth and the penis, vagina, or anus; or
- Penetration of the anal or genital opening of another person by a hand, finger, or other object.

Measuring Sexual Violence

Abusive sexual contacts

- Contact of any person without his or her consent, or of a person who is unable to consent or refuse; and
- Intentional touching, either directly or through the clothing, of the genitalia, anus, groin, breast, inner thigh, or buttocks of any person.
- Excluding incidents in which the intent of the sexual contact is to harm or debilitate rather than sexually exploit.

Measuring Sexual Violence

Staff sexual misconduct

- Any behavior or act of a sexual nature directed toward an inmate by an employee, volunteer, official visitor, or agency representative. Romantic relationships
- between staff and inmates are included. Consensual or nonconsensual sexual acts include:
 - Intentional touching of the genitalia, anus, groin, breast, inner thigh, or buttocks with the intent to abuse, arouse, or gratify sexual desire; or
- Completed, attempted, threatened, or requested sexual acts; or
- Occurrences of indecent exposure, invasion of privacy, or staff voyeurism for sexual gratification.

Measuring Sexual Violence

Staff sexual harassment

- Repeated verbal statements or comments of a sexual nature to an inmate by an employee, volunteer, official visitor, or agency representative, including:
 - Demeaning references to gender or derogatory comments about body or clothing;
or
 - Profane or obscene language or gestures.

Development of Standards

- Now underway
 - Law enforcement professional membership organizations involved
- Draft due in Federal Register 2008
- Approve by NPREC in 2008
- Forward to AG

Why Now for Law Enforcement?

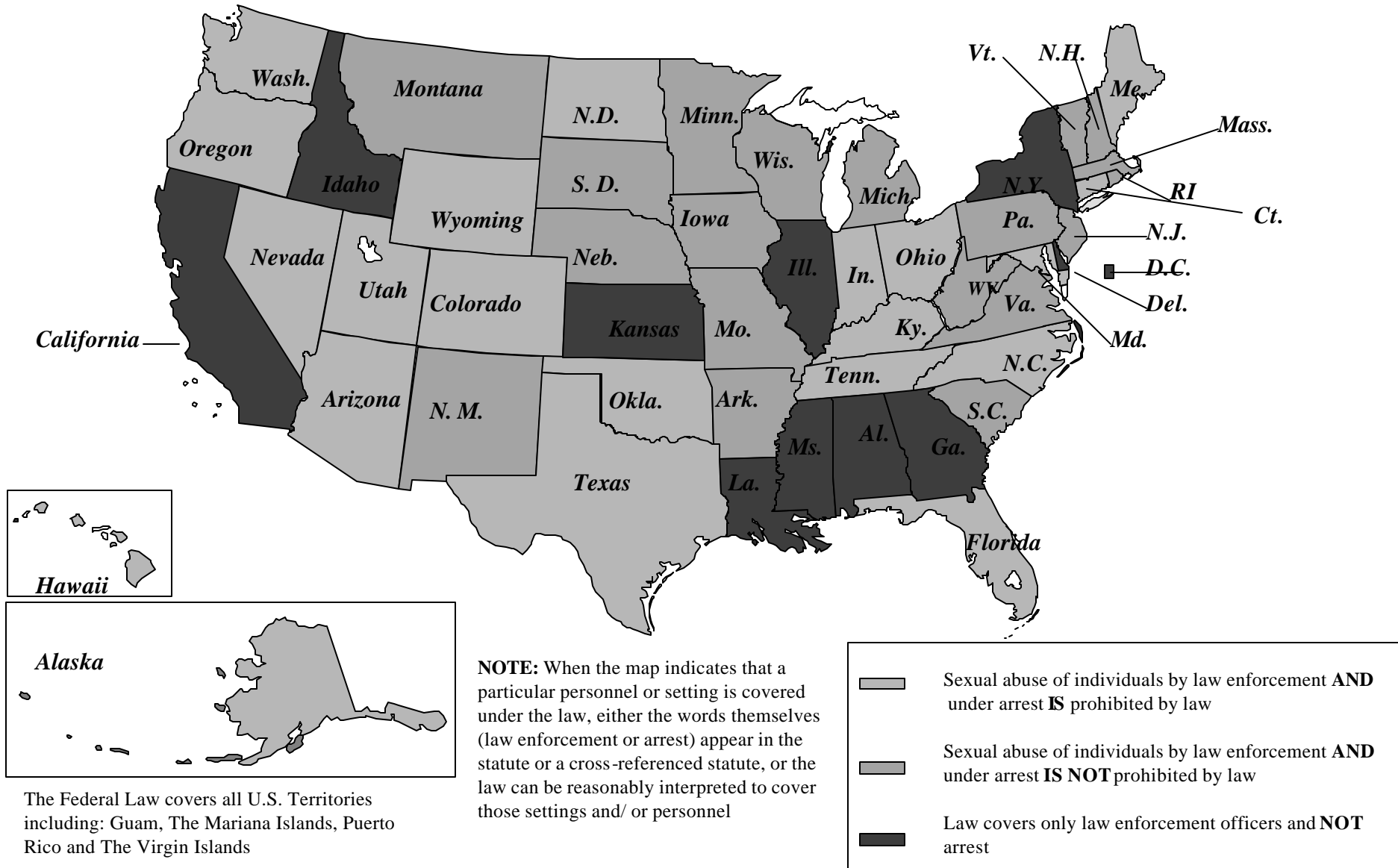
- Why is PREA relative unknown in law enforcement circles?
- Emphasis on institutional corrections
- Title of law
- Confusion in the field
- Lack of data about lock-ups
 - 2003, BJS 12,666 local police departments in the United States 26% (N=3,293 agencies) indicated that they operated a lock-up.

Legal Issues

State Criminal Laws Prohibiting the Sexual Abuse of Individuals by Law Enforcement

Smith Consulting – January 2007

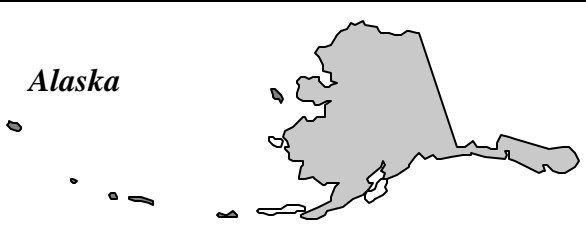
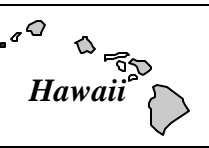
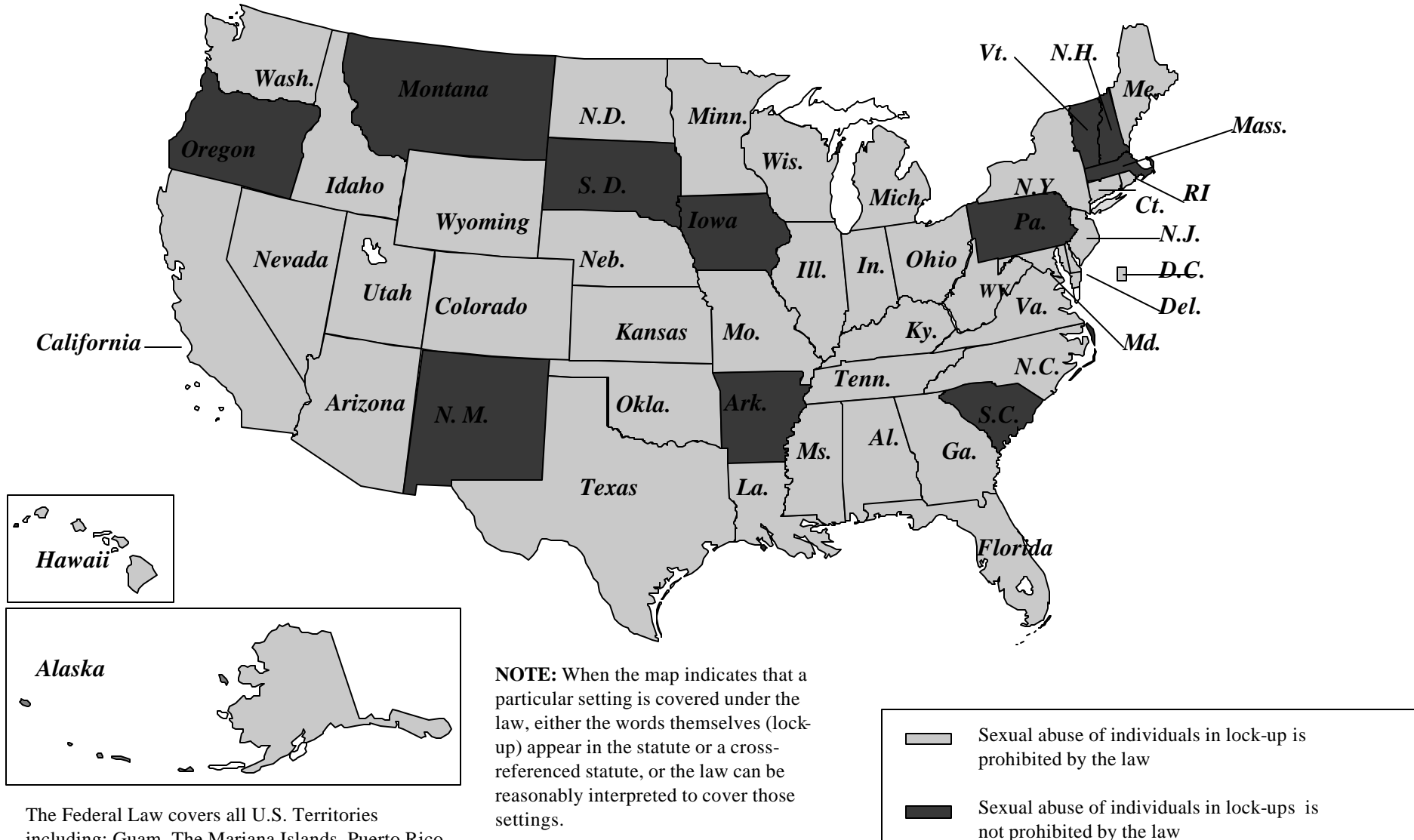
Source: The NIC/WCL Project on Addressing Prison Rape 50 State Survey of State Criminal Laws Prohibiting the Sexual Abuse of Individuals in Custody (Current as of January 2007)



State Criminal Laws Prohibiting the Sexual Abuse of Individuals in Lock-Ups

Smith Consulting – January 2007

Source: The NIC/WCL Project on Addressing Prison Rape 50 State Survey of State Criminal Laws Prohibiting the Sexual Abuse of Individuals in Custody (Current as of January 2007)



The Federal Law covers all U.S. Territories including: Guam, The Mariana Islands, Puerto Rico and The Virgin Islands

NOTE: When the map indicates that a particular setting is covered under the law, either the words themselves (lock-up) appear in the statute or a cross-referenced statute, or the law can be reasonably interpreted to cover those settings.

State Criminal Laws Prohibiting the Sexual Abuse of Individuals in Jails

Smith Consulting – January 2007

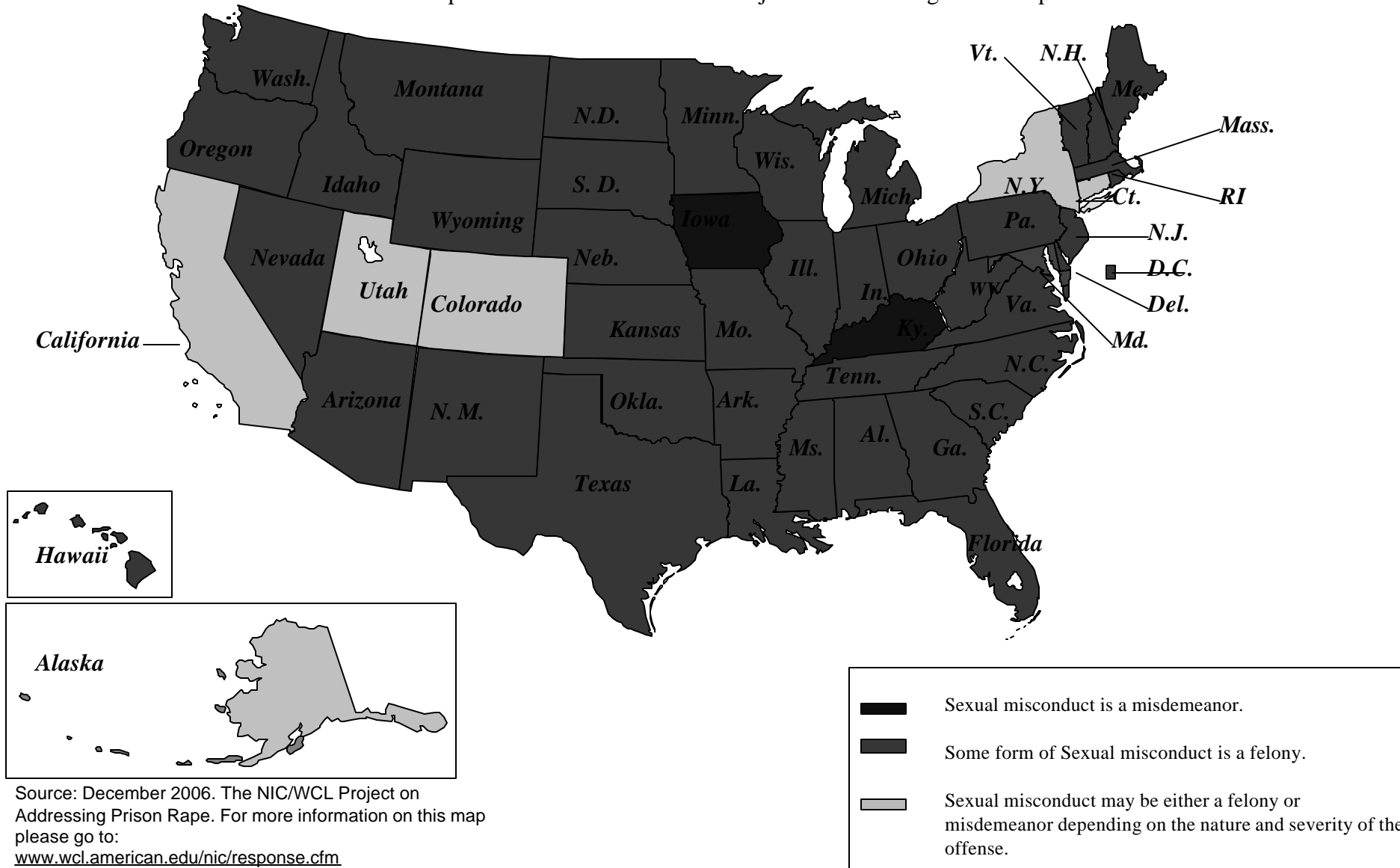
Source: The NIC/WCL Project on Addressing Prison Rape 50 State Survey of State Criminal Laws Prohibiting the Sexual Abuse of Individuals in Custody (Current as of January 2007)



State Criminal Laws Prohibiting Sexual Abuse of Individuals in Custody: Penalties

National Institute of Corrections/American University, Washington College of Law – December 2006

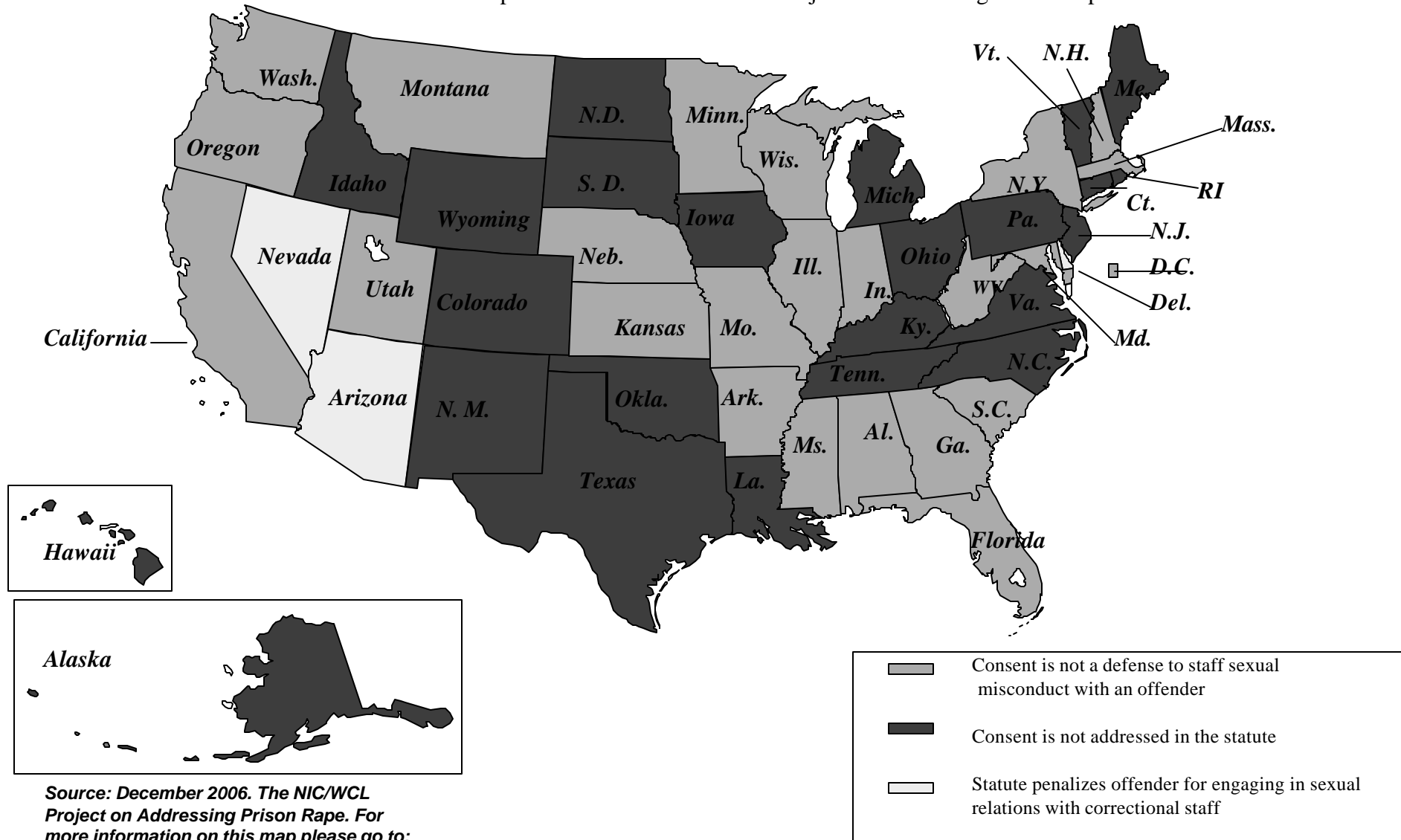
~ Used with permission of the NIC/WCL Project on Addressing Prison Rape



State Criminal Laws Prohibiting Sexual Abuse of Individuals Under Correctional Supervision: Consent as a Defense

National Institute of Corrections/American University, Washington College of Law – December 2006

~ Used with permission of the NIC/WCL Project on Addressing Prison Rape



Source: December 2006. The NIC/WCL Project on Addressing Prison Rape. For more information on this map please go to: www.wcl.american.edu/nic/response.cfm

Vectors of Liability

- PREA*
- Agency Policy
- State statutes prohibiting the abuse of persons in custody*
- Laws enacted to Implement PREA*
- Other State Laws
- Prison Litigation Reform Act*
- Constitutional Law*
- Human Resources Law*

Sexual Misconduct Laws

- All 50 states, the federal government and DC have laws specifically covering the sexual abuse of persons in custody
- 32 states cover law enforcement officers
- 21 states cover arrests
- 39 states cover police lockups
- 49 states cover jails

Anatomy of a State Sexual Misconduct Law: Law Enforcement

Tenn. Code Ann. § 39-16-408 (2006)



Covers Law
Enforcement

It is an offense for a **law enforcement officer**, correctional employee, vendor or volunteer to engage in sexual contact or sexual penetration, as such terms are defined in §39-13-501, with a prisoner or inmate who is in custody at a penal institution as defined in §39-16-601, whether such conduct occurs on or off the grounds of such institution.

For a more detailed view of this visual please see the Law Diagram handout

Anatomy of a State Sexual Misconduct Law: Arrest

Me. Rev. Stat. Ann. tit. 17-A, § 755 (2005).



Covers Arrest

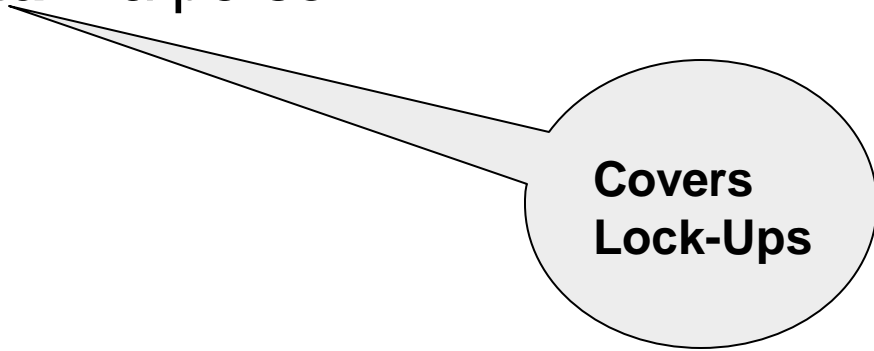
3. As used in this section, "official custody" means **arrest**, custody in, or on the way to or from a courthouse or a jail, police station, house of correction, or any institution or facility under the control of the Department of Corrections, or under contract with the department for the housing of persons sentenced to imprisonment, the custody of any official of the department, the custody of any institution in another jurisdiction pursuant to a sentence imposed under the authority of section 1253, subsection 1-A or any custody pursuant to court order. A person on a parole or probation status is not, for that reason alone, in "official custody" for purposes of this section.

Anatomy of a State Sexual Misconduct Law: Lock Up Facilities

Tenn. Code Ann. § 39-16-601(2) (2005)

“Custody” means under arrest by a law enforcement officer or under restraint by a public servant pursuant to an order of a court;

(4): “Penal institution” ... Includes any institution or facility used to house or **detain** a person



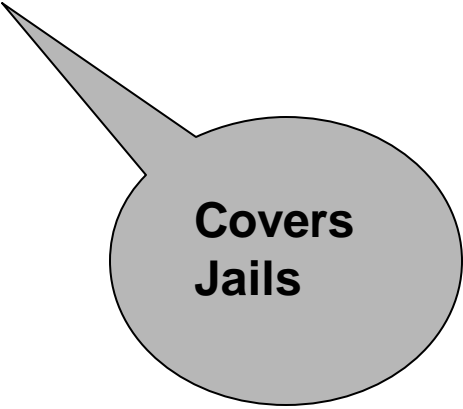
**Covers
Lock-Ups**

For a more detailed view of this visual please see the Law Diagram handout

Anatomy of a State Sexual Misconduct Law: Jails

Or. Rev. Stat. § 30.642(2) (2006).

"*Correctional facility*" means a Department of Corrections institution or a **jail**.



Covers
Jails

For a more detailed view of this visual please see the Law Diagram handout

Other State Criminal Laws

- Sexual Assault
- Statutory Rape
- Sodomy
- Sex Offender Registration
 - Juveniles
 - Adults
- Vulnerable Adult Statutes
- Licensing
- Malfeasance in Office/Official Misconduct
- Obstruction of Justice
- Making False Statements to a government official
- Mandatory Reporting
- Notification

Civil Liability -- Constitutional Claims

- Most common legal bases for challenges
 - 42 U.S.C. 1983
 - Eighth Amendment
 - Fourth Amendment
 - Fourteenth Amendment
 - State tort claims

42 U.S. C. 1983

- Creates a federal cause of action for the vindication of rights found elsewhere
- Key elements
 - Deprived of a right secured by the constitution or law of U.S.
 - Deprivation by a person acting under color of state law

Eighth Amendment

- Prohibits cruel and unusual punishment
- Legal standard is deliberate indifference
 - Established in a prison rape case Farmer v. Brennan, 511 U.S. 825 (1994)
 - Two part test
 - the injury must be objectively serious and must have caused an objectively serious injury
 - the official must have a sufficiently culpable state of mind and have acted with deliberate indifference or reckless disregard for the inmate's constitutional rights

What the court looks for

- Deliberate indifference to inmate vulnerability -- safety or health
 - Official knew of and disregarded an excessive risk to inmate safety or health
 - Official must be aware of facts from which an inference could be drawn that a substantial risk of harm exists and he must draw the inference

Fourth Amendment -- Bell v. Wolfish, 441 U.S. 520 (1979)

- Did the individual have a legitimate expectation of privacy?
 - The scope of the intrusion
 - The manner in which it was conducted
 - The justification for the intrusion
 - The place in which it is conducted

Fourteenth Amendment : Substantive Due Process

- Was the individual deprived of a life, liberty or property without due process of law?
- Lower legal standard than 8th Amendment
- Depending on situation – 14th Amendment may apply – juveniles and pre-trial detainees in particular

State Tort Law Claims

- Assault
- Battery
- Intentional infliction of emotional distress
- Negligent infliction of emotional distress
- Negligent hiring, firing, supervision, training

Liability

- Municipal
- Official
- Individual
- Personal

Qualified Immunity

- No violation of federal law -- constitutional or otherwise
- Rights and law not clearly established at the time of the incident
- Official's action was objectively legally reasonable in light of clearly established legal rules at time of the incident

Consent

Is there consent?

Arrestee/arrestee sexual activity?

Employee/arrestee sexual activity?

Lessons Learned

- Examine patterns of misconduct in organization
- Same employee/officer accused many times
- Off duty conduct which reflects on work performance
- Ineffective investigative procedures
- Must lead, manage and discipline

Conclusions

- Law enforcement officials can be held liable in their official, individual and personal capacities for sexual violence against arrestees by either staff or other offenders

Conclusions

- Municipalities can be held liable for sexual violence against arrestees if the violence is a result of a policy or custom of the county or if it follows official policy set by the Chief of Police/Sheriff

Conclusions

- Failure to address sexual violence and misconduct has criminal, administrative and civil consequences for cities, counties, chiefs of police, sheriff, and law enforcement personnel.

Burning Issues



Module One - Summary

- This module has addressed:
- What is PREA
- Why now an issue for law enforcement
- Legal issues
- Burning issues (if used)

Module Two

Assuring Arrestee and Detainee Safety

Myths About this Issue

- Arrestees/detainees “consent” to be involved in inappropriate/illegal activities with other detainees or employees;
- Arrestee/arrestee violence is not known to happen here;
- There is no problem, maybe somewhere else but not here;
- Only “bad apples” get involved in misconduct.

Dynamics of Sexual Assault, Abuse in an Arrest/Detention Setting

Women Arrestees:

- 40% of women arrestees reported they were under the influence of drugs or alcohol when crimes committed (compared to 32% for men)
- Over 50% of women in jail have drug abuse histories;
- If involved in sex work;
 - Previous victimizations (at home, in foster care, in juvenile system)
 - Use of body for gain/problem solving
- Have children (single parents)
- Have negative interactions with “authority figures”
- Have higher prevalence of mental illness including PTSD

Consent Myth –

There is no such thing as consensual sex between
arrestee/detainee and employee

- Power differential and inherently coercive arrest/detention environment
- Participate in sexual misconduct as a coping mechanism
- Combat feelings of emptiness, loneliness, loss, desperation, helplessness, powerlessness
- “A means to an end”
- “By any means necessary”
- “Going along to get along”
- Avoid retaliation
- No real choice or consent

Why do employees get sexually involved with arrestees?

- Lack of supervision
- Culture of corruption
- No consequences for misconduct
- Already friends; know each other from the community
- Opportunity
- Community standards
- Lack of professional boundaries
 - Staff/staff misconduct

Vulnerable Populations

- Mentally disabled
 - Want to please
 - Relationship with authority figures
- Physically disabled
- Persons with mental illness
 - Type of illness
 - Treated/untreated
 - Dangerousness
 - Alternatives to arrest
- Those with different sexual preferences:
 - Homosexual, gay, lesbian
 - Transgender, inter-sex
 - Transvestites
- Physical statutes:
 - Small, vulnerable
 - Large, aggressive
 - Victim profile
 - Predator profile

Consider

What do you know arrestees do to try to avoid arrest and/or detention?

- What is the response of officers?
- How can arrestees prey on other arrestees?
- As noted in the legal section, these issues are real. It may or may not be a matter of “a few bad apples.”

Is there a systemic issue?

- Lack policies
- Lack procedures
- Lack training
- Lack supervision of employees
- Lack of supervision of detainees
- Lack modeling the expected behavior
- Lack investigation
- Lack corrective action
- Lack prosecutions

Reporting Dynamics

- “We have never had any reports of unwanted sexual activity in our court or lock-up holding areas.”
- True? Maybe true?
- How do you know?

The dynamics of reporting allegations from arrestees:

- Shame, humiliation
- Want to get the event into history
- Too much TV and movies
- Ability to report?
- History of abuse makes this reality for them

The dynamics of reporting allegations from employee perspective:

- Code of silence
 - None of “my” business, too personal, they are in “love”, no right to interfere in personal life
- Don’t know it is a problem
- Too much TV and movies
- How to report? What to report? When? What if supervisor’s involved?
- No action previously by administration so why risk reporting?

Do You Know What You Need to Know?

- What are barriers to reporting by arrestees and employees?
- How can the barriers be addressed?

So, why is this important in the context of PREA?

- This information helps explain the dynamics of why sexual violence and sexual misconduct occur – and also clearly identifies the volatile atmosphere that can pervade a lock-up.
- Keeping arrestees/detainees safe in this volatile and complex environment is a mandate for law enforcement

Red Flags

Conclusions

- Characteristics of Arrestees
- Why employees get involved with arrestees/detainees
- Link to PREA – Why is this information important?
- And looked at red flags

Module Three

What's Next? Assuring Arrestee
and Detainee Safety

Assuring Safety of Arrestees and Employees

- Policies and procedures
- Arrestee risk assessment
- Physical plant and materiel assessment
- Training
- Data Reporting

Policies and Procedures

- Clear Definitions
 - Prohibited behaviors
 - Concept that an arrestee can be a victim
- Mandatory Reporting
 - Protection against retaliation
- Investigative policies and procedures
 - Demystifying the investigative process
- Cross gender supervision
- Searches
- Arrestee privacy
- Key control
- Arrestee Clothing

Policies and Procedures – In Depth

- Administrative, Management and Operations
 - Organizational Placement
 - Chain-of-command
 - Staffing
 - Training
 - Auditing
- Forms

- Zero Tolerance
 - Definitions
 - What are prohibited behaviors?
 - What behaviors constitute staff misconduct and harassment?
 - What are reporting requirements for employees?
 - What are reporting avenues for arrestees/detainees
 - Commitment to investigate to exonerate
 - Commitment to improve operations
 - Fraternalization rules, reporting

- Operational Issues
 - Booking Procedures
 - Screening
 - Assignment in holding area
 - Medical interventions
 - Searches
 - Suicide Prevention
 - Supervision of arrestees
 - Security/wellness checks, cell searches (CALEA 72.4.6)
 - When officers can enter cells (CALEA 72.4.2)
 - Cross-sex supervision
 - Managing potentially vulnerable victims
 - Managing potentially aggressive predators

– Meals

- Preparation/Dated
- Storage
- Safety/Inspection
- Three meals a day (CALEA 72.7.1) within 24 hour period

– Bedding

- Laundry
- Sanitation

- Arrestee Hygiene
 - Working toilets
 - Working sinks
 - Toilet paper
 - Ability to shower
 - Alternative clothing
 - Feminine hygiene supplies
 - Hygiene kits (toothpaste, soap)
 - Access to showers
 - Hygiene kits
 - Clothing issue?
 - Feminine hygiene
 - “Suicide” gowns

- ADA/Accessibility
- Fire Safety (compliance with local codes)
 - Approved plan
 - Drills/documentation
 - Storage of combustible materials
 - Air pacs, extinguishes
 - Fire Marshall's inspection

– Emergency Procedures

- Fire
- Suicide
- Medical
- Assaults (sexual and other)
 - First responder
 - Evidence collection, preservation, chain of custody
- Disturbance
- Natural disaster
- Mass arrest
- Escape
- Staff injury/assault
- Emergency keys

- Fire Drills
- Fire inspections
- Approval of fire plan
- Maintenance/Janitorial
 - Fixing problems
 - Sanitation/cleaning
 - Cleaning chemical control
 - Blood borne pathogens/OSHA requirement for clean up

- Assess to counsel
 - Supervision
- Separation of women, males, juveniles, those at risk
- 24/7 staffing
- Visual observation/wellness checks every 30 minutes (CLAEA 72.2.8)
 - Logging
- Detainee privacy
- Searches, opposite sex
 - Emergency
 - Pat searches, strip searches, body cavity searches

- Release to investigators for interview
- Transferring information
- How arrestees ask for help or report allegations of misconduct
- Meth lab decontamination
- Meth Labs
 - No clothes from lab
 - Arrestee decontaminated before arrival
 - No storage of arrestee property
- Assess to telephones
- Access of non-essential person (CALEA 72.1.2)
- Record management/confidentiality (CALEA 72.1.3)
- Key control (CALEA 72.4.3)

- Use of restraints
- Weekly inspections/documentation
- Memoranda of Agreement
 - Sexual Assault Treatment Center
 - Investigating authority
 - Mental health resources (NAMI, MHA)
 - Hospital
 - Prosecutors

- Pharmaceutical distribution
- Give to arrestee upon release
- Transfer with custody
- Refused/forgotten prescriptions

Investigative Policies

- The source of the authority to conduct investigations
- How investigations are assigned and categorized;
- Who conducts investigations;
- Timelines and report formats for investigations;
- The process to extend the deadline for completing investigations when circumstances require it – this should also include supervisory review and approval;
- Permissible and prohibited investigative actions, i.e., polygraphs, DNA, etc.;
- Notifications to staff if they are the subject of investigations;

More investigative policy . .

- Garrity and Miranda considerations;
- Administrative vs. criminal investigations;
- Sanctions for staff involvement
- Mandatory reporting
- Protections against retaliation for those reporting (arrestees/employees)
- Personnel response – what to do with staff, how to assist the victim

Investigative Issues

- Do you know how staff and arrestees/detainees report allegations of misconduct or alleged criminal activities?
- Is there a standard form or format?
- Is there a single method for reporting?
- How can reports of allegations be “de-railed”?
- Do you know who receives those reports?
- Do you know who makes the decisions about who to assign the investigation?
- Do you know how investigations are classified and categorized?

Arrestee Risk Assessment

- Health
- Mental Health
- Vulnerability

Arresting Officer

- Did the arrestee exhibit any behaviors indicating mental health issues?
- Did the family, or bystanders, indicate the arrestee has any mental health issues?
- Does the arrestee appear physically injured?
- Is the arrest sober? Alcohol or legal or illegal drugs?
- Did the arrestee indicate any thoughts of self-harm or suicide?
- Did arrestee come from active meth lab?
 - Decontaminated before transport?

Mental Health

- Appears anxious
- Hallucinating
- Hearing voices
- Unfocused
- Acting out
 - Crying
 - Withdrawing
- Psychiatric history
 - Current treatment/immediate past treatment
- Developmentally disabled, appearance of low functioning

Suicide risk

- Nature of offense
- Shame/humiliation
- Sex offense involving minor
- Past attempts; evidence of past attempts
- First arrest
- Alcohol/drug involvement
- Voicing self-harm
- No family/friends in community

Medical Screening

- Appearance
 - Obvious pain/swelling
 - Injury (old or new)
 - Visible trauma, bruises, lacerations
 - Infection
 - Profuse sweating
 - Sutures, bandages, cast
 - Color
 - Pupils
 - Withdrawing from substance
- Pregnant/recent delivery/breast feeding
- Allergies
- Asthma
- Diabetes
- Seizures
- Epilepsy
- Cardiac health issues
- High blood pressure
- Recent surgery
- Current drug use
- Past drug use
- Current alcohol use
- Past alcohol use
- Did arrestee come from meth lab?
 - User?
 - Decontaminated?
- Movement impaired, wheelchair, crutches
 - ADA issues
- Current medications
 - With arrestee?
- Name of physician

Risk Assessment/Sexual Violence

- Indicates is homosexual [gay man, lesbian woman]
- Indicates is transsexual, inter-sex
- Physical stature indicates potential victimization
- Physical stature indicates potential predator
- Anger
- Fear
- Criminal charge (past and present)
- Disabled
- Young
- Old
- Developmentally disabled
- Mental Illness
- Previous sexual assault victim/perpetrator

Medical Attention

- On-site
- Hospital
 - Criteria for transport
- Allegations of sexual assault/misconduct
 - Transporting criteria
- Supervision at the hospital; secure area
- Medical information from hospital re: arrestee
 - Precautions
 - Drug interactions
- Prescriptions, how filled
- Medical authority approves procedures (CALEA 72.6.1)

Physical Plant Assessment

- Fire/Life Safety/Sanitation
- Sleeping provisions
- Suicide Hazards
- Meal Service
- Maintenance
- ADA Accessibility
- Secure pharmaceutical storage
- Communication ability with arrestees in the cell area

Training

- Assess current training.
- What topics are included in pre-service training?
- What topics are in in-service training?
- Are lesson plans up to day?
- Demonstration of proficiencies?
- Supervisory training
- Assessment of what topics need to be included
- How often to train?
- Who are you trainers?
- Challenges of instructing this subject?

You can only expect what you inspect

- BJS statistical reporting.
- Internal audit
- Value added

BJS Definitions

- substantiated, if they were determined to have occurred
- unsubstantiated, if the evidence was insufficient to make a final determination that they occurred
- unfounded, if they were determined not to have occurred
- investigation ongoing, if a final determination had not been made at time of data collection.

Conclusions

- Policies and procedures
- Arrestee risk assessment
- Physical plant and materiel assessment
- Training
- Data and reporting

Module 4

PREVENTION STRATEGIES AND
PROGRAM SUMMARY/CLOSE-OUT

Prevention Strategies

- Clear message from leadership
- Credibility of the reporting and investigative process
- De-mystifying the investigative process for employees
- Links to the community
- Commitment to safety of community and arrestees
- Legal strategies

Five Best Prevention Strategies

Other Prevention Strategies

- Administrative
- Operational
 - Risk Assessment
 - Physical Plant Assessment
- Training
- Investigation
- No retaliation
- Aftermath management
- Value added

Employee Buy-In

- Not a problem
- Believe arrestees???
- Not a priority
- Collective bargaining agreements
- Internal investigations
 - Belief in system
 - Fear of retaliation (Baron)
- Code of silence

Summary

- Prevention does not mean “elimination”.
- Be PRO-Active, rather than Reactive.
- Prevention strategies should be implemented as a systemic approach.
- Involve other stakeholders and the community; find ways to get help with difficult issues of medical, mental health screening, physical plant improvements;
- Training and investigative responses critical
- Exercise your leadership! Let your employees know your commitment to the issue.

Objectives

- Educate law enforcement managers and supervisors about PREA and its impact on operations.
- Provide recommendations to assure arrestee and detainee safety from sexual violence
- Provide recommendations to prevent and address staff sexual misconduct with arrestees and detainees
- Outline responsibilities in responding to allegations
- Overview prevention strategies
- Identify resources