

U. S. Department of Justice
Office of Justice Programs
Bureau of Justice Assistance

**The Prison Rape Elimination
Act of 2003 and
Law Enforcement Agencies:
What Every Law Enforcement
Executive Needs to Know**

**Course Manual and
Note-Taking Guide
[draft]
August 2007**

The Center for Innovative Public Policies, Inc.

This training program is supported by Grant No. 2006-RP-BX-K073 awarded by the Bureau of Justice Assistance. The Bureau of Justice Assistance is a component of the Office of Justice Programs, which also includes the Bureau of Justice Statistics, the National Institute of Justice, the Office of Juvenile Justice and Delinquency Prevention, and the Office for Victims of Crime. Points of view or opinions in this document are those of the author and do not represent the official position or policies of the U.S. Department of Justice.

The Center for Innovative Public Policies, Inc.
1880 Crestview Way, Naples, Florida 34119
(239) 597-5906
Fax (239) 597-6691
Email: cippinc@aol.com
Web: www.cipp.org



Table of Contents

	Page
Forward	4
Module One – The Prison Rape Elimination Act (PREA) – An Overview	6
Module Two – What Should Your Agency Be Doing About PREA? Assuring Arrestee and Detainee Safety	15
Resources	27
About the Authors	29

Forward

The Prison Rape Elimination Act of 2003 was passed unanimously by Congress, and signed by the President in 2003. PREA:

- Addresses the detection, elimination and prevention of sexual assault and rape in correctional systems, including lock-ups operated by law enforcement;
- Funds the development of national standards of compliance and accountability;
- Directs collection and dissemination of information on the incidence of arrestee-on-arrestee sexual violence as well as staff sexual misconduct with arrestees; and
- Awards grants and technical assistance to help agencies implement the Act.

For purposes of PREA, the term “prison” applies to all federal, state, and local prisons, jails, **police lock-ups, temporary holding cells**, private facilities, and community settings such as residential facilities. The term “inmate” applies to any person held in a custodial setting for any length of time by any of the facility types mentioned above.

HOW DOES PREA APPLY TO LAW ENFORCEMENT?

PREA addresses the safety of arrestees while in the custody of the agency - including arresting agencies - from sexual assault, sexual harassment, “consensual sex” with employees, and arrestee-arrestee sexual assault.

For the purposes of this training the term “prison” applies to all federal, state, and local prisons, jails, police lock-ups, temporary holding cells, private facilities, and community settings such as residential facilities. The term “inmate” applies to any person held in a custodial setting for any length of time by any of the facility types mentioned above.

PREA also directs agencies to maintain data regarding arrestee-arrestee sexual assaults, nonconsensual sexual acts, and staff sexual misconduct.

TRAINING PROGRAM OBJECTIVES

This introduction program for law enforcement executives is designed to achieve the following objectives:

1. To educate law enforcement executives about PREA and its relevance to law enforcement agencies who manage short term prisoner holding facilities and court holding.
2. Overview legal issues
3. Provide recommendations to both:
 - a. assure arrestee and detainee safety from sexual violence and
 - b. prevent and address staff sexual misconduct with arrestees and detainees
4. Highlight prevention activities
5. Identify resources

COURSE MANUAL AND NOTE TAKING GUIDE

This Course Manual and Note Taking Guide are provided to encourage participants to record information and actions as the program unfolds. Many of the Power Point Presentations used in the program are included in this Guide. All Power Points are available electronically by asking the facilitator.

WHAT OTHER ASSISTANCE AND SERVICES ARE OFFERED BY BJA?

BJA will provide no-cost assistance to state and regional law enforcement and sheriffs' associations, as well as individual sheriffs and chiefs of police, including:

1. Presentations/training to state or regional law enforcement or sheriffs' associations including an overview of PREA with specific policy and operational recommendations, as well as a review of legal issues for policy-makers.
2. On-site technical assistance to agencies and organizations that request more in-depth help to develop policies, procedures regarding PREA.
3. A Policy Development Guide to assist agencies as they update and revise their policies and procedures to effectively and efficiently address PREA-related initiatives (available in 2007).
4. Training curriculum that may be used by law enforcement agencies. Curriculum includes a two hour module to educate agency leadership and policy-makers about their role in assuring compliance with PREA; and a four hour module for employees and supervisors involved in day-to-day operations

To schedule a training program, at no cost to your organization, please contact CIPP by e-mail cippinc@aol.com, or telephone (239) 597-5906.

To request technical assistance, please contact:

U.S. Department of Justice, Office of Justice Programs, Bureau of Justice Assistance,
810 7th Street NW, Washington, D.C. 20531

Andrew Molloy, Sr. Policy Advisor
(202) 514-9909
Andrew.Molloy@usdoj.gov

Julius Dupree, Policy Advisor
(202) 514-1928
Dupree.Julius@usdoj.gov

Test Your Knowledge

An understanding of the issue of arrestee/arrestee sexual violence and staff sexual misconduct with arrestees involves all aspects of operations. Consider the following statements and assess whether you think they are “true” or “false”?



_____ 1. The Prison Rape Elimination Act of 2003 is applicable only to prisons, jails, and arrestee holding facilities that keep detainees for more than 24 hours.

_____ 2. Staff sexual misconduct with arrestees is an issue only affecting women arrestees.

_____ 3. Sexual violence can be prevented by keeping arrestees in single cells.

_____ 4. A male officer who fails to announce his presence when he enters an area when female arrestees are held to perform a security check is guilty of sexual misconduct.

_____ 5. Consent is a valid defense to claims of sexual misconduct.

_____ 6. An agency may impose standards on its staff that are higher than those contained in the state=s criminal statutes.

_____ 7. Sexual violence and sexual misconduct are criminal, not civil, issues.

_____ 8. Good policies that address sexual violence ensure no incidents in your organization.

_____ 9. PREA addresses staff sexual *harassment* of arrestees.

_____ 10. Data collected by the Bureau of Justice Statistics found that in 66% of staff incidents, correctional authorities determined that staff had a romantic relationship with the offender.

_____ 11. In local jails, the Bureau of Justice Statistics found that most victims of sexual misconduct are female and most perpetrators male.

_____ 12. A survey done for the National Prison Rape Elimination Commission found that more than 60% of law enforcement agencies knew about PREA.

_____ 13. It is sufficient to conduct an administrative investigation only into allegations of staff sexual misconduct with arrestees.

_____ 14. PREA provides that if organizations fail to comply with published standards, federal funding can be reduced 5% each year.

_____ 15. Courts have limited the ability of agencies to restrict off-duty relationships with individuals with criminal histories, and/or those on probation and parole.

Highlights of PREA

- 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

NOTES:

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)
- Bureau of Justice Statistics (BJS) to collect prison rape statistics
- National Institute of Justice (NIJ) to provide grants for research
- National Institute of Corrections (NIC) to offer training, technical assistance, and clearinghouse functions
- U. S. Attorney General'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 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

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.
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.
7. 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.

8. Reduce the costs imposed on interstate

Grants – Available through state DOC

National Prison Rape Elimination Commission (NPREC)

www.nprec.us

- 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
- 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.
- 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.

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
- 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

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.

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.

Staff sexual misconduct

- Any behavior or act of a sexual nature directed toward an arrestee/detainee by an employee, volunteer, official visitor, or agency representative. Romantic relationships between staff and arrestees/detainees 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.

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.

Standards Development

BJS Administrative Record Reviews

Why Now for Law Enforcement?

What other chiefs/sheriffs say:

1. Persons with mental illness and those who are homeless pose difficult arrest and detention situations also pose challenges as potential victims and/or potential predators. There is a need for diversion programs, screening, training of employees, links to mental health and homeless services.
2. Definitions of staff sexual misconduct with arrestees are vague.
3. Employees are fearful that if arrestees are given more information on how to report allegations of misconduct, that they, the employees, may be subject to false allegations.
4. Employee buy-in is crucial.
5. Lack of knowledge about PREA and lack of coordination/collaboration with the state's department of corrections who may have received funding under PREA.
6. Inexperienced staff are assigned to lock-ups.
7. Training for police/law enforcement officers doesn't often include information on the pathways of women and other vulnerable victims into the justice system.
8. Policies and procedures, along with risk assessment need updating, and in some cases, drafting.
9. Link CALEA and PREA.

10. Operating short-term holding facilities, lock-ups, are not the primary mission of law enforcement.
11. Funds are scarce for improving or implementing risk assessments for arrestees, providing medical/mental health/pharmaceuticals for arrestees, improving the physical plant, and upgrading training and supervision of employees who work in lock-ups.

Legal Issues

The Issue of Consent?

What about the issue of “consent”? Can arrestees “consent” to have sexual contact with an arresting officer, booking officer or lock-up personnel?

What is the agency’s explicit policy on the matter? Do employees’ need direction?

Need to Know:

- PREA = no new “cause of action”
- Focuses on existing duty to protect arrestees
- Need to involve prosecutors
- Arrestees cannot consent to sex with employees
- Lock-ups have duty to protect arrestees from other arrestees

Sources of Liability

- PREA
- Agency Policy
- State statutes prohibiting the abuse of persons in custody
- Laws enacted to Implement PREA (California)
- Other State Laws
- Constitutional 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

Other State Criminal Laws

- Sexual Assault
- Statutory Rape
- Sodomy
- Sex Offender Registration
 - Juveniles
 - Adults
- Vulnerable Adult Statutes
- Licensing
- Malfesance 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 or 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

Liability

- Municipal
- Official
- Individual
- Personal

Lessons Learned

- Examine patterns of misconduct at institution
- Same employee/officer accused many times
- Off duty conduct which reflects on work performance
- Compromised grievance procedures
- 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
- Knowledge and involvement of prosecutor important.

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

Module Two	What Should Your Agency Be Doing About PREA? Assuring Arrestee and Detainee Safety
-------------------	---

Issues:

- Effective, systemic, strategies
- Policies and procedures
 - Investigations
 - Compliance/Data
 - Training
- Arrestee risk assessments
- Physical plant assessments
- Stakeholders
- Next steps - prevention

Policies and Procedures

Issue	Notes
Administrative, Management and Operations <ul style="list-style-type: none"> ○ Organizational Placement ○ Chain-of-command ○ Staffing ○ Training ○ Auditing ○ Forms 	
Zero Tolerance <ul style="list-style-type: none"> ○ Definitions <ul style="list-style-type: none"> ○ 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 	
Use of Force <ul style="list-style-type: none"> ○ Restraints ○ Firearms ○ Chemical spray ○ Tasers 	

<ul style="list-style-type: none"> ○ Other non-lethal 	
<p>Booking Procedures</p> <ul style="list-style-type: none"> ○ Searches <ul style="list-style-type: none"> ○ Pat, full, strip, body cavity ○ Screening/Risk Assessment ○ Assignment in holding area ○ Medical interventions ○ Searches ○ Arrestee property <ul style="list-style-type: none"> ○ Medications ○ Record management/confidentiality (CALEA 72.1.3) 	
<p>Supervision of arrestees</p> <ul style="list-style-type: none"> ○ 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 ○ 24/7 ○ Visual ○ Logs ○ Detainee privacy ○ Access to holding area by non-essential person (CALEA 72.1.2) 	
<p>Meals</p> <ul style="list-style-type: none"> ○ Preparation/Dated ○ Storage ○ Safety/Inspection ○ Three meals a day (CALEA 72.7.1) within 24 hour period 	
<p>Bedding</p> <ul style="list-style-type: none"> ○ Laundry ○ Sanitation ○ Blankets ○ If held longer than 8 hours (CALEA 7.2.1) 	
<p>Arrestee Hygiene</p> <ul style="list-style-type: none"> ○ Working toilets ○ Working sinks ○ Toilet paper ○ Ability to shower ○ Alternative clothing 	

<ul style="list-style-type: none"> ○ Feminine hygiene supplies ○ Hygiene kits (toothpaste, soap) ○ Access to showers ○ Hygiene kits ○ Clothing issue? ○ Feminine hygiene ○ “Suicide” gowns ○ ADA/Accessibility 	
<p>Fire Safety (compliance with local codes)</p> <ul style="list-style-type: none"> ▪ Approved plan ▪ Drills/documentation ▪ Storage of combustible materials ▪ Air pacs, extinguishes ▪ Fire Marshall’s inspection 	
<p>Pharmaceutical distribution</p> <ul style="list-style-type: none"> ▪ Give to arrestee upon release ▪ Transfer with custody ▪ Refused/forgotten prescriptions ▪ Acquired from family 	
<p>Emergency Procedures</p> <ul style="list-style-type: none"> ○ Fire ○ Suicide Attempts ○ Medical ○ Assaults (sexual and other) <ul style="list-style-type: none"> ○ First responder ○ Evidence collection, preservation, chain of custody ○ Disturbance ○ Natural disaster ○ Mass arrest ○ Escape ○ Staff injury/assault ○ Emergency keys ○ Blood borne pathogens/OSHA requirement for clean up 	
<p>Maintenance/Janitorial</p> <ul style="list-style-type: none"> ○ Fixing problems ○ Sanitation/cleaning ○ Control of cleaning chemicals 	
<p>Access to counsel</p>	

Release to investigators for interview	
Transferring information to next organization	
Meth lab decontamination <ul style="list-style-type: none"> ○ No clothes from lab ○ Arrestee decontaminated before arrival ○ No storage of arrestee property 	
Access to telephones	
<ul style="list-style-type: none"> ○ Key control (CALEA 72.4.3) Transport <ul style="list-style-type: none"> ○ Same sex, procedures 	
Reporting by arrestees of misconduct/criminal activities <ul style="list-style-type: none"> ○ By community, family ○ When leave custody ○ When arrive in state custody 	
Court Holding <ul style="list-style-type: none"> ○ Separation ○ Communication in holding areas ○ Supervision ○ Reporting allegations ○ Responding to allegations 	
Memoranda of Agreement <ul style="list-style-type: none"> ○ Sexual Assault Treatment Center ○ Investigating authority ○ Mental health resources (NAMI, MHA) ○ Hospital ○ Prosecutors 	
Training <ul style="list-style-type: none"> ○ Medical, mental health, risk assessment ○ Medication management ○ Logging/documentation ○ Supervision ○ Inspection ○ Fire Safety ○ Emergency responses <ul style="list-style-type: none"> ○ Fire extinguishers ○ Air pacs 	

Investigations

- Mechanism for complaints/allegations to reach investigators
- Mandate that all employees report allegations of arrestee/arrestee sexual violence and staff sexual misconduct with arrestees
- Commitment to fully investigate all allegations
- Commitment to refer for prosecution sustained allegations
- A means to incorporate lessons learned from investigations into agency policy, supervisory training, pre-and-in-service training, to improve arrestee risk assessment and lock-up physical plant.
- Address employees' code of silence

BJJ Definitions/Investigations

- 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.

Compliance/Data Reporting

Training

Arrestee Risk Assessment

Issue	Notes
Arresting Officer: <ul style="list-style-type: none">• 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 arrestee sober? Alcohol or legal or	

<p>illegal drugs?</p> <ul style="list-style-type: none"> • Did the arrestee indicate any thoughts of self-harm or suicide? • Did arrestee come from active meth lab? <ul style="list-style-type: none"> ○ Decontaminated before transport? 	
<p>Arrestee Screening:</p> <ul style="list-style-type: none"> • Mental Health: <ul style="list-style-type: none"> ○ Appears anxious ○ Hallucinating ○ Hearing voices ○ Unfocused ○ Acting out <ul style="list-style-type: none"> ▪ Crying ▪ Withdrawing ▪ Other ○ Psychiatric history <ul style="list-style-type: none"> ▪ Current treatment/immediate past treatment ○ Developmentally disabled, appearance of low functioning 	
<p>Arrestee Screening:</p> <ul style="list-style-type: none"> • Suicide risk <ul style="list-style-type: none"> ○ 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 	
<p>Arrestee Screening:</p> <ul style="list-style-type: none"> • Medical Screening <ul style="list-style-type: none"> ○ Appearance <ul style="list-style-type: none"> ▪ Obvious pain/swelling ▪ Injury (old or new) ▪ Visible trauma, bruises, lacerations ▪ Infection ▪ Profuse sweating 	

<ul style="list-style-type: none"> ▪ 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? <ul style="list-style-type: none"> ▪ User? ▪ Decontaminated? ○ Movement impaired, wheelchair, crutches <ul style="list-style-type: none"> ▪ ADA issues ○ Current medications <ul style="list-style-type: none"> ▪ With arrestee? ● Risk Assessment/Sexual Violence <ul style="list-style-type: none"> ○ 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 	
--	--

<ul style="list-style-type: none"> ○ Previous sexual assault victim/perpetrator ● Name of physician Arrestee Screening: 	
<p>Risk Assessment/Sexual Violence</p> <ul style="list-style-type: none"> ● 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 	
<p>Hospital</p> <ul style="list-style-type: none"> ○ 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 	
<p>Medical authority approves procedures (CALEA 72.6.1)</p>	

Physical Plant Assessment

Issue	Notes
<p>Fire/Life Safety</p> <ul style="list-style-type: none"> ○ Fire extinguishers <ul style="list-style-type: none"> ○ Inspected, dated ○ Mounted ○ Appropriate type ○ Combustible materials <ul style="list-style-type: none"> ○ Removed (inside and in sally port) ○ Stored in allowable containers ○ No smoking ○ Fire egress <ul style="list-style-type: none"> ○ Cleared exits ○ Fire exits marked, diagrams, posted, painted ○ Fire loads <ul style="list-style-type: none"> ○ Storage closets, janitor closets, telephone closets ○ File storage ○ Sally ports ○ Fire detection and alarm system <ul style="list-style-type: none"> ○ Smoke detectors 	
<ul style="list-style-type: none"> ○ Sanitary conditions <ul style="list-style-type: none"> ○ Cleaning, janitorial ○ Control of Cleaning chemicals 	
<p>Safety Equipment</p> <ul style="list-style-type: none"> ○ Breathing apparatus (air masks) ○ First aid kits, airways, inspected ○ Automated External Defibrillator (AED) ○ Personal protection equipment (PPE) <ul style="list-style-type: none"> ○ Gloves ○ Masks ○ Eye Wash Stations ○ Working toilets (arrestee and employee) ○ Working sinks (arrestee and employee) 	
<p>Emergency Response</p> <ul style="list-style-type: none"> ○ Cell lock release ○ Emergency keys 	

<p>Inspections</p> <ul style="list-style-type: none"> ○ Weekly documented inspection of fire equipment; semi-annual testing of equipment; daily visual inspection of fire detention devices and alarm systems as required by local code (CALEA 72.3.1) ○ Emergency evacuation plan (CALEA 72.3.2) ○ Weekly sanitation inspection (CALEA 72.3.3) ○ Vermin and pest control (CALEA 72.3.3) 	
<p>Lighting</p> <ul style="list-style-type: none"> ○ Lighting as required by local code 	
<p>Air Circulation</p> <ul style="list-style-type: none"> ○ Air circulation 	
<p>Crowding/Degrading Conditions/Totality of Conditions</p> <ul style="list-style-type: none"> ○ What is capacity of cellblock? ○ What are provisions when capacity is reached? ○ Single cells 	
<p>Suicide Hazards/Opportunities for Harm</p> <ul style="list-style-type: none"> ○ Lighting ○ Pipes ○ Bars ○ Benches ○ Clothing <ul style="list-style-type: none"> ○ Shoe laces ○ Belts ○ Areas out of surveillance ○ Covered windows (paper, blinds, etc.) ○ Air vents ○ Broken equipment, doors, materials, etc. ○ Towel bars, grab bars ○ Cot, bed frames ○ Privacy screens as appropriate ○ Unobservable areas/blind spots 	
<p>Meal Service</p>	

<ul style="list-style-type: none"> ○ Storage ○ Thermometer, logs ○ Control of tools and culinary equipment (CLAEA 72.4.7) 	
<p>Maintenance</p> <ul style="list-style-type: none"> ○ Inspections checklists ○ Requests for maintenance ○ Promptness of maintenance ○ Closing of holding areas ○ Tool control <ul style="list-style-type: none"> ○ Inventory ○ Log 	
<p>ADA Accessibility</p> <ul style="list-style-type: none"> ○ Plan to disabled arrestees ○ Retrofitting ADA accessible 	
<p>Secure pharmaceutical storage</p> <ul style="list-style-type: none"> ○ Key control ○ Logs 	
<p>Communication ability with arrestees in the cell area</p> <ul style="list-style-type: none"> ○ Panic alarms for officers ○ Call button for arrestees 	

Stakeholder Involvement

What MOUs are Needed?

- Investigating authority
- Same agency investigative functions
- Sexual Assault Treatment Center
- Medical/Mental Health/Pharmacies
- Prosecutors
- Education
- MOU
- Other MOUs?

Next Steps – Prevention

- Triage policies and procedures
- Zero tolerance for misconduct
- Commitment to investigations

- Training of employees
- Review arrestee risk assessment
- Physical plant assessments regularly conducted
- Consider partnerships and options

Conclusions:

- PREA includes police/law enforcement lock-ups and short-term holding facilities.
- PREA focuses agencies on already existing legal obligations to protect arrestees
- A systemic approach – examining all agency operations relating to arrest and short term holding is important
- Policies/procedures
- Training
- Data maintenance
- Investigations
- Providing information to arrestees about their rights and how to report allegations
- Arrestees are screened to keep them safe is critical
- Adequate physical plant is maintained
- There are partnerships to insure safety

Resources

Addressing Sexual Violence in Prisons: A National Snapshot of Approaches and Highlights of Innovative Strategies

http://www.urban.org/UploadedPDF/411367_psv_programs.pdf

Arrestee/Detainee Suicide Prevention

"Model Suicide Prevention Programs: Part I", *Jail Suicide/Mental Health Update*, A Joint Project of the National Center for Institutions and Alternatives and the National Institute of Corrections, U. S. Dept. of Justice, Summer 2005, Volume 14, Number 1, page 6.

<http://www.ncianet.org/suicideprevention/publications/update/summer2005update.pdf>

Data Collections for the Prison Rape Elimination Act of 2003

<http://www.ojp.usdoj.gov/bjs/pub/pdf/dcprea03.pdf>

PREA Statute

http://www.wcl.american.edu/nic/Articles_Publications/Prison_Rape_Elimination_Act_of_2003.pdf?rd=1

Reports/Articles:

Commission on Accreditation for Law Enforcement Agencies, Inc., Standards for Law Enforcement Agencies: The Standards Manual of the Law Enforcement Agency Accreditation Program, Fourth Edition, November 2001, Fairfax, Virginia. www.calea.org Chapter 71, Prisoner Transportation, Chapter 72, Holding Facility

Confronting Confinement: A Report of the Commission on Safety and Abuse in America's Prisons

<http://www.prisoncommission.org/report.asp>

End to Silence, website of the Washington College of Law, The American University

<http://www.wcl.american.edu/nic/>

Jordan, Andrew, Marcia Morgan and Michael McCampbell, "The Prison Rape Elimination Act: What Police Chiefs Need to Know", *Police Chief Magazine*, International Association of Chiefs of Police, vol. 73, no. 4, April 2006,

http://policechiefmagazine.org/magazine/index.cfm?fuseaction=display_arch&article_id=864&issue_id=42006

McCampbell, Michael S., "Prison Rape Elimination Act: Impact on Police Chiefs of the Prison Rape Elimination Act," *Subject to Debate*, Police Executive Research Forum, September 2005, Vol. 19, No. 9, page 5, http://www.policeforum.org/upload/V19-N09%20P%5B1%5D_715866088_12302005143917.pdf

Susan W. McCampbell and Larry S. Fischer, Staff Sexual Misconduct with Inmates: Policy Development Guide for Sheriffs and Jail Administrators, National Institute of Corrections, August 2002. <http://www.cipp.org/SSMPolicy/index.html>

McCampbell, Susan W. and Elizabeth P. Layman, "Investigating Allegations of Staff Sexual Misconduct with Inmates: Myths and Realities."

http://www.wcl.american.edu/nic/Articles_Publications/Investigating_Allegation_of_taff_Sexual_Misconduct.pdf?rd=1

Sexual Violence Reported by Correctional Authorities, 2004
<http://www.ojp.usdoj.gov/bjs/pub/pdf/svrca04.pdf>

Sexual Violence Reported by Correctional Authorities, 2005
http://www.wcl.american.edu/nic/documents/BeckandHarrison_BJSReport2005_000.pdf?rd=1

Simonian, Nairi M. and Brenda V. Smith. "[Integrity in Jail Operations: Addressing Employee/Offender Relationships.](#)" American Jails. July/August 2006: 9-19.
http://www.wcl.american.edu/nic/documents/AJA_Final.pdf?rd=1

Simonian, Nairi M. and Brenda V. Smith. "[Policy on Worker Relations Helps Ensure Office Integrity.](#)" Sheriff May-June 2006: 27-28.
http://www.wcl.american.edu/nic/documents/5.SheriffMagazine_WorkerRelationsPolicies.pdf?rd=1

[Staff Perspectives: Sexual Violence in Adult Prisons and Jails: Trends from Focus Group Interviews](#)
<http://nicic.org/Downloads/PDF/Library/021619.pdf>

Stop Prisoner Rape, [Call for Change: Protecting the Rights of LGBTQ Detainees](#), May 2007
<http://www.champnetwork.org/media/callchange.pdf>

Stop Prisoner Rape, [How Well is Your Institution Meeting the Goals of the Call for Change](#), May, 2007, <http://www.spr.org/index.asp>

Web Sites:

American with Disability Act - <http://www.usdoj.gov/crt/drs/drshome.htm>

Bureau of Justice Assistance – <http://www.ojp.usdoj.gov/BJA>

Bureau of Justice Statistics - <http://www.ojp.usdoj.gov/bjs/abstract/dcprea03.htm>

National Institute of Corrections www.nicic.org

Prison Rape Elimination Commission www.nprec.us

Stop Prisoner Rape – www.spr.org

Training Materials:

- <http://www.wcl.american.edu/nic/training.cfm>

About the Authors

Susan W. McCampbell

Ms. McCampbell is President of the Center for Innovative Public Policies, Inc., (CIPP) a not-for-profit company specializing in public policy consulting, established in 1999. Ms. McCampbell also currently serves as the Special Master in the matter of the United States of America v. the Territory of the Virgin Islands, et. al., appointed by the Federal Court in April 2006. Ms. McCampbell serves as an expert witness in corrections and law enforcement litigation.

CIPP has worked on a number of projects with the U. S. Department of Justice's National Institute of Corrections (NIC): develop strategies for community corrections to address recruitment, retention and preparation of first line supervisors and other workforce issues; to provide technical assistance to state and local correctional agencies regarding the issues associated with staff sexual misconduct and PREA; and to revise the curriculum for the National Sheriffs' Institute. Since 1999, CIPP has provided training and technical assistance to over 75 entities on the topic of staff sexual misconduct with offenders, and has developed numerous publications, guides, and curriculum on this topic. CIPP will be working with the Bureau of Justice Assistance to help educate and prepare agencies having the responsibility for arrestee lock-ups about the impact of PREA.

CIPP also performed work for the Henry J. Kaiser Family Foundation, The Collins Center for Public Policy, the School Board of Broward County, Florida, Women in Distress of Broward County, Inc., and the Broward County, Florida, Sheriff's Office.

Prior to founding CIPP in 1999, Ms. McCampbell was the Director of the Department of Corrections, Broward County, Florida, Sheriff's Office for four (4) years. During this time, Ms. McCampbell oversaw the daily operations of a jail system with 4,200 inmates, three facilities, and a staff of 1,600. During her tenure, the agency received their initial accreditation from the Commission on Accreditation for Corrections, and re-accreditation, the largest agency of its kind to receive simultaneous accreditation for all facilities. Other highlights of her term as Director include implementation of an objective inmate classification system, dramatic improvements in the management and treatment of inmates with a diagnosis of mental illness in the jail system, the planning for a new 1,000 bed men's direct supervision facility, and a 1,000 bed women's jail. While with the Broward Sheriff's Office, Ms. McCampbell served as Chief Deputy/Acting Sheriff for six (6) months following the death of the Sheriff.

Prior to working in Broward County, Ms. McCampbell was Assistant Sheriff for the City of Alexandria, Virginia, Sheriff's Office for eleven (11) years, a Program Director for Police Executive Research Forum in Washington, D. C., and a regional criminal justice planner in Northern Virginia.

Elizabeth Layman is President of Price Layman, Inc., a criminal justice consulting firm. After graduating from Virginia Tech, Ms. Layman was a police officer/detective for 9 years in Arlington, Virginia, and subsequently spent 16 years with the Department of Corrections Probation and Parole, and the Parole Commission in the State of Florida. For 9 years of those years, Ms. Layman was the Regional Director for the Florida Parole Commission, managing agency operations in the eight-county region of South Florida.

Since 1997, Ms. Layman has worked with NIC on numerous cooperative agreements including technical assistance and training, and curriculum development, including: Training for Investigators of Staff Sexual Misconduct; Managing a Multi-Generational Workforce; FutureForce: Developing a 21st Century Workforce for Community Corrections; co-authorship of A Resource Guide for New Wardens, and Staff Sexual Misconduct with Offenders Policy Development Guide for Community Corrections; and co-authorship of publications on the issue of Staff Sexual Misconduct in various periodicals, including *American Jails*, *Perspectives*, and *Sheriff* magazines.