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# Report on Sexual Victimization in Prisons and Jails

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Review Panel  
on Prison Rape

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April 2012

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**Review Panel on Prison Rape**  
**Report on Sexual Victimization in Prisons and Jails**

**G. J. Mazza, Editor**

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Review Panel on Prison Rape, U.S. Department of Justice, Washington, DC (April 2012)

## **Review Panel on Prison Rape Report on Sexual Victimization in Prisons and Jails**

This Report presents the findings of the Review Panel on Prison Rape (Panel) related to the hearings it held in Washington, DC, in the spring and fall of 2011. Based on the national survey that the Bureau of Justice Statistics (BJS) published in August 2010, *Sexual Victimization in Prisons and Jails, Reported by Inmates, 2008-09*,<sup>1</sup> the Panel's hearings focused on the experiences of selected correctional institutions that had either a high or low prevalence of inmate sexual victimization. The Panel's goal in issuing this Report is to assist correctional practitioners by identifying common themes and making recommendations for further research that will lead to effective practices that prevent sexual victimization in prisons and jails.

### **I. Overview**

#### **A. Background**

The Prison Rape Elimination Act (PREA) of 2003<sup>2</sup> created the Panel and commissioned it to assist the BJS by holding public hearings based on data that the BJS collected on the incidence of sexual victimization in correctional institutions in the United States.<sup>3</sup> According to PREA, the BJS is to survey state and federal prisons as well as other categories of correctional facilities that the Attorney General designates.<sup>4</sup> Through BJS, the Attorney General identified jails as one of the categories of correctional institutions that merited a national survey under PREA. The purpose of the Panel's hearings is to identify the common characteristics of (1) victims and perpetrators of prison rape, (2) prisons and prison systems with a low incidence of prison rape, and (3) prisons and prison systems with a high incidence of prison rape.<sup>5</sup>

In 2011, the Panel held two sets of hearings in Washington, DC.<sup>6</sup> The first hearings, on April 26-27, 2011, addressed state and federal prisons; the second hearings, on September 15-16, 2011, addressed jails. At each of these hearings, the Panel requested the appearance of five correctional institutions, two representing facilities with the lowest incidence of sexual victimization and three representing the highest.<sup>7</sup>

PREA created both the Panel and the Commission on Prison Rape (Commission).<sup>8</sup> In June of 2009, after issuing proposed institutional standards for reducing prison rape, the Commission

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<sup>1</sup> BJS, *Sexual Victimization in Prisons and Jails Reported by Inmates, 2008-09* (Jan. 2010) (A. Beck et al.), available at <http://bjs.ojp.usdoj.gov/content/pub/pdf/svpjri0809.pdf> [hereinafter *BJS Report*].

<sup>2</sup> 42 U.S.C. §§ 15601-15609 (2006) (Pub. L. No. 108-79, 117 Stat. 972).

<sup>3</sup> *Id.* § 15603(b).

<sup>4</sup> *Id.* § 15603(c)(4).

<sup>5</sup> *Id.* § 15603(b)(3)(A).

<sup>6</sup> The members of the Panel in 2011 were Dr. Reginald A. Wilkinson, Chairperson; Dr. Gary E. Christensen; and Ms. Anne Seymour. The Office for Civil Rights (OCR), Office of Justice Programs, U.S. Department of Justice provided the Panel with professional staffing and support services. OCR staff persons assisting the Panel in 2011 included Mr. George Mazza, Senior Counsel; Mr. Christopher Zubowicz, Attorney Advisor; Ms. Kimberly Scheckner, Attorney Advisor; Mr. Joseph Swiderski, Program Analyst; and Ms. Anna Offit, Law Clerk.

<sup>7</sup> 42 U.S.C. § 15603(b)(3)(A).

<sup>8</sup> *Id.* § 15606(a).

In light of the Panel's previous discussion on the importance of language in creating a correctional culture that has zero tolerance for sexual victimization,<sup>856</sup> the Panel recommends that the OPP provide training to its staff on treating LGBTQ people with proper respect.<sup>857</sup> The Panel supports Mr. Ware's recommendation for the OPP to work with the local LGBTQ community in New Orleans as part of this effort.

Although the OPP has protocols for providing victim services to inmates who may need them, the personal accounts from former inmates at OPP who claimed to be victims of sexual assault raise serious questions as to how accessible and effective the services actually are. The Panel strongly recommends that the OPP review the quality of the services it provides to victims of sexual assault, which should include collaboration with victim-service providers in the community.<sup>858</sup>

### **3. Common Themes**

Cognizant of the inherent limitations in drawing generalizations from the data that the Panel has gathered on the five jails that appeared at the September 2011 hearings, the Panel has nonetheless identified the following recurrent themes: (1) the importance of jail design in deterring inmate sexual victimization, (2) the value of outside oversight, (3) the reluctance of prosecutors to pursue cases involving inmate sexual assault, (4) the challenges that jails encounter in creating safe environments with increasingly limited resources, and (5) the importance of employing well-trained, professional correctional staff.

#### **a. Acknowledging the Importance of Facility Design**

Among the jails that the Panel invited to the September hearing there was a notable correlation between incidence of sexual victimization and facility design. The two jails with low sexual victimization, Hinds County and the Moss Center, were both direct-supervision facilities, whereas two of the three jails with reported high sexual victimization, Clallam County and PTDC, were not. The single outlier was the South White Street Jail, which the OPP characterized as a direct-supervision facility, but as already noted, the facility closed before the Panel could observe its operation. For many local jurisdictions throughout the country, the Panel knows well that the construction of new, direct-supervision jails is a cost-prohibitive option to prevent the sexual victimization of inmates. Nonetheless, in communities where jail construction or remodeling is on the agenda, community leaders and jail administrators should consider the security benefits of a direct-supervision design.

#### **b. Appreciating the Value of Outside Oversight**

Two of the three high-incidence jails that the Panel selected to appear at the September hearings, the PTDC and the OPP, were also recently the subject of Justice Department investigations, which resulted in specific recommendations for improving facility management. The Panel contends that it is not a matter of coincidence that the *BJS Report* identified these facilities as

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<sup>856</sup> See *supra* Part II.A.3.c.

<sup>857</sup> See *supra* Part II.A.3.d.

<sup>858</sup> See *supra* Part II.A.3.f.

problematic, a result that was completely independent of the Civil Rights Division's investigations and findings. Although the Justice Department has a key role in holding correctional institutions accountable, Sheriff Glanz of TCSO and Director Ryan of MDCR reminded the Panel of the benefits that come from working with outside organizations in helping jails improve their operations. Echoing their remarks, Director Arthur Wallenstein of the Montgomery County, Maryland, Department of Corrections and Rehabilitation, a jail administrator with significant experience in implementing PREA, also noted the importance of correctional institutions being open to outside oversight.<sup>859</sup> Sheriff Glanz, Director Ryan, and Director Wallenstein commented on the important role that accreditation organizations have in holding jails to professional standards. Jail administrators should consider what may prevent them from welcoming the opportunity of a neutral, outside organization's review of their operations.

**c. Noting the Reluctance to Prosecute Sexual Victimization Cases Involving Inmates**

The Panel heard the frustrated testimony of more than one jail administrator who complained that prosecutors are often reluctant to take criminal cases that involve sexual victimization of inmates. The Panel heard speculation that the reluctance may be attributable to a number of factors, including societal stereotypes about inmates, female staff members, and alternative sexual practices.

**d. Recognizing the Resource Challenges that Jails Face**

The Panel heard from jail administrators about the challenges that they face under current economic conditions to maintain safe correctional institutions. For smaller jails, notably in rural counties, it may be useful to identify off-the-shelf resources that may assist them in complying with the goals of PREA. The Justice Department and the PREA Resource Center may be able to link jails with relevant materials that are readily available, such as online staff training on PREA or an objective inmate-classification system.

**e. Employing Well-Trained, Professional Staff**

The Panel heard testimony from sheriffs, jail administrators, and jail officials espousing the importance of employing well-trained, professional security staff. Indeed, to prevent or at least limit the frequency of sexual assault, committed correctional professionals must work within a jail facility in which organizational culture does not permit language that gives the impression that any form of sexual impropriety is acceptable. Proper training and staff awareness of evidence-based policies that are designed to prevent and address sexual impropriety, as well as measures or practices that monitor the effectiveness of and adherence to prescribed processes, are essential to the realization of a correctional environment that is free of sexual victimization.

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<sup>859</sup> Tr., A. Wallenstein, 19:8-22; *see also* Wallenstein Test. 11 (Apr. 15, 2011), *available at* [http://www.ojp.usdoj.gov/reviewpanel/pdfs\\_sept11/testimony\\_wallenstein.pdf](http://www.ojp.usdoj.gov/reviewpanel/pdfs_sept11/testimony_wallenstein.pdf).