



CHAIRMAN'S MEMORANDUM

NO. 02-2009

April 8, 2009

TO: SHERIFFS, COMMISSIONERS OF CORRECTION, JAIL ADMINISTRATORS

RE: Federal Review Panel Findings on Prison and Jail Rape

The Review Panel on Prison and Jail Rape has issued its findings on rape in prisons and jails as well as a list of best practices for preventing sexual assaults in correctional facilities.

The Panel, created by the Prison Rape Elimination Act (PREA), identified characteristics of victims and perpetrators of sexual assaults in prisons and jails with high and low incidence of sexual assault. The Panel was also asked by the National Prison Rape Elimination Commission, a separate body that studies prison rape, to develop a list of best practices for preventing rape.

Inmates of small stature are more likely to be victims of sex offenses by other inmates, according to witness testimony before the Panel, particularly inmates of small stature who share cells with larger, stronger inmates. Other targeted inmates tend to be non-violent offenders who have no history of acting out in a violent manner. The Panel found that an inmate was more vulnerable to sexual assault if he or she had committed sex crimes, such as those involving children. Inmates with mental illness or physical limitations are more vulnerable to sexual assault, prison officials told the Panel. Other common characteristics of inmate sexual assault victims include first-time incarceration, gay, bisexual or transgender orientation, lack of gang affiliation or social support, history of victimization of sexual assault, low self-confidence or feelings of fear and victimization of extortion.

Jail inmates most vulnerable to becoming victims of sexual assault share most of the characteristics of prison inmate victims, in addition to access to money and promiscuous or provocative behavior.

Insofar as staff sexual assault of inmates is concerned, the panel identified 15 characteristic of prison inmate victims of sexual assault by staff: a history of substance abuse, engaging in horseplay or sexual interaction with a staff member, knowledge of personal information about staff members, has letters from or photos of a staff member, is repeatedly out of his or her assigned place, exchanges telephone calls with staff members, becomes pregnant or is diagnosed with a sexually transmitted disease, exhibits drastic behavioral change, is frequently out of his or her cell or room, has family involved with a staff member's family, has

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isolated work assignments, works after regularly scheduled times, works in secluded areas of the facility and has access to excess funds.

In jails, the common characteristics of victims of staff-on-inmate sex offenses are self-confidence, recidivism, "street smarts," and a longer incarcerative term than other inmates.

Facilities with high levels of sexual assault are significantly understaffed, have a high staff turnover rate, house high concentrations of maximum security inmates, permit inmates to have soft pornography, and do not track grievances alleging sexual assault of inmates. Facilities with low levels of sexual assault track inmate complaints about sexual assault, have a low staff turnover rate, are well staffed and prohibit pornography. In jails with effective video surveillance of high-risk areas, rates of sexual assaults of inmate are low.

The Panel has offered a number of best practices for prison and jails. For jails, the best practice broad topic areas are:

Training of Staff and Inmates: Appoint a PREA Coordinator who will be accountable for the training of staff and new inmates in PREA and the facility's zero tolerance policy on sexual assault.

Classification: When making inmate housing assignments, staff should determine and consider, among other factors, the risk of sexual predation or victimization of the inmate. To do this, staff must use a risk assessment instrument that includes questions relevant to the characteristics of potential perpetrators and victims, including sexual orientation.

Surveillance: At the beginning of each shift, identify high-risk predators or victims to correctional officers in housing units and control rooms by coded abbreviation next to the inmate's name, so that officers can be alerted to the risk. Expand video surveillance as funding permits. Identify and map "blind spots" where sexual assault is a higher risk, e.g., "change out" room in booking; dry storage room, walk-in refrigerator and other areas in the kitchen, janitorial supply closets; showers, toilet stalls and doored bathrooms, behind stairwells; medical lab and exam rooms; cells of potential perpetrators and victims.

Reporting: Ensure that inmates know that they may report threats or occurrences of sexual assault – either inmate-on-inmate or staff-on-inmate – to *any* staff member, contractor or volunteer, not just the correctional officers or shift supervisor in their housing unit.

Investigation: Designate and train Sexual Assault Response Team on staff. Train medical staff in forensic procedure to preserve evidence of reported sexual assault. Have independent (i.e., not part of the jail) investigators conduct or at least oversee any investigation of sexual victimization. Partner with rape crisis center or other outside victim services agency, so rape victim can receive timely help.

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Prosecution: The jail administrator should communicate and meet regularly with county prosecutor, so as to develop cooperative rapport between offices and to understand prosecutor's priorities and what minimum evidence he/she needs to bring cases of staff-on-inmate and inmate-on-inmate sexual victimization. Refer staff-on-inmate sexual misconduct to the prosecutor, even if the accused staff or contractor has already resigned.

Relevant Policies and Practices: Except in emergencies, do not routinely require mandatory overtime for correctional officers. Ensure that officers, especially those who often volunteer for overtime, do not establish a pattern of working in the same location in the jail. Ban pornography (hard- and "soft"-core) among inmates, especially those who have a history of sexual assault or are assessed as higher risks of becoming sexual predators. As much as practicable without compromising their safety, provide sexual assault victims or those at higher risk of assault with safe housing in a "safekeeping" cellblock but with the same programming and privileges as general population (i.e., protect the victim without penalizing him or her for reporting). Segregate transgendered inmates and, subject to staffing limitations, provide them with enhanced security but with the same programming and privileges of general population inmates. Maintain single cells and/or dormitory-style bunking, avoiding double cells.

There are many more specific recommendations within these topic areas. For all of the details, the report is available at: www.ojp.usdoj.gov/reviewpanel/resources.htm.


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