



The Prison Rape Elimination Act of 2003: Implications for Juvenile Justice Agencies

Addressing Staff Sexual Misconduct with
Youth in Custody
Kentucky Department of Juvenile Justice

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The Prison Rape Elimination Act of 2003

Public Law 108-79

- Makes important findings about the impact of prison rape on inmates, the economy and state and federal governments



PREA Purposes

- Establish zero tolerance for the conduct
- Make prevention a top priority
- Develop national standards for detection, prevention, reduction and punishment
- Increase available data and information on incidence in order to improve management and administration
- Standardize definitions used for collecting data on the incidence of rape
- Increase accountability of prison officials who fail to detect, prevent, reduce and punish prison rape
- Protect 8th amendment rights of federal, state and local prisoners
- Establish grant programs
- Reduce costs of prison rape on interstate commerce



Major Provisions

- Section 4: Collection of prison rape statistics, data and research (BJS) (\$15MM for FY 2004-2010)
 - Surveys
 - Including prisons, jails, community corrections, boot camps, road camps, forestry programs, farms, youthful offender facilities, hospitals, drug treatment programs
 - Federal, state and local officials are required to participate
 - Review panel on prison rape with subpoena power
 - Public hearings for 3 highest incidence systems and 2 lowest
 - Report each year on 6/30



Major Provisions Continued

- Section 5: Prison Rape Prevention and Prosecution (NIC) (\$5MM for FY 2004-2010)
 - Information and Assistance through National Clearinghouse
 - Training and Education
 - Report due on 9/30 annually



Major Provisions Continued

- Section 6: Grants to Protect Inmates and Safeguard Communities (DOJ) (\$40MM)
 - Protection of the community
 - \$ to address overcrowding
 - Risk assessment tools
 - Mapping of concentration of inmates in communities
 - Policy and program development
 - Collaboration between corrections and community on reentry
 - Protection of Inmates
 - Investigations
 - Prosecution
 - Prevention



Major Provisions Continued

- Section 7: National Prison Rape Reduction Commission (with subpoena authority)
 - 9 members
 - Conduct legal and factual study of the effects of prison rape in the US
 - Report in 2 years of initial meeting
 - Recommended national standards
 - Consultation with accreditation organizations
 - Can't impose something that would mandate substantial increased costs to agency
 - Hold hearings



Major Provisions Continued

- Section 8: Adoption and Effect of National Standards
 - A year after National Prison Rape Reduction Commission issues report, AG publishes a final rule with standards
 - 90 days after transmission to state departments of correction
 - FBOP is immediately covered
 - Possible reduction of 5% each year for failure to meet the standard
 - Annual report on non-compliance




Major Provisions Continued

- Section 9: Accreditation
Organizations must adopt standards or lose federal funds
- Section 10: Definitions
 - Covers jails, police lockups, prisons
 - Covers both adult and juvenile facilities, government and private
 - Prison rape includes rape of inmate in actual or constructive custody



What does this mean?

- Increased scrutiny at state, federal and local level on staff sexual misconduct with youth
- Broadened concern about inmate on inmate and youth on youth misconduct
- Data is your friend
- Get ahead of the curve
- You must take this seriously – it is not a backburner issue



How PREA Applies to Juvenile Justice Agencies -- Highlights

- BJS Report
- Data Collection
- Hearings
- Development of policies and procedures on youth on youth violence
- Specific legislation to cover conduct by and against youth



Remember

- Prior to the enactment of PREA juvenile justice agencies were liable for abuse of juveniles under their authority



Remember

- PREA is a floor or springboard
- Creates important visibility for issues
- Creates national standards
- Will not cover every possible situation
- Will have to take charge for running of own agency –PREA won't do it
- Responsibilities preexisted enactment of PREA
- Creates opportunities to do things and look at issues that should have been examined before