

PREA & The SART Response

Overview of the Prison Rape Elimination Act – (PREA)

PREA – the Prison Rape Elimination Act (PL 108-79)¹³ was signed into law September 2003 to address the problem of sexual assault of people in the custody of U.S. correctional agencies.

Major provisions of the act include:

- Development of standards for detection, prevention, reduction and punishment of prison rape
- Collection and dissemination of information on the incidence of prison rape
- Award of grant funds to help state and local governments implement the purposes of the Act

The Act applies to all correctional and detention facilities, including prisons, jails, juvenile facilities, military and Indian country facilities and Immigration and Customs Enforcement (ICE) facilities. Sexual Assault in Detention Sexual assault behind bars is a widespread human rights crisis in prisons and jails across the U.S. According to the best available research, **20 percent of inmates in men’s prisons** are sexually assaulted at some point during their incarceration.¹⁴ The rate for women’s facilities varies dramatically from one prison to another, with **one in four inmates being victimized at the worst institutions**.¹⁵ In a 2007 survey of prisoners across the country, the Bureau of Justice Statistics (BJS) found that **4.5 percent (or 60,500)** of the more than 1.3 million inmates held in federal and state prisons had been sexually assaulted in the previous year alone.¹⁶ A BJS survey in county jails was just as troubling; nearly **25,000 jail detainees reported having been sexually assaulted in the past six months**.¹⁷ Unfortunately, the data provided by the BJS still represents only a fraction of the true number of detainees who are victimized, especially of those held in county jails.¹⁸ **The number of admissions to local jails over the course of a year is approximately 17 times higher than the nation’s jail population on any given day**. The BJS surveyors were able to cover only a very small proportion of jail detainees over an entire year.¹⁹ Sexual assault in prison mirrors sexual assault in outside community. For example, inmates who are gay, transgender, young, mentally ill or

¹³ Prison Rape Elimination Act (PL 108-79) (2003)

¹⁴ Cindy Struckman-Johnson, Sexual Coercion Reported by Men and Women in Prison (1966)

¹⁵ Cindy Struckman-Johnson and David Struckman-Johnson, Sexual Coercion Reported by Women in Three Midwestern Prisons (2002)

¹⁶ Bureau of Justice Statistics, Sexual Victimization in State and Federal Prisons Reported by Inmates (2007)

¹⁷ Bureau of Justice Statistics, Sexual Victimization in Local Jails as Reported by Inmates (2007)

¹⁸ Bureau of Justice Statistics, Jail Inmates at Mid-Year 2007 (2008)

¹⁹ Just Detention International Fact Sheet, LGBTQ Detainees Chief Targets for Sexual Assault Detention (2009)

incarcerated for the first time and for non-violent offenses tend to be victimized.²⁰ Survivors of sexual assault behind bars experience the same emotional pain as other rape victims. While there are services available to survivors in detention, incarcerated survivors have less access to supportive community resources such as confidential counseling provided by community based advocacy agencies. The absence of confidential counseling in the aftermath of an assault causes many survivors to develop serious long-term problems, like Post-Traumatic Stress Disorder (PTSD), depression and alcohol and other drug addictions.²¹ Moreover, the high rates of HIV and other sexually transmitted diseases in detention place incarcerated survivors at great risk for infection.²² Once released, and 95 percent of inmates do return home, survivors bring their emotional trauma and medical conditions back to their communities.

Sexual Assault in Wisconsin Prisons

The State of Wisconsin has 36 correctional facilities and three custody levels (see appendix for map of Wisconsin Correctional Facilities). There are 16 minimum security correctional centers, 16 medium security adult institutions and 4 maximum security adult correctional institutions. As of 2010, approximately 23,000 people are incarcerated in state of Wisconsin Correctional Facilities. Using the Bureau of Justice Statistics (BJS) formula of 4.5% of inmates being sexually assaulted over a 12 month period – we can reasonably assume that of the 23,000 inmates housed in Wisconsin approximately 1,035 will experience some form of sexual assault every year. In 2009, there were 33 reported cases of inmate on inmate sexual assault, 36 incidents of inmate on inmate abusive sexual contact or 4th degree sexual assault and 45 cases of staff sexual misconduct. The number of cases of staff sexual misconduct encompasses all forms of sexual contact between a staff member and an inmate. All staff on inmate sexual assault constitutes a felony crime.

Sexual assault in prison is a very real and disturbing issue that needs to be addressed not only by the corrections community, but by the community as a whole to insure the safety and well-being of all inmates. While some victim inmates do report their assault to correction officials, feedback from inmate survivor focus groups reveal that other survivors choose to report their assault to their probation and parole agents once they've been released from prison. Cooperation and collaboration between correctional facility personnel, probation and parole and local SART teams is essential in addressing sexual assault in detention. The following are quotes from self-disclosed inmate survivors of sexual assault in Wisconsin:

- *“I thought it (sexual assault) was part of it – I was always scared – always watching.”
- Survivor of staff assault*
- *“The staff knew – they just ignored what was happening or sometimes they joined in.”*

²⁰ Just Detention International Fact sheet, Mental Health Consequences of Sexual Assault in Detention (2009)

²¹ Just Detention International Fact Sheet, Violence in Detention and Public Health (2009)

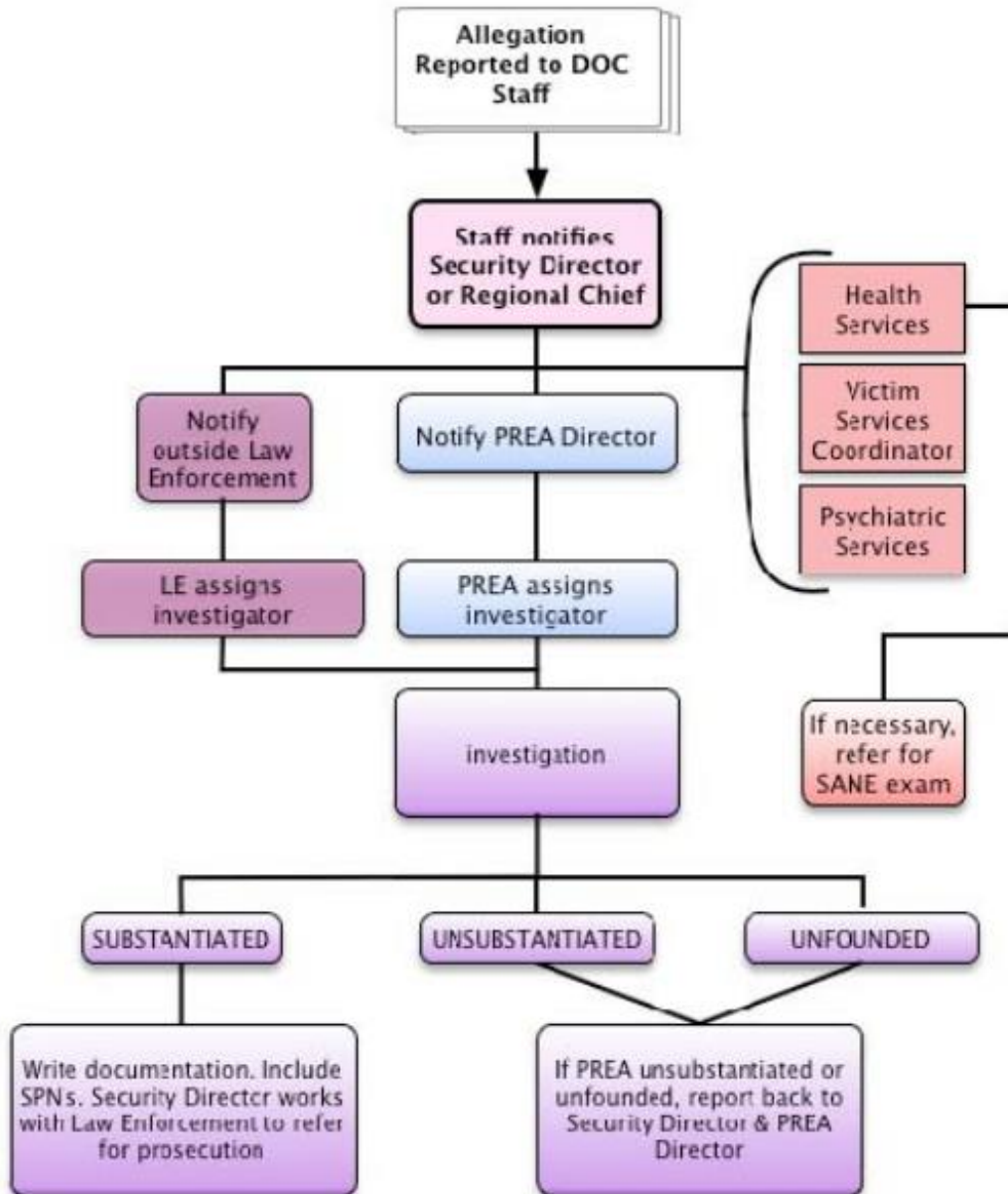
²² Just Detention International Fact Sheet, Mental Health Consequences of Sexual Assault in Detention (2009)

- *Survivor of inmate assault*
- *“I was afraid to tell anyone – I knew it would only get worse – so, I just let them (staff) do whatever they wanted.”*
- *Survivor of staff assault*

Prison Rape Elimination Act (PREA) and the Wisconsin Department of Corrections

In response to the PREA, the Wisconsin Department of Corrections (DOC) has instituted a number of measures to inform inmates about the existence of the PREA, provide ways for inmates to report a sexual assault and to thoroughly and completely investigate reported sexual assaults in institutions. Education about PREA is given to an inmate during orientation at the intake facility and again anytime they are transferred to a new facility. Inmates are given information about the PREA reporting line (toll-free number) they can access if they choose to bypass institution staff. All institution staff is mandated to report a sexual assault. Wisconsin Department of Corrections has 20 trained PREA Investigators who are assigned to conduct internal investigations of sexual assault and staff sexual misconduct. These Investigators work closely with law enforcement agencies that are called upon to conduct the criminal investigations of sexual offenses within correctional facilities. The following is a flowchart explaining the PREA response to inmate on inmate sexual assault.

State of Wisconsin Division of Adult Institutions PREA Flow Chart



Our thanks to the Dodge Co. Sheriff's Department for assistance in creating this document.

Inmate on Inmate Best Practices

Within the prison system, the Security Director is responsible for assessing the initial reports and instituting a fact finding response. The Security Director can ensure interviews of both parties as well as other potential witnesses. Consensual sex between inmates is not a PREA issue, but it is against the administrative rules of the institution and constitutes a rule violation. A sex offender focused understanding of sexual assault recognizes that sex offenders are practiced liars and often have a history of manipulation. Therefore, it is imperative for the Security Director, working in concert with investigators to determine if the act was consensual.

Security Director or Designated Shift Supervisor

- Initial report made via inmate, 3rd party or staff member
- Security Director or designee takes initial report and does preliminary review
- Determine if victim inmate is in danger
- Determine if there are medical needs that should be addressed by medical staff
- Separate inmates – place inmate/offender in TLU until the investigation can determine guilt or innocence
- Secure the crime scene
- Preserve evidence
- Contact local Law Enforcement
- Arrange for SANE exam – Department of Corrections personnel must remain in close proximity to victim/inmate during SANE exam
- Contact PREA Director or designee to assign investigative resources
- Notify victim services coordinator
- When case is referred to Prosecutor, consult with Prosecutor's office as needed to provide information about the prison environment

PREA Director

- Assign PREA Investigator
- Provide guidance and direction in PREA cases when necessary
- Serve as a liaison with local Law Enforcement and Prosecution

PREA Investigator

- Receive initial report from Security Director or designee
- Contact local Law Enforcement to coordinate investigation and to share information
- Gather evidence

- Document and review evidence
- Conduct interviews with victim, offender and other potential witnesses (Currently, Community Based Advocates are not allowed to sit in on interviews with PREA Investigator and victim/inmate)
- Coordinate interviews with local Law Enforcement
- Provide any follow-up requested by Prosecutor, PREA Director, Security Director or designee
- Confer with Security Director or designee to discuss and agree on findings prior to closing case
- Meet and/or confer with Prosecutor prior to charging decision being made

Victim Services Coordinator

- Receive report from Security Director or Designee
- Meet with victim/Inmate to provide support and information about available services
- Coordinate and provide after care services as necessary
- Notify local Community Based Advocacy Program
- Coordinate with Victim Witness if case is charged
- Coordinate with Community Based Advocate to provide court support if necessary

Community Based Advocacy Program

- Coordinate provision of advocacy services with Victim Services Coordinator
- Provide court support if necessary

Prosecution

- Meet and/or confer with victim/inmate prior to charging
- If not charging, confer or meet with victim/inmate
- Work with victim witness to prepare victim/inmate for court proceedings
- Meet and /or confer with victim inmate before any plea agreement is offered or accepted

Victim Witness

- Coordinate with Victim Services Coordinator and Community Based Advocate if case is charged
- Work with Prosecutor to prepare victim/inmate for court proceedings

SANE

- Provide SANE exam as outlined in SANE protocol
- Communicate with local Law Enforcement and DOC personnel to provide victim centered care while insuring safety requirements are met
- Turn evidence over to local Law Enforcement

Law Enforcement

- Meet with Security Director or designated staff to get details of the case
- Receive any evidence from DOC staff
- Process crime scene with DOC staff
- Meet with victim/inmate for a brief initial statement
- Present at hospital during SANE exam to receive evidence
- Conduct parallel interviews and investigation with PREA Investigator
- Meet/confer with Security Director and PREA Investigator prior to submitting a referral to the Prosecutor
- Provide written report of findings to Security Director and PREA Investigator
- Provide follow up requested by the Prosecutor
- Meet and /or confers with Prosecutor and PREA Investigator prior charging decision

Staff on Inmate Best Practices

Security Director or Designated Shift

- Supervisor Initial report is made via inmate, 3rd party, staff member or hotline – the report can be verbal or written
- Security Director or designee takes report, gathers additional information and contacts PREA Director
- Determine and secure the crime scene
- Arrange transportation for SANE exam or medical treatment if appropriate
- Contact local law enforcement if initial information and evidence warrant outside investigation
- Contact Warden to determine work status of staff
- Victim remains in general population unless there is a safety concern. If Security Director or designee determines there is a safety concern the victim will be moved
- Contact Victim Services Coordinator

PREA Director

- Assign PREA Investigator
- Provide guidance and direction in PREA cases when necessary
- Serve as a liaison with local Law Enforcement and Prosecution

PREA Investigator

- Receive report from Security Director
- Contact local Law Enforcement to coordinate investigation and to share information
- PREA Investigator and local Law Enforcement should run parallel coordinated investigations
- Conduct interviews with victim/offender and other potential witnesses
- Can compel a statement from staff member but, not share it with Law Enforcement
- Provide any follow-up requested by Prosecutor, Security Director or designee
- Meet/confer with Prosecutor prior to charging decision being made

Victim Services Coordinator

- Receive report from Security Director or designee
- Meet with victim/inmate to provide support and information about available services
- Coordinate and provides after care services as necessary
- Notify local Community Based Advocacy program
- Coordinate with Victim Witness if case is charged
- Coordinate with Community Based Advocate to provide court support if necessary

Community Based Advocacy Program

- Coordinate provision of advocacy services with Victim Services Coordinator
- Provide court support if necessary

Prosecution

- Meet / confer with victim/inmate prior to charging
- If not charging, confer or meet with victim/inmate
- Work with victim witness to prepare victim/inmate for court proceedings
- Meet and/or confer with victim/inmate before any plea agreement is offered or accepted

Victim Witness

- Coordinate with Victim Services Coordinator and Community Based Advocate if case is charged
- Work with Prosecutor to prepare victim/inmate for court proceeding

SANE

- Provide SANE exam as outlined in SANE protocol
- Communicate with local Law Enforcement and DOC personnel to provide victim centered care while insuring safety requirements are met
- Turn evidence over to local Law Enforcement

Law Enforcement

- Meet with Security Director or designee to get details of the case
- Receive any evidence from DOC staff
- Process crime scene with DOC staff
- Meet with victim/inmate for a brief initial statement
- Conduct interview with staff/suspect without PREA Investigator
- Present at hospital during SANE exam to receive evidence
- Conduct parallel investigation with PREA Investigator
- Meet / confer with Security Director and PREA Investigator prior to submitting a referral to the Prosecutor
- Provides written report of findings to Security Director and PREA Investigator
- Provides any requested follow up to Prosecutor
- Meet and /or confers with Prosecutor and PREA Investigator prior to Prosecutor making charging decision

If criminal charges are not filed, staff may be in violation of department work rules and subject to the disciplinary process. Staff found to have been involved in sexual misconduct will be terminated. If staff is found not guilty of a work rule violation, staff will return to work and the inmate will be held accountable for making false allegations. If the allegations are “unsubstantiated”, the staff member can return to work.

PREA in Halfway Houses and Transitional Living Programs

Halfway houses are contracted by the Department of Corrections (DOC) to provide residential placement to offenders under DOC supervision and are staffed 24 hours a day 7 days a week.

Offenders placed in halfway houses are put on a schedule and can come and go for all assigned activities. Offenders housed in halfway houses are assigned to a Probation and Parole Agent.

Assault within a Halfway House (HWH)

A victim may report the incident to their probation and parole agent, HWH staff member, Law Enforcement or any third party including Community Based Advocacy programs.

- HWH staff should report the assault to the Contract Administrator for Community Corrections.
- Community Corrections staff should report the assault to both local Law Enforcement and the PREA Director or designee.
- Upon receipt of report, offender who is alleged to have committed the assault is placed in custody at the county jail.
- Law Enforcement begins an investigation of the crime outlined in “SART Best Practices”.
- HWH is responsible for ensuring an administrative investigation is completed and reporting the findings to DOC.

Aside from the above, a sexual assault occurring in a HWH is treated the same as a sexual assault occurring in the community.

Wisconsin Adult Sexual Assault Response Team Protocol (pp. 35-41) by Wisconsin Coalition Against Sexual Assault, 2011. Retrieved from https://www.wcasa.org/file_open.php?id=203
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