



Standards and Report Development

The Prison Rape Elimination Act of 2003 (PREA) created the bipartisan National Prison Rape Elimination Commission, directing the Commission to develop national zero-tolerance standards for the prevention of and response to sexual violence in all confinement settings including lockups, small and large jails, state and federal prisons, juvenile facilities, immigration detention facilities, and community corrections settings. (Note: Use of the term “prison rape” refers to rape and other sexual coercion and violence in all correctional settings, not just in prisons.)

These standards, as directed by statute, relate to the following subject areas: training, prisoner classification and assignment, investigation and resolution of complaints, preservation of evidence, medical and mental health care for victims, investigation of staff misconduct, the creation of an incident reporting system, data collection and other matters.

Additionally, the Commission was statutorily charged with preparing a final report to Congress and the Attorney General to accompany its proposed standards. The Commission sunset August 22, 2009.

Preparation of Proposed Standards and Final Report

The Commission worked through a broad and transparent process to research and evaluate best practices and to draft standards with the help of leading experts and diverse organizations in the criminal justice community. Additionally, the Commission elicited public response and written comments to its draft standards through a public comment period. This process, along with the Commission’s other research and information gathering, informed the Commission’s final report to Congress.

Beginning in early 2007, expert committees were established to guide the development of draft standards in the areas outlined above, with separate committees for juvenile standards and immigration detention standards. Committee members included leaders in corrections, prisoner representatives and advocates, scholars, law enforcement representatives, and others committed to the goals of PREA. The committees are as follows:

- Classification and Technology
- Confidential Reporting and Data Collection
- Investigations and Staff Sexual Misconduct
- Medical and Mental Health
- Training
- Juvenile Facilities
- Immigration Detention Facilities
- Community Corrections Facilities

In the multi-phased process, initial standards were developed in each of the subject areas and sent to the expert committee members for their comments. During a round of individual conversations

and group meetings, committee members discussed the standards, identifying any significant disagreements and recommending resolutions of those disagreements. Staff members redrafted the standards based on the committee feedback and resubmitted them to the expert committee members for further review and input. A second round of expert committee meetings took place in the fall of 2007. Commission staff then updated the standards drafts based on those meetings, and provided complete drafts to the Commissioners who provided additional feedback for incorporation into the standards. Staff prepared another revision of the draft standards, which the Commissioners approved.

The draft standards for jail, prisons, and immigration detainees were available for public comment from May 5 through July 7, 2008; draft standards for juvenile, community corrections, and lock-up facilities were available through August 15, 2008. Over the course of the two sixty-day public comment periods, the Commission received hundreds of comments from prison and jail administrators, staff, inmates, advocates, academics, survivors and their families, and many others, all providing their ideas and suggestions for improving and strengthening the draft standards.

Also during the public comment period, the Commission conducted a Standards Implementation Needs Assessment (SINA) project. The Commission created the SINA process to provide feedback on the draft standards through a series of “case studies” at particular facilities. Over forty facilities from around the country applied to participate in the SINA process; the Commission selected eleven sites that reflected ranges in capacity, populations, and geographic settings and that included jails, prisons, men’s facilities, women’s facilities, community corrections facilities, and juvenile facilities. Each site visit took place over one and a half days, and included a facility tour and five structured interviews: one with the Warden or Superintendent; and the others with small groups discussing general issues, training, medical/mental health, and investigations. With the exception of the meeting with the Warden or Superintendent, interviews involved a variety of staff with experience relevant to the particular interview topic. When possible, we also spoke with inmates detained in the facilities.

All public comments and information from the SINA process have been systematically reviewed by staff and by each individual Commissioner. In response to the significant additional input received during the public comment period, the standards that accompany the Commission’s final report have been significantly and substantively changed from the draft version of the standards released during public comment.

On June 23, 2009 the Commission submitted these proposed standards as part of its final report to the President, the Attorney General’s office, the Department of Health and Human Services, and Congress. In addition to the standards, the final report contains recommendations about how to prevent and respond to prison rape and make prevention a top priority in every correctional facility and system in the nation.

Impact of the Commission’s Proposed Standards and Report

Within a year of receiving the Commission’s report, the Attorney General is required by the PREA statute to consider the Commission’s proposed standards and to promulgate national standards for the detection, prevention, reduction, and punishment of prison rape. Those final standards issued by the Attorney General will apply to the federal Bureau of Prisons immediately upon issuance. States will receive notification of the new standards from the Attorney General, and will have a year to adopt and comply with them or risk losing five percent of any federal grant funds provided for prison purposes. In the legislation, “prison” is defined broadly as any facility run by “a Federal, State, or local government, whether administered by such government

or by a private organization on behalf of such government,” including local jails, police lockups, and any juvenile facility.

Additionally, the statute directs that any organizations that accredit Federal, State, local, or private prisons, jails, or other penal facilities adopt accreditation standards for the detection, prevention, reduction, and punishment of prison rape that are consistent with the national standards.