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Developing state prison policies to respond to sexual violence.

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Prior to the enactment of the federal Prison Rape Elimination Act (PREA) of 2003, there was little national information about the extent of sexual violence occurring in state prisons, or what was being done about it. In 2004, the Urban Institute's Justice Policy Center teamed up with the Association of State Correctional Administrators (ASCA) to help fill the gap by identifying what policies, programs and strategies were being established to address prison sexual violence (PSV) and deal with its consequences.

The Urban Institute/ASCA study team designed and delivered a survey to the directors of the 50 state departments of correction (DOCs), asking respondents to describe their policies and strategies relating to sexual violence. During the next several months, the administrators of 45 state departments responded to the survey. The study team followed up by conducting in-depth interviews with senior administrators of each of the responding departments, as well as with 67 state corrections program and policy officials identified by the administrators as being responsible for promising approaches to decreasing PSV. On the basis of the information gleaned from the survey and interviews with administrators and other staff leading innovative efforts, the study team visited 11 states identified as having implemented promising and unique approaches to dealing with PSV. The team found the following.

How DOCs Addressed PSV

At the time of the survey and interviews with DOC administrators (December 2004 through March 2005), 33 state departments (73 percent of the 45 responding states) had PSV policies in place. Twenty-three departments (51 percent) had comprehensive policies in effect addressing the broad spectrum of PSV issues, including prevention, detection, response to incidents, training and services for victims; 10 departments (23 percent) had policies in place relating to most but not all of these issues. Nine departments were actively developing comprehensive PSV policies. Only three of the 45 states surveyed had no comprehensive PSV departmental policies and did not intend to have any in place before the end of 2006. This is indeed a substantial accomplishment when one recognizes that none of the states surveyed had such policies in place 20 years earlier. Further, 13 of the 23 departments that had established comprehensive PSV policies had done so only in the past five years. What happened in such a relatively short period of time to cause this response?

There appears to have been several important stimuli for PSV policy development. First, and most important, was the passage of PREA. The leaders of 31 of the 45 state DOCs surveyed gave credit to PREA: 19 (42 percent) said it was the principal reason that PSV-specific policies and procedures were developed, and 12 (27 percent) said it was the impetus for an agencywide review of preexisting policies and practices relating to PSV. Several state administrators reported that their agencies had undertaken major policy and program reforms even before PREA was signed into law in anticipation of the act's guidelines and provisions. Others said that PREA's guidelines and provisions gave order to a previously fragmented PSV response system. "We want to be in line with PREA standards," said a program manager from a mountain state. "PREA helped us focus on what needed to be done and provided a single, comprehensive system to identify, protect, investigate and respond to prison sexual violence. We did it piecemeal before. Now we are instituting a system with flow."

In many states, agency task forces or steering committees were created to develop PSV policies and procedures consistent with PREA. One director from a mid-Atlantic state noted that his department has formed a workgroup to develop a new set of comprehensive policies based on the prisoner rights and PSV-elimination language from PREA.

A number of state agency leaders reported that the principal effect of PREA had little to do with PSV policy and programs but rather with the necessity of revamping incident data protocols to be able to meet PREA's data reporting requirements. "We have not made changes to our policies or practices in any way [in response to PREA], other than to make sure that our data systems are ready to respond to the data requirements of PREA," reported a Midwestern agency director.

Senior staff from 11 of the states surveyed (24 percent) reported that PREA was the main reason for establishing agency PSV policies, though PSV was not perceived as a significant problem. The directors of at least four of these DOCs said that they either were not convinced that the act was necessary, though they felt compelled to follow its dictates, or that there was insufficient empirical support to justify overhauling existing departmental policies. "PREA has forced us to take another look at PSV and spend a lot of time on it," said a director of a Southern state. "We don't think this is as serious a problem as Congress feels that it is. I think we are wasting time, effort, and resources on something we were already handling. [These resources] could be better spent in other areas of correctional concerns."

A director of a Western state that does not currently distinguish in its policies and procedures between sexual violence and other forms of violence said that his agency is waiting for more evidence that his state's current approach of not distinguishing sexual assault from violence in general needs to be changed. Until the evidence is there, his department does not plan to make changes in their policies and procedures. "If our current approach is not adequate, and we need to have a separate track on sexual assault, then we'll do that," he said.

The leaders of 11 departments (24 percent) reported that the PSV initiatives they had in place were either there before PREA was enacted or were established without regard to PREA's guidelines and requirements. Several states cited the promulgation of the American Correctional Association's standards, and particularly the revision of its health standard that addressed dealing with victims of sexual assault, as the impetus for development of new policies.

Because change in correctional operations is often prompted by reactions from the public or external authorities to events occurring in prisons, it is perhaps surprising that only six of the agency directors (13 percent) reported that the development of their PSV initiatives primarily stemmed from incidents of sexual violence in their prisons or as a result of public or legal attention because of such incidents.

Finally, sometimes a policy change process is stimulated not by an incident or external authority but because a corrections official determines a change should be made. This was the case at one agency, where a facility director, upon hearing discussions leading up to the enactment of PREA, put together a workgroup to develop policies and procedures at his institution. Neither he nor his colleagues could recall a PSV incident at the facility in recent history. "It was just the right thing to do," he said.

Implementing a Change Process

Each of the 45 DOCs represented in this study pursued its own distinctive path in developing PSV programs and policies. In the vast majority of DOCs (93 percent), the PSV policy and program development initiative was prompted by an order from the director to respond either to the requirements of PREA or to current or potential PSV problems occurring in their prisons. Program planners in most states responded by establishing workgroups to investigate the problem and devise solutions in the form of agencywide policies and agency directives. The centrally led policy initiatives of Ohio, Texas and Idaho are examples of this. Alternatively, in at least three states, wardens or other facility staff developed programs or strategies on their own. In two of these states--Indiana and Kansas--the programs and policies developed for the facility were adopted in whole or in part as a model for the entire state.

Executing change from the top: State-led initiatives. Two state DOCs cited often by their colleagues in other states as models for preventing and responding to PSV are Ohio and Texas. Correctional administrators in both states recognized the issues presented by PSV and were determined to respond prior to the enactment of PREA. In addition, managers of several DOCs reported that they believed that before reforms pertaining to PSV could take hold in their agencies, institutional culture needed to be changed. This was the case at the Idaho DOC, where the director recognized that before reforms could take effect, staff and inmate cultural norms toward PSV needed to be changed, and in particular, the code of silence about sexual violence needed to be broken.

The Ohio Department of Rehabilitation and Correction (ODRC) had central policies in place pertaining to sexual abuse in prisons for many years prior to the enactment of PREA, but they mostly related to inappropriate staff-inmate relationships. Sexual violence among inmates was covered by policies pertaining to incidents of inmate violence in general. The 2003 ACA standards relating to PSV, along with the publication that same year of a report alleging sexual predation by staff upon inmates at an Ohio women's prison, prompted the department's director of investigations to establish the Sexual Abuse Oversight Committee. The committee comprised departmental managers and supervisors from various relevant disciplines, as well as rank and file staff. This had the benefit of yielding policies that were realistic and reflected day-to-day operations, as well as laying the groundwork for new policies and strategies to be broadly accepted by those charged with carrying them out. The

result of the committee's effort was the Ohio Correctional Institution Sexual Assault Abatement: A Ten Point Plan, which took effect in July 2004. The plan maintains that the department will comply with any provisions set forth by PREA as well as the ACA standards addressing sexual assault. The main provisions of the plan include staff training, inmate education, sanctions, victim support, investigation procedures, identification and tracking of inmate aggressors, data collection, frequent audits, addressing the fear of reporting, and PREA compliance.

The impetus for change in the Texas Department of Criminal Justice (TDCJ) began in response to a prison conditions lawsuit filed in 1972. In 1981, a U.S. district judge placed TDCJ under his oversight. During the next 20 years, TDCJ made numerous changes in the system, and in 2001, a rider was added to the provisions of the court judgment mandating a comprehensive program to keep inmates safe from sexual violence. In response, TDCJ created its Safe Prisons Program to address sexual assault, extortion and life endangerment. The Safe Prison Program Management Office was created to oversee the program, specifically to conduct statistical analysis of alleged sexual assaults; monitor reported incidents to guarantee staff compliance with policies; facilitate staff training and inmate awareness programs; and identify issues for further policy development. The programming includes staff training, a database to track aggressors and victims, a "visual tracking grid" to track gang related incidents, the "Wall Talk" peer education program, offender awareness programs, and unit culture profiles. TDCJ also created a Special Prosecution Unit to relieve local district attorneys from the burden of prosecuting prison cases. By addressing PSV, TDCJ managers believe other prison safety and security issues are being addressed at the same time.

When the department began its PSV policy development process, the central DOC office in Idaho recognized that some correctional staff did not consider PSV to be "Their business." Administrators determined that such staff must not stand in the way of what needed to be done to protect inmates from sexual harassment and assault. Accordingly, they developed a culture change initiative to prepare the ground for new reforms. Without the culture change, they say, none of the other PSV policies, practices and program initiatives now under way would likely have taken hold. The core feature of the initiative was to demonstrate to staff and inmates alike that sexual violence is not an expected part of prison life--and that, indeed, inmates could be victims who are worthy of proper attention and protection. The Idaho DOC formed a team of central office and prison facility staff to develop a comprehensive statewide policy toward PSV. The director ordered the development of statewide training and the implementation of a comprehensive policy to improve the system's response to incidents. Realizing that change in staff and inmate attitudes toward PSV would be a necessary prerequisite to making new policies and programs effective, the workgroup adopted the theme "Maintaining Dignity" for the department's PSV staff training and inmate education initiative.

Executing change locally: Individual facilities take the lead. Although most state DOCs developed PSV policies and programs centrally and disseminated them to facilities throughout the state, in some states, facility managers and staff took the lead in developing responses to PSV. Just more than half (51 percent) of the DOCs surveyed reported having facility-specific approaches. The vast majority of them were developed to address perceived special needs of populations--such as women, juveniles, inmates with mental illness, sex offenders and HIV-infected inmates--held at those institutions. Of the states surveyed, only in Indiana was a comprehensive facility-based approach to PSV adopted as a model for other facilities in the state. In one other state, Kansas, the agency director encouraged facility managers to look to the needs of their institutions and adapt the centrally mandated programs with strategies of their own to meet facility-specific needs.

When the superintendent of Indiana's Lakeside Correctional Facility became aware of the requirements of PREA, he decided not to wait for the central office to address the issue. Instead, he took initiative to establish policies and programs in his facility. He did this, he said, not because sexual violence was a problem at Lakeside--the facility had never had a reported sexual assault in its history--but to prevent it from occurring. His first step was to identify key members of his staff to serve on an institutional committee to develop programs and policies. The committee developed a classification procedure to identify potential aggressors and victims, implemented a facilitywide staff training program on PSV, and initiated an orientation program on PSV for offenders assigned to the facility. By December 2004, the program was fully operational. Facility mental health staff assessed any offender who was identified as a possible PSV victim or aggressor and assigned housing near officer stations and clearly in view of security cameras. This program first came to the attention of the Indiana DOC's central office in January 2005 when a newly appointed commissioner visited the Lakeside facility. Subsequently, the department's policy manager recommended that the procedures at Lakeside form the core of the agencywide PSV program.

The Kansas DOC has agencywide PSV policies and programs in place at all of its facilities, but at the same time, the central office encourages facility directors to address PSV issues with programs of their own to meet local needs, as long as the local initiatives are consistent with overall departmental policies. Wardens at the Topeka and Hutchinson correctional facilities took advantage of the latitude to develop program components that went well beyond those mandated by the central office. Central office managers have taken note of what these facility directors have accomplished and have an eye open for enhancements that might be replicated to serve the needs of inmates and staff at other facilities.

At the Topeka Correctional Facility, an institution for women, local managers have added components to the state's mandated curriculum requiring that all staff having contact with inmates, including contractors, participate in training on inmate-staff relations and staff misconduct. Furthermore, Topeka has amplified the centrally mandated 120-day inmate review, requiring inmate counselors to ask whether the inmate has been sexually harassed or pressured in any way by other inmates or staff. The warden believes this would give inmates an opportunity to report incidents of sexual harassment and violence in a nonthreatening, safe environment.

At the Hutchinson Correctional Facility, staff members have designed a facility-specific Inmate Orientation Manual for newly arriving inmates. The manual includes a discussion of inmate safety, provides guidance for what inmates should do if sexually harassed or assaulted, and informs inmates of what protections and services are available to them if they are. Staff at Hutchinson also have produced a film on sexual assault prevention that is shown via an internal television network. The prevention film includes a taped message from the warden's office specifically addressing sexual harassment and assault, including the department's zero-tolerance policy. "do's" and "don'ts" for inmates and staff, and the risks of consensual sex.

Conclusions and Obstacles To Developing Policies

Implementing PSV policies and initiatives may reap operational benefits well beyond addressing sexual violence. Agency directors with comprehensive PSV policies and programs in place indicated that a prison system that succeeds in stemming PSV is a system that may be more internally safe and secure and better able to accomplish its public safety mission than those that do not. They saw tackling PSV and appropriately responding to it as part of the larger goal of protecting inmates from harm while ensuring the security of the institution.

Despite the benefits of implementing such policies, 23 of the 45 states surveyed reported encountering significant barriers when developing agency policies and programs to respond to PSV. The most commonly cited barrier had to do with resistance by agency staff. Some line staff and supervisors were not used to the idea that an incarcerated offender could also be a victim. The PREA coordinator in one southern state characterized this attitude as "the Oz Syndrome," referring to the popular cable television program about prison life. The most effective response to such attitudes, some respondents noted, was to provide extensive and effective preservice and in-service training focused on informing staff attitudes about PSV.

Other agency directors who reported staff resistance as a major impediment to effective policymaking noted that negative staff response to new policies and programs had to do with fear that inmates, once encouraged to come forward with information about sexual harassment and assault, would unfairly accuse staff members. Managers of those agencies initiated strategies to educate staff to get them on board with the new programs and policies. For example, in two unionized states, the collective bargaining agents protested the implementation of new PSV programs and policies for fear their members would be victims of false allegations. The directors in those states worked closely with collective bargaining representatives to convince them that the new policies represented a higher professional standard of work and that management would work with the unions to ensure that staff were treated fairly when such accusations were made.

PREA legislation and changes in correctional priorities have increased the focus and attention on sexual violence, and the information provided here is intended to shed light on the policy and program development that has occurred in recent years. Although this study did not conduct formal evaluations of the programs presented, it identified promising and innovative programs that respond to sexual violence in prisons, as identified by the personnel addressing such issues every day.

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