



Bureau of Justice Statistics Status Report

June 30, 2004

Data Collections for the Prison Rape Elimination Act of 2003

On September 4, 2003, President George W. Bush signed into law the Prison Rape Elimination Act of 2003 (P.L. 108-79). The legislation requires the Bureau of Justice Statistics (BJS) to develop a new national data collection on the incidence and prevalence of sexual assault within correctional facilities. This report updates *Implementing the Prison Rape Elimination Act of 2003*, dated February 5, 2004.

There have been only a few studies on the prevalence of sexual assault within correctional facilities. These studies are typically small in scale, covering only a few facilities, and generalizations to the national correctional population are not appropriate. The magnitude of sexual assault among prisoners is not currently well understood. BJS is tasked with developing reliable methods to measure the problem so that it can be addressed and eliminated.

Victimization, particularly sexual assault by a same-sex perpetrator, is a sensitive event that introduces complexities for collecting self-report data. There are ethical concerns, a need to insure respondent confidentiality to ease fears of reprisal, and a general reluctance to fully report past incidents. Data collection from juveniles also requires consent from parents or legal guardians. Corrections administrators have concerns about legal liability, reliability of self-reports, and potential disruption of facility operations.

Highlights of Public Law 108-79

- **Sec. 4 (a)(1).** *The Bureau of Justice Statistics ... shall carry out, for each calendar year, a comprehensive statistical review and analysis of the incidence and effects of prison rape. The statistical review and analysis shall include, but not be limited to the identification of the common characteristics of —*
 - (A) *both victims and perpetrators of prison rape; and*
 - (B) *prisons and prison systems with a high incidence of prison rape.*
- **Sec. 4 (a)(4).** *The review and analysis ... shall be based on a random sample, or other scientifically appropriate sample, of not less than 10 percent of all Federal, State, and county prisons, and a representative sample of municipal prisons.*
- **Sec. 4 (a)(6).** *Federal, State, or local officials or facility administrators that receive a request from the Bureau ... will be required to participate in the national survey and provide access to any inmates under their legal custody.*
- **Sec. 4 (b)(3)(A).** *... there is established, within the Department of Justice, the Review Panel on Prison Rape The duty of the Panel shall be to carry out, for each calendar year, public hearings concerning the operation of the three prisons with the highest incidence of prison rape and the two prisons with the lowest incidence of prison rape within each category of facilities*
- **Sec. 4 (c)(1).** *Not later than June 30 of each year, the Attorney General shall submit a report on the activities of the Bureau and the Review Panel, with respect to prison rape, for the preceding calendar year*
- **Sec. 4 (c)(2).** *The report required under paragraph (1) shall include ...*
 - (B)(ii) *a listing of those institutions in the representative sample, separated into each category ... and ranked according to the incidence of prison rape in each institution; and*
 - (C) *a listing of any prisons in the representative sample that did not cooperate with the survey ...*
- **Sec. 8 (c)(4).** *For each fiscal year, any amount that a State receives for that fiscal year under a grant program covered by this subsection shall not be used for prison purposes ... unless the chief executive of the State submits to the Attorney General a certification that neither the State, nor any political subdivision or unit of local government within the State, is listed in a report ... pursuant to section 4(c)(2)(C).*

BJS is developing new methods to address current deficiencies

At present there is no reliable collection methodology for measuring prison rape. Most prior attempts to measure the prevalence of prison rape relied on either personal interviews of inmates or use of mail-in, self-administered inmate questionnaires. Personal interviews of inmates have generally yielded low positive response rates (below 1%). These low rates of reporting do not permit further analyses of victim, perpetrator, and facility characteristics. More recent studies with self-administered questionnaires have yielded higher prevalence rates (around 20% with a broad definition of sexual assault). However, the credibility of such studies remains in question due to low questionnaire completion rates (e.g., 25% response rate) and loss

of control over who completes the forms and under what settings.

To address existing deficiencies, BJS is developing and testing the use of Audio Computer-Assisted Self-Interviews (known as “audio-CASI”). The audio-CASI methodology involves inmates responding to a computer questionnaire using a touch-screen, following audio instructions delivered via headphones. It is anticipated that removing the presence of a personal interviewer will increase an inmate’s willingness to report sensitive information. Audio-CASI also permits inmates with limited literacy to report victimization. At the same time, the conditions under which inmates complete the survey can be controlled, unlike past surveys in which inmates completed a written questionnaire in various environments.

To identify the best measurement strategy, BJS will test audio-CASI in two interview settings: (1) inmates in prisons and jails and residents in juvenile facilities; and (2) inmates and residents who are soon-to-be released.

BJS will also test supplemental survey methodologies, including computer-assisted interview methods (CAI) and paper and pencil interviews (PAPI), to collect information from soon-to-be-released jail inmates and recently released prisoners in parole offices. Despite the expected improvements from audio-CASI, inmates may still perceive that their responses will not be kept confidential and may continue to fear retribution as long as they remain in prison or jail. BJS will test various methods of surveying released inmates to determine if rates of sexual assault differ by incarceration status.

<p>How will rape be measured?</p> <p>Section 10 of the Prison Rape Elimination Act defined the term “rape” as: <i>... the carnal knowledge, oral sodomy, sexual assault with an object, or sexual fondling of a person, forcibly or against that person’s will; or not forcibly or against the person’s will, where the victim is incapable of giving consent because of his or her youth or his or her temporary or permanent mental or physical incapacity; or</i> <i>...the carnal knowledge, oral sodomy, sexual assault with an object, or sexual fondling of a person achieved through the exploitation of the fear or threat of physical violence or bodily injury.</i></p> <p>After consulting with experts in sexual victimization, prison rape researchers, and corrections administrators and practitioners, BJS intends to operationalize this definition by disaggregating sexual assault into three categories of inmate-on-inmate sexual violence and all incidents of staff sexual misconduct.</p>	<p>Categories of sexual violence will reflect uniform definitions formulated by the National Center for Injury Prevention and Control, in “Sexual Violence Surveillance: Uniform Definitions and Recommended Data Elements,” Center for Disease Control and Prevention (CDC).</p> <p>These categories are: 1) completed non-consensual sexual acts; 2) attempted non-consensual sexual acts; and 3) abusive sexual contacts. Inmate-on-inmate non-consensual sexual acts include:</p> <ul style="list-style-type: none"> • contact of any inmate without his or her consent, or of an inmate who is unable to consent or refuse; and • contact between the penis and the vulva or the penis and the anus involving penetration, however slight; or • contact between the mouth and the penis, vulva, or anus; or • penetration of the anal or genital opening of another person by a hand, finger, or other object. 	<p>Inmate-on-inmate abusive sexual contacts include:</p> <ul style="list-style-type: none"> • contact of any inmate without his or her consent, or of an inmate who is unable to consent or refuse; • intentional touching, either directly or through the clothing, of the genitalia, anus, groin, breast, inner thigh, or buttocks of an inmate. <p>All sexual acts involving staff are considered misconduct and are covered under the Act, including:</p> <ul style="list-style-type: none"> • any behavior of a sexual nature directed toward an inmate by an employee, volunteer, official visitor, or agency representative; • all completed, attempted, threatened, or requested sexual acts between staff and inmates; • any incident of intentional touching of the genitalia, anus, groin, breast, inner thigh, or buttocks with the intent to abuse, arouse, or gratify sexual desire; • incidents of indecent exposure, invasion of privacy for sexual gratification, or staff voyeurism.
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Multiple measures of sexual assault will be used to assess reliability and to rank facilities

Due to the complexities associated with collecting sensitive data within correctional facilities serving a variety of functions and supervising different populations, BJS will obtain multiple measures of sexual assault victimization. BJS will disaggregate the number of incidents by type of facility and distinguish non-consensual acts from abusive sexual contacts. (See box on page 2.) This approach will permit BJS to analyze the validity of different data collection methodologies as well as their impact on facility-level estimates.

The need to provide anonymity to victims and to give assurances of confidentiality of their responses prevents validating reports of sexual assault through follow-ups and official records. Instead, by incorporating multiple measures within the audio-CASI surveys and comparing results across multiple modes of data collection, BJS will attempt to validate victim self-reports through independent measures.

The audio-CASI surveys will include questions about victimizations other than sexual assault. These questions will be used to assess the reliability of the victim self-reports. Also to assess reliability, victims will be asked a series of questions about the circumstances surrounding each incident.

BJS will conduct an annual administrative records collection

Concurrent with developing and testing self-report survey methodologies, BJS will conduct an annual administrative records collection. During 2004 BJS will survey all Federal and State prison systems, State juvenile systems, and a representative sample (not less than 10%) of local jails and privately or locally operated juvenile facilities. The administrative records collection is expected to include 3,269 of the 8,727 facilities covered by the Act.

Number of facilities covered under the Prison Rape Elimination Act of 2003

Facility type	Number of facilities	Sampled for collection in 2004
Total	8,727	3,269
Prisons		
Public - Federal	84	All ^a
Public - State	1,320	All ^a
Private	264	30
Local jails		
Public	3,318	390
Private	47	10
Juvenile facilities		
Public	1,211	All ^a
Private	2,323	194
Other facilities		
Indian country jails	70	10
Military-operated	59	10
ICE-operated ^b	31	10

^aThe administrative records collection will cover all 50 State prison and juvenile systems and the Federal Bureau of Prisons.

^bIncludes facilities operated by or exclusively for the Bureau of Immigration and Customs Enforcement, formerly the U.S. Immigration and Naturalization Service.

The main objectives of the administrative collection are to determine:

- the number of reported incidents of inmate-on-inmate sexual violence and staff-on-inmate sexual misconduct, by gender;
- how prison systems and facilities record these incidents (e.g., in disciplinary, grievance, investigative, or medical files);
- what information is recorded (e.g., allegations, confirmed incidents, only incidents involving serious bodily harm, or threats);
- where the incidents occur (e.g., in the victim's cell/room, in a common area, or outside of the facility);
- what additional data are available (for purposes of administrative collections in future years).

The 2004 administrative collection will provide an understanding of what corrections officials know, what information is recorded, how allegations and confirmed incidents are handled, what disciplinary or administrative and legal sanctions are imposed on perpetrators, and what treatment is provided to victims of sexual assault.

The results from this collection will provide BJS with system- and facility-level estimates of the incidents of sexual assault for calendar year 2004. As required under the Act, BJS will report the findings at a facility level when possible and at a system level when facility-level estimates are not appropriate. Facilities and systems with the highest and lowest rates of sexual assault will be identified.

Findings from the 2004 administrative collection will also be used in future surveys. In 2005 the administrative survey will be expanded to collect information on individual incidents of sexual assault occurring in State and Federal prisons and State juvenile systems. In 2006 the survey will collect data on incidents occurring in local jails and privately or locally operated juvenile facilities. The incident-level data collections will provide detailed data on circumstances surrounding each reported incident. These data will enable BJS to analyze in depth the incidence and effects of sexual victimization within correctional facilities.

BJS has identified agents to assist in the data collections

The Government's Division of the U.S. Census Bureau will act as BJS' collection agent for the 2004, 2005, and 2006 surveys of administrative records. BJS has developed separate questionnaires for the Federal Bureau of Prisons, State prison systems, local jail jurisdictions, State juvenile systems, and local and private facilities. BJS and Census staff are currently testing these questionnaires and developing optimal sampling designs. Data collection will begin in early 2005, following approval from the Office of Management and Budget (OMB).

In April 2004 after a competitive award process, BJS selected the Research Triangle Institute (RTI) to design, develop, and test the audio-CASI surveys for use in adult prisons and jails. The cooperative agreement award with RTI covers a 24-month period.

BJS and RTI staff are currently developing a draft questionnaire to include detailed items that measure the incidence of physical and sexual victimization during a 12-month reference period. These items are based on BJS' National Crime Victimization Survey and have been adapted for use in correctional facilities. The draft questionnaire will undergo cognitive testing in six facilities in September 2004. The cognitive tests will evaluate the question wording and comprehension of the survey concepts by inmates. Results of the cognitive tests will be used to revise the draft audio-CASI questionnaire. The draft questionnaire and supporting survey methods will be submitted to OMB for review and approval.

Upon approval by OMB, the survey will be field-tested in spring 2005. The field test will include approximately 2,500 respondents from up to 25 State and Federal prisons and local jails.

A separate data collection agent will measure juvenile victimization

To address the complexities of collecting data from youth under the supervision of juvenile justice authorities, BJS has solicited a separate collection agent to develop and test audio-CASI

methods in juvenile facilities. A formal announcement of an 18-month cooperative agreement is expected in July 2004.

Efforts to collect data from youth have the additional burden of obtaining consent from parents or legal guardians prior to the participation in the survey. While administrators in some juvenile facilities are able to consent on behalf of the parent or guardian, other administrators are not, depending on the laws of the State or locality. A further complication is that most State child abuse reporting laws require disclosure of an incident of sexual assault to the appropriate authorities. These legal and ethical requirements pose special challenges in designing survey methods that will satisfy internal review boards (IRBs) and guarantee confidentiality to the youth.

The cooperative agreement will include developing and testing supplemental PAPI or suitable CAI surveys. These surveys are needed because of the high turnover rates of juveniles in facilities. BJS staff and the collection agent will work collaboratively to develop procedures for interviewing youth who flow through sampled facilities over a 12-month period to produce accurate facility-level prevalence rates.

Cognitive tests are expected to occur in up to 10 juvenile facilities in late 2004, followed by a national pretest in up to 30 facilities in mid-2005. Based on the pretest results, the collection agent will formulate a national implementation plan that describes strategies for overcoming the legal, ethical, and logistical complexities related to the juvenile data collection.

Census Bureau to assist in data collection from former inmates

Finally, BJS is finalizing an interagency agreement with the Demographic Surveys Division (DSD) of the U.S. Census Bureau for the development and testing methodologies for collecting data on sexual assault from former prisoners under active parole supervision and soon-to-be-released jail inmates. A final agreement is expected in July 2004.

DSD will assist BJS staff in designing and testing PAPI and other CAI survey methods. Although the surveys will be self-administered, Census field staff will oversee survey procedures to ensure respondent confidentiality and the integrity of the parolee and jail inmates samples. Field staff will coordinate with jail and parole office staff the selection of the sample and the

Data collections and agents

- **Administrative Records Collection:** Governments Division of the U.S. Census Bureau will conduct surveys in 2004, 2005, and 2006. The 2004 survey will collect data from the Federal Bureau of Prisons, all State prison and juvenile systems, and a sample of local jails and private facilities. Detailed data will be collected on incidents reported to State and Federal prison officials and State juvenile systems in 2005 and on incidents in sampled local jails in 2006.
- **Self-reports by inmates in adult correctional facilities:** Research Triangle Institute was awarded a 24-month cooperative agreement to design, develop, and test audio-CASI in adult correctional facilities. The project includes cognitive testing, conducting a national pretest, and delivering a national implementation plan in 2006.
- **Self-reports by persons in juvenile facilities:** A data collection agent has been identified for an 18-month cooperative agreement to design, develop, and test audio-CASI and other supplemental survey methodologies in juvenile facilities. A national implementation plan is expected in 2006.
- **Self-reports by soon-to-be-released jail inmates and former State prisoners:** BJS is finalizing an 18-month interagency agreement with Demographic Surveys Division of the U.S. Census Bureau to design, develop, and test PAPI and other CAI survey methods for use with inmates at time of discharge from local jails and for former State prisoners on active parole supervision.

distribution and collection of survey forms.

Cognitive tests are planned for late 2004 followed by a field test with up to 30 jails and 20 State parole offices in mid-2005.

The data collected from former inmates will permit BJS to evaluate whether incarceration status has an effect on self-reported victimization. Should there be an effect, additional methods will be developed to link reports of former inmates to specific facilities and prison systems.

BJS has hired experts to provide support for data collection activities

BJS is currently finalizing agreements with two individuals to provide expertise in sexual assault research and the juvenile justice system.

Richard Tewksbury, Ph.D., is a professor at the University of Louisville in the Department of Justice Administration. Dr. Tewksbury has authored many publications on sexual assault within correctional facilities. He joined BJS under the BJS Visiting Fellows Program in June 2004 for an 18-month term.

Howard Snyder, Ph.D., is the Director of Systems Research for the National Center for Juvenile Justice (NCJJ). Dr. Snyder possesses a unique knowledge of juvenile delinquents and their movement within the juvenile justice system. He will work as a consultant on juvenile justice issues with BJS for an 18-month period. BJS may hire or retain additional subject matter experts as necessary to support data collection activities.

National implementation has begun and will be fully operational in 2006

To meet the requirements of the Act, BJS will conduct an initial administrative records collection in 2004. This collection will provide facility and system-level estimates of sexual assault for calendar year 2004. Similar collections are planned for 2005 and 2006, with additional details from official records on each reported incident of sexual assault.

It is anticipated that the audio-CASI, PAPI, and other CAI surveys of current and former inmates will be fully operational for a national data collection by the end of 2006. Test results of audio-CASI, PAPI, and CAI surveys will be made available in June 2006.

In 2006 BJS will issue solicitations seeking data collection agents to conduct the national implementation of all four survey components. The first facility-level measures of sexual assault using victim self-reports from a national sample of Federal and State prisoners, local jail inmates, persons held in juvenile facilities, and former inmates will be collected for calendar year 2006.

In meeting the requirements of the Act, BJS is relying upon the support of correctional administrators nationwide. It will be difficult to obtain accurate and reliable data on sexual assault, especially in facilities that house juveniles. Through extensive development and testing, BJS is seeking to identify reliable methods in order to begin national implementation.

Better information on the extent of the problem will inform policy-makers in their efforts to eliminate sexual victimization within correctional facilities. The challenge is formidable, but with the cooperation of corrections professionals, requirements of the Act will be met and the objectives achieved.

Schedule of BJS activities for the Prison Rape Elimination Act

	Start	Finish	2003			2004			2005			2006			2007		
Project Management																	
Assemble materials	3/1/03	1/31/04	██████████														
Convene panels of subject matter experts	12/15/03	2/28/06															
Develop implementation plan	3/1/03	1/30/04	██████████														
Hire experts in sexual assault and juvenile justice	4/1/04	9/30/05															
Obtain OMB clearances	6/1/04	1/15/07															
Write report	4/1/04	6/30/07															
Conduct Administrative Records Collection																	
Develop inter-agency agreements	4/30/03	7/30/04	██														
Sample design and selection	10/1/03	5/15/05															
Questionnaire development	10/15/03	6/30/06															
Conduct testing	5/1/04	10/31/06															
Data collection	1/1/05	2/28/07															
Analysis and write final report	1/15/05	4/15/07															
ACASI Development - Adult Facilities																	
Obtain data collection agent	9/1/03	3/29/04	██████████														
Develop/test ACASI instrument	7/1/04	8/31/05															
Develop/test alternative sampling designs	7/1/04	2/28/05															
Develop national implementation plan	7/1/05	2/15/06															
ACASI Development - Juvenile Facilities																	
Obtain data collection agent	5/15/04	7/30/04															
Develop/test ACASI instrument	8/1/04	3/30/05															
Develop/test alternative sampling designs	5/1/05	7/30/05															
Develop national implementation plan	11/1/05	2/15/06															
PAPI/CAI - Jail inmates and former prisoners																	
Obtain data collection agent	5/15/04	7/30/04															
Develop surveys and methodology	8/1/04	6/30/05															
Conduct field test	6/1/05	10/31/05															
Evaluate results	11/1/05	1/15/06															
National data collection																	
Obtain data collection agent(s)	1/1/06	5/31/06															
Obtain OMB clearance	1/1/06	5/31/06															
Data collection	8/1/06	12/30/06															
Analysis and write final report	1/1/07	6/30/07															