

Prison Rape Elimination Act (PREA): A Pennsylvania Perspective

By Hallie Martyniuk



The Pennsylvania Department of Corrections (PA DOC) has one of the 10 highest prison populations in the country. In response to PREA's passage, the PA DOC took proactive measures to address the problem of prison rape and improve its system of response throughout the state's 26 correctional institutions. The PA DOC applied for and was among 16 states that were awarded federal funds, through a Bureau of Justice Assistance grant in June 2004. The PA DOC recognized its own problem of underreporting of prison rape, acknowledging that out of all misconducts reported, of which there were 79,281 in 2003, less than one percent, or only 347 were sex-related. Furthermore, of the 347 sex-related misconducts, only two met the legal definition of rape established by PA DOC policy.

There were three overarching goals in the PA DOC grant:

1. Increase the reporting of sexual assaults in prisons;
2. Protect inmates in custody;
3. Ensure staff and inmates understand the state's strong commitment to ending sexual assault.

To accomplish these goals, five initiatives were proposed:

1. Specialized information on sexual assault and reporting protocol;

2. An anonymous survey of inmates and staff to determine the prevalence of prison rape;
3. Rape Awareness and Prevention at each state correctional institution, including video and open discussion;
4. DOC staff training on reporting and investigating sexual assault;
5. Establishment of a web-based sexual assault reporting system;
6. Revise and broaden DOC policy on prison rape to comply with PREA.

In 2005, the Pennsylvania PA DOC entered into a formal partnership with the Pennsylvania Coalition Against Rape (PCAR) and the Office of the Victim Advocate (OVA) to help implement PREA initiatives in Pennsylvania State Correctional Institutions. PCAR's inclusion in this partnership was based largely on the relationship PCAR enjoys with OVA, a corrections-based victim service agency. PCAR's role, as stated in the initial grant, was to assist in coordinating and implementing the grant's activities as a member of the Prison Rape Elimination Act (PREA) Committee, support local rape crisis centers in providing services to victims of prison rape, provide a series of regional trainings on prison rape, help develop PA DOC's training curricula, and assist in teaching such curricula.

.....
Pennsylvania Coalition Against Rape (PCAR), established in 1975, is a statewide nonprofit organization working to prevent sexual violence at the state and national levels. The mission of PCAR is to eliminate all forms of sexual violence and to advocate for the rights and needs of victims of sexual assault. PCAR's core is its network of 50 rape crisis centers in PA that work with PCAR to administer quality services. PCAR provides training and technical assistance to both center staff and allied professionals across the Commonwealth. PCAR also promotes public awareness programs and public policy.

OVERCOMING DIFFERENCES

From the beginning, it was obvious that PCAR and PA DOC were starkly different. PA DOC's mission is to protect the public by confining persons committed to custody in safe, secure facilities, and to provide opportunities for inmates to acquire the skills and values necessary to become productive law-abiding citizens while respecting the rights of crime victims. It is primarily concerned with the *care, custody, and control* of inmates. PCAR's mission is to *work to eliminate all forms of sexual violence and to advocate for the rights and needs of victims of sexual assault* (PCAR, n.d.). Its primary concern is the needs of victims and preventing sexual violence.

CONFIDENTIALITY

One of the stark differences identified by the collaborative partners (PA DOC, PCAR, OVA) was the difference in their confidentiality standards. Within the prison system, confidentiality is virtually non-existent. Inmates have little to no privacy. Their incoming and outgoing mail is subject to inspection. Their telephone calls are limited to only those on call lists and their visitors limited to those on visitor lists. Prison personnel must first approve everyone on a call or visitor list. There is never complete privacy in prisons, even when

dealing with an issue as sensitive as sexual violence. Therefore, before a sexual assault counselor/advocate walks through the prison gates to provide services, the incarcerated victim must first disclose the reason for the visit to prison personnel.

In contrast to the prisons, Pennsylvania sexual assault counselors/advocates and clients enjoy legislated privileged communications (similar to the confidentiality between doctors and patients). Privileged communication enables counselors to maintain the confidentiality of information revealed to them, even if they are called to testify as a witness in a trial or another proceeding.

Because the DOC and PCAR's standards of confidentiality were so different, it was necessary for the two partners to come to compromise in order to make counseling services available to sexually assaulted inmates. The PA DOC worked with PCAR to find a way to maintain confidentiality between advocates and incarcerated victims and at the same time maintain the PA DOC's obligation to protect inmates and maintain safe and secure facilities. This resulted in PCAR creating an Informed Consent: Disclosure of Victimization form for advocates to use when working with incarcerated victims (Greco, n.d.).¹

INFORMED CONSENT

In essence, the informed consent requires an advocate to report to prison personnel if an inmate is in danger. As they do with all victims, advocates will review their confidentiality policy and limitations with incarcerated victims at the first session. The counselor/advocates will obtain a signed informed consent from the victim during their first meeting. The signing of the Informed Consent confirms that the inmate understands that the counselor will inform prison authorities of any *need to know* information necessary for the inmate's protection from further victimization. Information disclosed may include:

- The name(s) of alleged perpetrator(s)
- The nature of the unwanted sexual activity
- The means by which the perpetrator(s) gained compliance
- Frequency and duration of the victimization (PA DOC, 2008).²

With a complete understanding of the limitations on confidentiality from the beginning of their work with advocates, incarcerated victims can then actively choose what to disclose and what to keep private.

PUTTING COMMON GOALS INTO PRACTICE

Despite differences, the collaborative partners worked together resulting in two sexual assault training curricula—one for inmates and one for prison staff. The inmate curriculum includes a video and brochure/pamphlet on sexual assault reporting and prevention. An estimated 800 new inmates are admitted to PA DOC custody each month. To ensure that all new inmates receive information on sexual assault upon admission and that the information they receive is consistent, a video format was chosen. The video is lecture-based and features an OVA staff person who provides an overview of sexual assault, prevention, reporting, and services. All new inmates see the video upon arrival at the DOC's diagnostic and classification facilities. During orientation, a counselor/staff person is available to answer any questions inmates may have about the video, sexual assault, or prison

.....

The Office of the Victim Advocate (OVA) was created by the Victim Advocate Law, Act 8 of the 1995 Special Legislative Session on Crime. The purpose of the Victim Advocate is to represent the rights and interests of crime victims before the Board of Probation and Parole and the Department of Corrections. In addition, the Office of the Victim Advocate provides notification to crime victims of the potential for inmate release and opportunity to provide testimony, notification of the inmate's movement within the correctional system, referrals for crime victims to local programs, basic crisis intervention and support, general information on the status and location of the inmate as allowed by law, and notification of the expiration of an inmate's maximum sentence or date of execution, if applicable, as well as preparation of a victim who chooses to witness an execution.

policy. In addition to orientation, all inmates receive sexual assault education at their annual review with their counselor. At the annual review and orientation, they receive a brochure/pamphlet on sexual assault to reinforce the information provided via the video (Greco, n.d.).³

The staff curriculum includes an overview of sexual assault, prevention, reporting policies and protocol, the needs of victims, and services in Pennsylvania.

Also instituted as part of this collaboration were the following:

- **The Sexual Assault Reporting Line**
A resource which provides inmates and the public an opportunity to report incidents of sexual assaults. Calls to this toll-free number are routed to the SCI Camp Hill Control Center. Calls are answered by an officer who will ask questions regarding the allegations. Inmates use a dummy pin that will only

identify which institution that the call is initiated at and not the inmate that makes the call. This information will then be forwarded to the Department's Chief of Security and the Security Office at the facility where the alleged incident occurred. An investigation will be conducted at the facility and/or by the Office of Special Investigations and Intelligence (OSII). The Chief of Security will follow up to ensure that all Department policies and procedures are followed regarding the incident. Although it is not necessary for the caller to provide his/her name at the time of the report, if a name is provided it will go to the relevant institution as a part of the report.

■ PCAR Prison Letter Mailbox

A resource for inmates to report an incident of sexual assault or request assistance related to sexual assault. Each inmate receives a brochure developed by PCAR that contains the necessary contact information.


■ The Development of Policies and Procedures

The DOC has developed and implemented DC-ADM-008 *Sexual Harassment of or Sexual Contact with Inmates* to ensure that every victim of sexual assault or harassment receives appropriate services (PA DOC, n.d.).

■ Regular Clinical Review Team meetings

There are two levels of clinical review meetings. The first level takes place within the institution where the assault occurred, and the second level takes place at the state level. Both levels examine individual sexual assault cases to determine what is working well and where there is room for improvement within the system's response.

■ Institutional Sexual Assault Response Teams (SART)

SART teams will be formed within each institution to provide immediate response to incidents of sexual assault. The purpose of the SART teams is to meet the immediate needs of victims during the crisis period. 

REFERENCES

Greco, D. (n.d.). *PREA: A Pennsylvania perspective*. Unpublished manuscript.

Pennsylvania Coalition Against Rape. (n.d.). *About PCAR*. Retrieved from <http://www.pcar.org/about-pcar>

Pennsylvania Department of Corrections. (2008). *Sexual harassment of or sexual contact with inmates* [DC-ADM 008]. Available from http://www.cor.state.pa.us/portal/server.pt/community/doc_policies/20643

ENDNOTES

- 1 Donna Grecco, "PREA" A Pennsylvania Perspective," Pennsylvania Coalition Against Rape, Unpublished Report, p. 3-4.
- 2 Pennsylvania Department of Correction, "Sexual Harassment of or Sexual Contact with Inmates", DC-ADM 008, March 2007. Attachment 4-C.
- 3 Greco, Donna, "PREA: A Pennsylvania Perspective", Pennsylvania Coalition Against Rape.

This project was supported by Grant No. 2012-SW-AX-0003 awarded by the Office on Violence Against Women, U.S. Department of Justice. The opinions, findings, conclusions, and recommendations expressed in this publication are those of the author(s) and do not necessarily reflect the views of the Department of Justice, Office on Violence Against Women.



PENNSYLVANIA COALITION AGAINST RAPE

125 North Enola Drive • Enola, PA 17025

717-728-9740 • 800-692-7445 • TTY 877-585-1091 • pcar.org