

**Recommendations for On-Going Training to Prevent Sexual Assault of  
Inmates by Correctional Officers**

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Recommendations for On-Going Training to Prevent Sexual Assault of Inmates  
by Correctional Officers

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## **Abstract**

Recommendations for On-Going Training to Prevent Sexual Assault of Inmates  
by Correctional Staff

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### **Statement of the Problem**

All sexual contact or sexual relations in a correctional facility between inmates and correctional officers is a crime. “Sexual assault is motivated primarily by a need for power and control expressed through sexual violence”(Crossmaker, 1991, p. 201). Sexual assault of inmates is a human rights concern, a health issue, and it is against the law. The rate of AIDS cases confirmed in correctional institutions is six times higher than in the regular US population (Hammett, Harmon, & Maruschak, 1999).

The sexual assault of inmates by correctional officers is a crime that has been hidden in secrecy. There has not been a lot of research on the sexual assault of inmates by correctional officers until the last twenty years. The National Rape Elimination Act of 2003 set in motion standards to eliminate sexual violence in correctional facilities (US Dept of Justice, 2006). The National Rape Elimination Act of 2003 requires that correctional officers are trained in the prevention, detection, and investigation of inmate sexual assault.

## **Purpose of the Study**

The significance of this research paper is to look at preventing the sexual abuse of inmates by Correctional Officers. A better grasp of the problem needs to be understood to determine why training is not working. In a study of *Wardens' Perceptions of Prison Sex*, it was noted that “four variables (gender, race, sex of prison, and ratio of inmates to officers) are significantly related to estimates of the proportion of inmates that are involved in consensual sexual activities”(Hensley, 2005, p 186). Training for correctional employees must include clear definitions on what sexual assault is and what the consequences will be if they sexually assault an inmate. Improved training of correctional officers needs to be implemented so that Correctional Administration is complying with the National Rape Elimination Act of 2003. “Trust in the integrity, competence, and professionalism of staff would appear to be the central element in securing the warden’s effective control over the institution”(Flanagan et al., 1996, p. 395). Correctional administrators must know what legislation and case law is in regards to correctional officers sexually assaulting inmates. Christopher Hensley and Richard Tweksbury completed a research study on *Wardens' Perceptions of Prison Sex*. In conclusion of their study they stated “the results of this research clearly show the need for education and training of correctional administrators. This further research, together with the current research, should guide the development and delivery of continuing education and training efforts for current

administrators and up-and-coming administrators in training. Understanding and being prepared to respond to real and perceived incidents of sexual assault and their resulting consequences is critically important for efficient and effective correctional institutional management” (Hensley, 2005, p. 194-195).

This study takes a brief look at the Ohio Department of Corrections Ten Point Plan and the Texas Safe Prisons Program as representatives of two of the better programs that are currently being used to prevent inmate sexual assault. Many other states are attempting to model programs after the Ohio and Texas programs. Ohio and Texas both focus on training for the correctional officers and inmates. Ohio and Texas had policies for sexual assault prevention in place even before the implementation of The Prison Rape Elimination Act of 2003.

The other area to be explored is in the hiring of correctional officers, has a thorough background criminal history check been done. An example of a thorough background check would be the process the United States Military uses. Then after all testing and physical endurance is completed in the hiring process, before the job is offered to the applicant they would need to pass a psychological exam. Correctional institutions could face civil liability lawsuits for failing to protect the inmates.

### **Method of Approach**

Secondary research will be used to support that Correctional Officers are sexually abusing inmates. Research and data will be obtained from accredited journals, law enforcement sites, textbooks, and government internet sites.

Information will be obtained to show that inmate/correctional officer sexual assault is prevented by the use of correct training.

### **Specific Contributions to the Research**

This research paper will be a tool to review training that will prevent sexual assault of inmates by Correctional Officers. This paper will contain recommendations for more components for a better training program to stop sexual assault in correctional institutions. Improved and annual sexual assault prevention training for the correctional officers is a must. Another way to keep up to date with correctional officer's status is to have state and national criminal history record checks by fingerprint identification done every four years. This will identify if a correctional officer has been charged with any crime and has not notified the Correctional Facility. Psychological testing every five years to make sure correctional officers are staying psychologically fit is another way to prevent sexual assault of inmates. It is the Correctional Institutions job to provide safety and security for the inmates. With these tools to educate and keep up to date with the correctional officers status, the correctional facility will be enforcing the zero tolerance of sexual assault.

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## **I. INTRODUCTION: Need for Effective Correctional Training Programs to Decrease Staff-Inmate Sexual Assault**

Staff-inmate sexual assault is an ongoing problem in our correctional institutions. More importantly, current correctional training programs are ineffective in decreasing the problem. The Bureau of Justice Statistics Special Report on Sexual Victimization in Local Jails (2007) found that 3.2% of jail inmates nationwide reported being sexually assaulted. That 3.2% equates to 24,700 inmates, of which 2 percent were sexually assaulted by correctional staff. An estimated 1.3% of all inmates (10,400) reported that they had sex or sexual contact unwillingly with staff as a result of physical force, pressure, or offers of special favors or privileges. An estimated 1.1% of all inmates (8,400) reported they had willingly had sex or sexual contact with staff (Beck & Harrison, 2008). The report found 62% of the sexual assault offenders to be female jail staff involved with male inmates. The number of male jail staff sexual assault offenders violating female inmates was found to be 8%. In 79% of the incidents involving female correctional officers and male inmates, the male inmates reported to be willing participants. The staff to inmate victimization usually happened in an office, closet or other locked room. Sexual assault of inmates by correctional staff was found to occur from midnight to 6 AM, 47% of the time. “Staff-on-inmate sexual assault victims were most often given a bribe or blackmailed” (Beck & Harrison, 2008, p. 7).

For many years there was limited information on the amount of sexual assault in prison and jails. In 2003 the U.S. Congress drafted The Prison Rape Elimination Act (PREA). This passed easily in the House and the Senate and put forth a “zero-tolerance standard” for prison rape. This act then mandated that the US Department of Justice make it a priority to eliminate sexual violence in correctional facilities. One of the major goals of the Prison Rape Elimination act is to obtain data on the incidence of prison rape. The Prison Rape Elimination Act also created the independent National Prison Rape Elimination Commission to study correctional facilities sexual assaults. The National Rape Elimination

Commission is then to develop national standards to concentrate on the problem of sexual assault in prisons. One of the problems that Federal lawmakers saw when creating the Prison Rape Elimination Act was the inadequate training for prison staff. As a result of review, National Institute of Corrections is now in charge of providing training and information to prevent prison rape. Congress also appropriated \$60 million dollars for each fiscal year from 2004 until 2010 to accomplish the goal of reducing sexual assault of inmates. All states now must take steps to prevent prison rape by adopting the standards or they risk losing Federal Funds.

The Prison Rape Elimination Act of 2003 defines rape as “carnal knowledge, oral sodomy, sexual assault with an object, or sexual fondling of a person: Forcibly or against that person’s will; Not forcibly or against the person’s will, where the victim is incapable of giving consent because of his or her youth or temporary or permanent mental or physical incapacity; or Achieved through the exploitation of the fear or threat of physical violence or bodily injury” (US Department of Justice, 2006, p.25). This is a serious problem in prisons today. Joseph Fishman, who had been a federal prison inspector put it clearly when in 1934 he wrote, “The subject of sex in prison -- so provocative, so vital, so timely ... is shrouded in dread silence” (Hensley, 2005, p. 188) The safety issue with correctional officers and inmate sex is that it threatens the safety and security of the facility. The sexual assault inmate victim may threaten to expose the correctional officer or in exchange for keeping silent may require the officer to bring contraband, drugs, or weapons into the facility for the inmate. The inmates lives are under the control of the correctional officers and as a result the correctional officer does not have to use overt threats or force to get the inmates to have sexual contact with them. “Power and its use or abuse are pivotal issues in both sexual assault and institutionalization” (Crossmaker, 1991, p. 201)

Forced/coerced sex of inmates by correctional officers is a public health concern, a human rights issue and is against the law. Just one of the problems with correctional officer and inmate sex is the spread of sexually transmitted

diseases including HIV/AIDS. The rate of AIDS cases confirmed in correctional institutions is six times higher than in the unconfined US population (Hammett, Harmon, & Maruschak, 1999). Thus, the ongoing staff-inmate sexual assault problem is both a grave concern for the institution and an overall serious health problem for the public.

It is the correctional institutions job to provide safety and security for the inmates. Corrections institutions could face civil liability lawsuits for failing to protect the inmates. Sexual assault in the jail and prison system by correctional officers is on the increase. Sexual victimization by correctional officers is reported to be 2.9% whereas sexual victimization by other inmates is only 2.1% (US Dept of Justice, 2007). The Bureau of Justice Statistics reports that “Most incidents of sexual violence among inmates involve force or threat of force and occur in the victim’s cell, in the evening” (BJS, 2007).

An even bigger problem is that currently correctional training programs to prevent staff-inmate sexual assaults are ineffective today. The Human Rights Watch group went to the Bureau of Prisons and state prisons in the late 1990s to find out what they were doing to prevent sexual assault in their facilities. Very few agencies were addressing prison sexual assault at that time and only six departments had specialized training for prevention of prison sexual assault (Zweig and Blackmore, 2008). But the PREA has changed that for the protection of inmates. Then in 2005 the Urban Institute looked at prison sexual assault prevention and developed 11 case studies derived from visits to state prisons that had the top training programs. They found that “Commitment to change is one of the most important parts of many states’ prevention initiatives. However, resistance to cultural change - by correctional staff and inmates alike - was identified as posing the greatest challenge. One commonly cited barrier was the unwillingness of agency staff and correctional officers to change their attitudes and behaviors. Some line staff and supervisors were not comfortable with the idea that a prisoner could also be a victim” (Zweig & Blackmore, 2008, p 2). In some prisons it was found difficult to reassure inmates that the prison staff would take sexual assault seriously, protect sexual assault reporting inmates,

and act quickly on a reported sexual assault. Even though all the 11 case studies had good training programs it was identified that "Staff training was less focused on detecting staff perpetrators and inmate against staff violence" (Zweig & Blackmore, 2008, p. 6). Only three of the states gave information on detecting staff sexual assault offenders.

The Texas Department of Corrections offers the Safe Prisons Program and the Ohio Department of Rehabilitation and Corrections offers the Ten Point Plan to help eliminate staff-inmate sexual assault (Zweig & Blackmore, 2008). These two programs are the considered the most comprehensive state Department of Corrections plans. The Texas Safe Prisons Program is based on zero tolerance of sexual assault or any kind of predation. Ohio's Ten Point Plan is also centered on zero tolerance of sexual assault. The State of Oregon used the Oregon Accountability Model which including improving security to prevent sexual assaults. Most states provide sexual assault prevention information as part of their pre-service academy. Then training is usually repeated yearly as part of the correctional officers' training. Thirty-five states have programs and policies in place to prevent prison sexual violence (Addressing, 2006). However, the problems with current programs is that they do not make it mandatory for correctional staff to have on-going training addressing sexual assault against inmates (Zweig & Blackmore, 2008), on-going psychological testing (Goldberg & Reaves, 2000), and on-going background checks (Identification, 2008).

Therefore the purpose of this paper is to give recommendations for effective correctional training programs to decrease staff-inmate sexual assault. This research will first, address the increasing amount of staff-inmate assaults in correctional institutions. Secondly this research will explore the purpose of the Prison Elimination Act of 2003 and how it helps in the goal to eliminate staff-inmate sexual assaults. Thirdly, research will be addressed on current correctional programs that exist in correctional institutions, to include what important components are missing thus to make them more effective. Routine Theory and Social Bond Theory will serve as the theoretical framework in hopes to giving support to recommendations for an effective correctional program, one

to include ongoing psychological testing, ongoing training, and ongoing background checks for all correctional staff.

## **II: Literature Review**

The literature on preventing and addressing correctional officer sexual assault /rape of inmates shows that there is a rise in the number of sexual assaults to inmates by correctional officers. The research also shows that current training programs to prevent inmate sexual assault are ineffective because the information has not been passed on to the correctional officers. But the Prison Rape Elimination Act of 2003 has brought about progress in the prevention of inmate sexual assault. So to start with the definition of sexual assault is explained.

### **A. Definition of Sexual assault**

All fifty states and the federal government and the District of Columbia have custodial sexual misconduct laws which make it a crime for a corrections official to have sexual contact with an inmate, regardless of consent (Stop, 2008). The Prison Rape Elimination Act of 2003 defines rape as “carnal knowledge, oral sodomy, sexual assault with an object, or sexual fondling of a person: Forcibly or against that person’s will; Not forcibly or against the person’s will, where the victim is incapable of giving consent because of his or her youth or temporary or permanent mental or physical incapacity; or achieved through the exploitation of the fear or threat of physical violence or bodily injury" (US Department of Justice, 2006, p.25).

The National Institute of Justice (NIJ) funded a report in 2005 in which 600 inmates were questioned in ten different states in 30 various maximum-security prisons. The report, *The Culture of Prison Sexual Violence*, found that inmates do not define rape and sexual relationships like they are defined in free society. According to the US Department of Justice (2007) Inmates perceived rape to be a rare occurrence. It is important to look at how sexual assault is defined. For the purpose of this paper the terms sexual assault

and rape will be used. The US Department of Justice defines forcible rape for the Uniform Crime Report as “the carnal knowledge of a female forcibly and against her will” (U.S. Department of Justice, 1984, p. 10). When the National Uniform Crime Report statistics come out annually the number of rapes listed is done only by a man forcibly or attempted, vaginal intercourse with a woman. As a result of this limited definition most individual states have sexual assault laws that include sexual assault of the same sex, statutory rape with no force, and incest. These sexual assault laws are not part of the UCR program. In Wisconsin 30 percent of the sexual assaults are listed under the UCR Rape (Wisconsin Office, 2006). Seventy percent of Wisconsin sexual assaults do not get reported to UCR which would include the sexual assault of inmates by correctional officers. In Wisconsin a second degree sexual assault is a class BC felony. Section A of WI second degree sexual assault is whoever “has sexual contact or sexual intercourse with another person without consent of that person by use or threat of force or violence” and section F “is an employee of a facility or program under s.940.295(2)(b),©, (h), or (k) and has sexual contact or sexual intercourse with a person who is a patient or resident of the facility or program” (Wisconsin Office, 2006, p.35). The definition of the term *sexual contact* for this law is “sexual contact means any of the following: 1. Intentional touching by the complainant’s or defendant, either directly or through clothing by the use of any body part or object, of the complainant’s or defendant’s intimate parts if that intentional touching is either for the purpose of sexually degrading; or for the purpose of sexual humiliating the complainant or sexually arousing or gratifying the defendant or if the touching contains the elements of actual or attempted battery under s.940.10(1). or 2. Intentional penile ejaculate or intentional emission of urine or feces by the defendant upon any part of the body clothed or unclothed of the complainant if that ejaculation or emission is either for the purpose of sexually degrading or sexually humiliating the complainant or for the purpose of sexual arousing or gratifying the defendant” (Wisconsin Office, 2006, p. 36).

Correctional officers need to know the laws and administrative rules with regard to inmate issues, the legal system and jail operations. Those incarcerated

in prisons and jails still have constitutional rights. The Fourth Amendment to the Constitution gives people the protection from unreasonable searches of their person and property. It states: "The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated..." Incarcerated people retain their Fourth Amendment rights but in order to maintain safety, security, and order in correctional facilities searches are necessary. To ensure security a pat down, full or custodial, or strip search may be conducted of an inmate. A pat down search may be conducted at anytime for a security related reason. A pat down search is done over the outside of the inmate's clothing to locate a weapon. Ideally this should be done by a correctional officer of the same sex but it is not an absolute requirement. More intrusive than a pat down search is the full or custodial search. The full or custodial search is done as necessary to ensure security. The inmate is required to remove their clothing down to their underwear in a full/custodial search. The correctional officer conducts a thorough search of the inmate and their clothing but does not look at or touch private body parts. This search again is ideally done by a correctional officer of the same sex but it is not an absolute requirement. A strip search is viewing or touching an inmate's private parts of anus, buttocks, breasts, genitals, or public region. "U.S. Supreme Court specifically held that strip searches of convicted inmates may be conducted, on a routine basis, after each time that such inmates have had contact with the general public" (Correctional, 2007, p. 38). In the State of Wisconsin, a strip search is regulated by law by Wisconsin Statute s.968.255. A Wisconsin strip search can be done on a sentenced inmate to ensure security. Strip searches of pre-trial inmates can only be done if the detainee has committed a serious offense or suspected of concealing contraband or a weapon. Body cavity searches involve intrusion into the body cavity of an inmate and are to be done only by medical personnel. Wisconsin Statute s.948.255(3) states that a body cavity search is to be done by "... a physician, physician assistant, or registered nurse licensed to practice in this state..." Correctional officers need to be aware of these laws and not to cross the line into a sexual assault by not observing the law.

In the State of Wisconsin Chapter 302 of the Wisconsin statutes is “Prisons: State, County and Municipal” (Correctional, 2007). Wisconsin also has administrative codes that are similar to State Statutes in that they have to be obeyed. In the Wisconsin Administrative code there are several chapters that pertain to the basic rules and requirements for jail operations by the Department of Corrections in the State of Wisconsin. One chapter in the Wisconsin Administrative code is “Jails” Department of Corrections, Chapter 350. These administrative rules set the standards to provide for the security, safety, and humane treatment of inmates in Wisconsin jails. These statutes and administrative codes describe how searches of inmates are to be done which prevent the accusation of sexual assault. In a jail an inmate cannot give consent to have any type of sexual contact with correctional officers because of the unequal power dynamic of the custodial relationship. Inmate victims of sexual assault at the hand of correctional officers have the right to appeal to the Federal courts because of the lost of their Eighth Amendment right to be free from cruel and unusual punishment. A jail that fails to follow the Prison Rape Elimination Act that was enacted September 4, 2003, risks received reduced federal funds (Teichner, 2008).

Prison rape violates inmate’s rights under the Eight Amendment of the U.S. Constitution under the clause of Cruel and Unusual Punishment. Prison rape exacerbates prison violence. All sexual contact or sexual relations in the Federal Prisons between inmates and prison staff is a crime. “The Department of Justice Office of the Inspector General (OIG) is responsible for investigating allegations of staff sexual abuse of inmates held in the custody of the Federal Bureau of Prisons (BOP)”(US, 2005, p. 1). Sexual abuse is described by Federal Law as Statue 2242: “Whoever, in the special maritime and territorial jurisdiction of the United States or in a Federal prison, knowingly – (1) causes another person to engages in a sexual act by threatening or placing that other person in fear (other than by threatening or placing that other person in fear that any person will be subjected to death, serious bodily injury, or kidnapping); or (2) engages in a sexual act with another person if that other person is (A) incapable of

appraising the nature of the conduct; or (B) physically incapable of declining participation in, or communicating unwillingness to engage in, that sexual act; or attempts to do so, shall be fined under this title, imprisoned not more than 20 years, or both” (Title 18, 1998). The previous Section 2241 defines Aggravated Sexual abuse and Section 2244 defines Abusive sexual contact. So for Federal prison employees there is a very clear definition of sexual abuse that they are not to engage in. But the OIG finds two incomplete areas in their laws. The first deficient area is that if the officer does not use force or overt threats then their crime is only a misdemeanor punishable by up to a year in jail. Federal prosecutors are not very aggressive to prosecute misdemeanors. Just the opposite of the Federal Law, forty-three states regard it to be a felony to have unforced sexual relations with an inmate. The second deficient area of the Federal law is that it does not apply to federal inmates unless they are housed in Federal facilities. Sometimes federal inmates are housed at contracted facilities.

**B. Statistics show the rise of sexual assaults of inmates by correctional staff**

In 1992, in Hardwick, Georgia at the 900 bed Women’s Correctional Institute, fourteen correctional officers were charged with abuse of the female inmates. This consisted of ten male and four female officers. The charges resulted from affidavits filed by ninety female inmates alleging “rape, sexual abuse, prostitution, coerced abortions, sex for favors and retaliation for refusal to participate” in such activities. One inmate said: “As an inmate, I simply felt powerless to avoid the sexual advances of staff” (Schmalleger, 2003, p 544).

Researchers have found that not all sexual assaults to inmates by correctional staff get reported because the inmates fear that they would not be protected in case of retaliation. Inmates also do not report staff-inmate sexual assault because they do not believe that prison officials would take it seriously (Zweig and Blackmore, 2008). “Once raped, an inmate is likely to be marked as a victim and abused repeatedly” (Stop, 2008, p.6). Another reason why inmates do not report sexual abuse or rape is that they fear they will be moved to

segregation and such isolation is a punitive punishment to them because they will lose the privileges of programs and services. Sexual assault or rape also does not get reported as officers ridiculed them or suggested that the assault was somehow warranted. Alarming, in its study of sexual violence reported to corrections authorities in 2006, the Bureau of Justice Statistics (BJS) found that, in cases of substantiated sexual misconduct or abuse committed by a staff member only 6 percent of inmates were given a medical exam and only 12 percent were offered counseling (Stop, 2008, p. 11). In a lot of correctional facilities physical evidence is required for a report of sexual abuse, but in many cases of sexual abuse there is no physical evidence.

It was noted in the 2007 report *The Culture of Prison Sexual Violence*, that "The researchers reported that 66 percent of male inmates and 71 percent of female inmates were aware of sexual relationships between staff and inmates. While all sexual relationships between correctional staff and inmates are illegal, these estimates included romantic and/or mutually agreeable relationships. Collectively, 9.1 percent of male and female inmates reported they were aware of an inmate being raped by a staff member" (US Department of Justice, National Institute of Corrections, 2007, p. 4). So the actual reported numbers of sexual assaults to inmates by correctional officers is underreported because the inmates do not consider it a rape if it is consensual. This research was very productive because of the recommendations that resulted from it. Recommendations were made for staff training, direct supervision, developing policy, and inmate orientation.

Jails are short term confinement facilities and prisons are long term confinement facilities. The purpose for jail and prison standards is to identify the minimum standards necessary for inmate safety, health and control. So each jail/prison should have a written policy and procedure stating their standards. Correctional officers should review the policy and procedures manual annually and especially the prevention of sexual assault chapters. The penalties for sexual assault to an inmate should also be clearly stated in the policy. Jails have an excessive turnover rate of inmates. Since jail inmates are constantly rotating in

and out of jail, it is hard to get an accurate number of the sexual assaults committed against inmates.

When the Prison Rape Elimination Act of 2003 was formulated they conservatively estimated by experts that 13 percent of U.S. inmates have been raped. That number would be 200,000 inmates currently in prison" (Gaes, 2004).

### **C . Research that Shows Current Training Programs to Prevent Staff-Inmate Sexual Assault are Ineffective**

Correctional officers have a legal duty to protect inmates. The legal duty to protect includes: "keeping inmates safe from jail staff members; keeping inmates safe from other inmates; and keeping inmates safe from self harm" (Wisconsin Department, 2007, p. 9). This includes physical or sexual assaults. The Bureau of Justice Statistics reported the United States had 3,365 jails in 1999. As of 2004, there had only been one study of sexual victimization in jails. The Bureau of Justice Statistics reported the United States had 1,668 federal and state prisons in 2000. "Aside from one study conducted by the Bureau of Justice Statistics (BJS) in 1997, all other studies conducted in the United States included fewer than fifty prisons in total" (Gaes, 2004, p. 1).

In the late 1990s most state prisons and the Federal Bureau of Prisons did not have any rape prevention programs. Only six agencies had any training just for preventing or reporting sexual assault (Zweig and Blackmore, 2008). Legislation has changed that with the passage of the Prison Rape Elimination Act of 2003. The National Institute for Justice published a study *Addressing Sexual Violence in Prisons: A National Snapshot of Approaches and Highlights of Innovative Strategies*. This looked at the policies and procedures of the different state departments of corrections. From 2004 to 2005, twenty seven states had written policies about prison sexual assault (US Department of Justice, National Institute of Corrections, 2007). That is just a little over half of the states in the US. Nineteen of the states had written police addressing prevention and investigation. That is not enough states with policies and procedures if the goal is zero tolerance of prison sexual assault.

In June 2008 the Bureau of Justice Statistics published the annual report of sexual victimization in local jails. The report is from 282 local jails and two-thirds (67%) of jail inmates took part of the survey, 40,419 inmates. The inmates answered the questions anonymously and the reports were confidential. So there was no follow up investigation or charges pressed for the perpetrator. The results from the sample survey estimated that 3.2% of all local jail inmates experience sexual victimization. Of that 3.2% of sexual victimized inmates, 2% reported being assaulted by correctional officers. Twenty percent of the victims reported they were injured during the sexual victimization. Of the injured inmate victims, many had minor injuries of cuts, bruises or scratches. “Most injured victims (85%) also reported at least one more serious injury. Among all victims, 8% reported being knocked unconscious, 6% reported anal or rectal tearing, 6% internal injuries, 3% broken bones, and 2% knife or stab wounds (Beck and Harrison, 2008, p 4). This annual report also showed that overcrowding is not the cause of prison sexual violence. The highest rates of sexual violence 3.7% occurred in correctional facilities that were less than 90% of operating capacity (Beck and Harrison, 2008).

The National Prison Rape Elimination Commission (NPREC) in May 2008 published their outline for “Standards for the Prevention, Detection, Response, and Monitoring of Sexual Abuse in Adult Prisons and Jails” (Stop, 2008, p.1). If the sexual assault prevention training was being completed successfully as required by Federal Legislation according to the 2003 Prison Rape Elimination Act then there would not be a need for further standards. The Attorney General is scheduled to receive the final version of the “Standards for the Prevention, Detection, Response, and Monitoring of Sexual Abuse in Adult Prisons and Jails” in 2009 and adopt them as national standards. Once the standards are adopted then it will be mandatory for all correctional facilities to comply with them. If an agency does not comply the discretionary grants for that state will be reduced five percent. The goals of these new national standards are to help agencies improve safety and eradicate sexual abuses by the use of policies and practices. The standards are set up with four categories: prevention,

detection and response, leadership and accountability, and monitoring (Stop, 2008). Each standard will have a compliance checklist that will list specific actions that agencies must do to be compliant.

Linda Zupan in one study found that women made up 22% of the correctional officer force in jails across the nation (Schmallegger, 2003, p. 515). Men and women commit sexual assault of inmates for different reasons. “The greatest manipulation occurs between men and women, particularly when the motivation is sex” (Allen and Bosta, 2000, p. 64). “When a prisoner manipulates a female staff member for sex, conditions and situations must be carefully planned and implemented so as not to create suspicion while the inmate maneuvers her into position for the demand” (Allen and Bosta, 2000, p. 65). The inmate may develop an overly-familiar friendship with the officer. Dirty jokes or a pornographic story are allusions to sex to use as coercion. A touch, pat, handshaking, placing a hand on a shoulder to form a closer bond it can be a start for leading into further touching or sexual assault. When done to a female officer it can start as innocent as knocking lint or dirt off her uniform. Touching may progress to prolonged touching and more frequently. “To the strongly motivated felon, prison is the place where the art of manipulation is perfected. To violators, prisons are a challenge where manipulation of employees is a pastime, a source of pleasure and pride, a battle of wits, a means of achieving rank or status in the prison population” (Allen and Bosta, 2000, p. 1). Even though the correctional officers seem to be indifferent to the inmates they can sometimes be drawn in, ever so gently, to the inmate’s deception. Inmates will attempt to manipulate correctional officers for their own self-satisfaction. Some (inmates) are predators, who habitually seek out weaker, more vulnerable individuals and exploit them (Wisconsin Department, 2007). Correctional officers need to be trained properly so not to fall for the inmates attempting to get control. Training should be done on the techniques of deception that inmates may use and how to prevent it from happening. And when an attempt at manipulation occurs, the correctional officers needs to expose it by notifying the supervisor. Notify the supervisor in writing with good documentation of what was observed, the actions

taken, and the actions used to keep the inmates safe. This information can be shared by the supervisor with the other correctional officers so they are aware of what this inmate is attempting to do. Sharing of information about inmates helps other correctional officers to remain professional and aware. It is critically important for jail staff members to share information (Wisconsin Department, 2007). An inmate may feel that they can manipulate a correctional officer if the officer seems “burned out” or has relaxed their guard. Because of the monotonous routine in prisons and jails, complacency can set in. Correctional officers also need to be aware that their conversations are always monitored by inmates. An innocent conversation about another correctional officer having marriage or financial problems is not something the inmates should be hearing. “Inmates know that changes or anticipated changes can tend to make a person more vulnerable to inmate attention” (Allen and Barta, 2000, p. 49). Inmates will often play off the empathy and sympathy they can get from correctional officers.

The State of Wisconsin states that “Communicating effectively with inmates is the most important aspect of proper supervision” (Wisconsin Department, 2007, p. 6). Wisconsin advocates using *Correctional Professional Communication Skills (CPCS)* which is founded on the principles of “treat everyone with dignity and respect, show empathy, be a team player, and remember that your goal is to generate voluntary compliance” (Wisconsin Department, 2007, p.6). The key concepts of CPCS are shared responsibility, contact officer override, deflection of verbal abuse, and representation. Contact officer override is defined as “you have the responsibility to pay attention to the other officer’s behavior and actions and to “override” him or her if that officer is not being effective or is behaving inappropriately” (Wisconsin Department, 2007, p.7).

For some correctional officers, rules, morals and values change over the course of their employment. Many times the correctional officer can become disillusioned and bitter. Then their effectiveness as a correctional employee declines. It is during these times that inmate manipulation will work its best. The inmates observe the correctional officers demeanor. They will analyze their

movements, words, and actions. The correctional officer needs to remain professional with the inmates. The correctional officers should not allow inmates to address them by their first names. This is a business arrangement and should be treated as such. Rules need to be enforced for all inmates consistently and fairly. No favoritism is to be shown. Inmates may try to a correctional officer to identify with them and pit them against other officers. Inmates will to this in an attempt to divide and conquer the officers. They will create dissension among the officers. This is the manipulation of we/they syndrome (Allen and Bosta, 2000).

An agency can avoid entity liability through proper policy, training and supervision. Where officers respond in accordance with proper policy, training and supervision, the officer will also avoid individual liability. When dealing with sexual misconduct as well as harassment and discrimination, agencies must have zero tolerance policy and validate that policy through training, supervision, and enforcement (Ryan, 2008, p. 15). What needs to be looked at is the current training for correctional officers and see what is missing and give recommendations for an effective prevention of sexual assault training program.

In 2004, a year after the Prison Rape Elimination Act of 2003, the National Institute of Justice funded a survey of the Department of Corrections in 45 states and found that 33 of them had put sexual assault polices in place. The State of Oregon “mandates training for all staff on inappropriate sexual conduct and sexual violence” (Kaufman, 2008, p 28). At the Danbury Federal Correctional Institution, an 8-hour integrity training program was developed and conducted for all supervisory and management staff in regards to staff and inmate sexual misconduct (Stewart, 1998). As the result this training they developed a 90 minute video that summarized the training and all staff was required to watch this.

In a study of *Wardens' Perceptions of Prison Sex*, it was noted that “four variables (gender, race, sex of prison, and ratio of inmates to officers) are significantly related to estimates of the proportion of inmates that are involved in consensual sexual activities” (Hensley, 2005, p 186). New strategies to training

to inform employees of the consequences of their actions must be done. Improved training of Correctional Officers needs to be implemented so that Correctional Administration can put an end to this behavior. “Trust in the integrity, competence, and professionalism of staff would appear to be the central element in securing the warden’s effective control over the institution (Flanagan et al., 1996, p. 395). Wardens’ are the one to set the correctional policies to be followed and enforcement. Correctional administrators have the authority to make policy decisions, which includes the amount of training the correctional officers get, and the implementation. Correctional administrators must know what legislation says and case law in regards to correctional officers and inmate sex. Christopher Hensley and Richard Tweksbury (Hensley, 2005, p. 194-195) research study on *Wardens’ Perceptions of Prison Sex*, suggests the need for education and training of correctional administrators. They suggest that their research, together with the current research, should guide the development and delivery of continuing education and training efforts for current administrators and up-and-coming administrators in training. Understanding and being prepared to respond to real and perceived incidents of sexual assault and their resulting consequences is critically important for efficient and effective correctional institutional management (Hensley, 2005).

#### **D. How the Prison Rape Elimination Act of 2003 Applies to prevent Staff Inmate Sexual Assault**

The Prison Rape Elimination Act of 2003 (PREA) was made a law on Sept. 4, 2003. The Prison Rape Elimination Act is legislation that establishes a standard of zero tolerance for rape and sexual assault in any prison, jail, police lockup, or juvenile facility (US Department of Justice, National Institute of Corrections, 2007, p. 1). The PREA makes it mandatory for the Department of Justice to create a Review Panel to carry out hearings on the sexual assault of inmates in jails, prisons, and community corrections. The Review Panel has subpoena power to summons the employees in charge of the three facilities with the greatest amount of sexual assault and the two with the least amount. “The

Prison Rape Elimination Act of 2003 (P.L. 108-79) requires the Bureau of Justice Statistics (BJS) to carry out a comprehensive statistical review and analysis of the incidence and effects of prison rape for each calendar year” (Beck and Harrison, 2008, p. 1). The PREA has made correctional facilities more accountable with the mandatory reporting of sexual assault. Prior to the PREA there was insufficient research on prison rape.

Prior to the PREA prison rape was not a big topic or concern that was out in the open. Sexual assault and violence perpetrated on inmates in correctional facilities has many social, physical psychological and economic costs and repercussions, both inside and outside of prisons. PREA may help to sharply reduce these and many other consequences of institutional sexual violence by making prison rape preventions a higher priority in federal state and local prison systems. The results of the research and related activities that NIJ is funding will help develop and carry out national standards to detect, prevent and reduce prison rape and sexual violence and punish the perpetrators (US Department of Justice, Office of Justice Programs, 2006). Correctional institutions will participate in the yearly accountability reports to avoid losing federal funding. The sexual assault/rape prevention training will take place in correctional facilities to satisfy PREA requirements and officers will know that it is no longer tolerated nor kept silent.

A big impact as a result of the PREA is that The National Institute of Justice (NIJ) awarded Nancy LaVigne of the Urban Institute a research grant to study the use of situational crime preventions theories. This will be done to correctional facilities to alleviate the physical facility problems that allow the sexual assaults to occur and not be detected (US Department of Justice, National Institute of Corrections, 2007). To deter sexual abuse of inmates by correctional staff the use of situational crime prevention and environmental design is proposed. Conklin describes situational crime prevention as an opportunity-reducing measure to prevent crime. Situational crime prevention is directed at highly specific forms of offenses, that design or manipulating the environment can change, and then increase the risks and efforts the offending

person would have to take. Situational crime prevention includes three elements to prevent crime. The first element would be techniques to increase the offender's effort to commit the crime; such as access control to certain areas, and target hardening. The second element would be to look at the techniques that increase the offender's risk which would be formal surveillance. Element three is techniques that reduce the offender's rewards by target removal (Conklin, 2007, p. 438). By using situational crime prevention the element of increasing offender's efforts would be to have access control of certain areas that are not in the security cameras view. The situational crime preventions use of access control is by having rooms locked and that would be the technique to increase the offender's effort. The element of increasing offender's risk by formal surveillance would cut down on offender's opportunity. The cameras will also serve a dual purpose of preventing inmate sexual assault and any claims of excessive use of force. Another technique of situational crime prevention to increase offender's risk would be to have random radio checks done on correctional officers. The third element of situational crime prevention is by removing the target. If the inmate is not allowed in these areas they cannot become a target of sexual assault. Policy should also include that if meeting or talking with an inmate in a room alone that the camera is to be turned on.

Therefore, the purpose of this research is to expose the crime of sexual assault to inmates by correctional officers by giving a clear definition of what sexual assault is. Correctional officers need training to let them know what actions or words cross the line into sexual assault and to be made aware that inmates cannot give consent to any type of sexual involvement. The Prison Rape Elimination Act will assist prisons and/or jails in getting the correct training they need to reduce or eliminate sexual assault of inmates. To see how training will work it is necessary to look at the theory of why correctional officers are becoming involved in the sexual assault of inmates. The Routine Activities Theory will be examined as a theory to describe why correctional officers are committing sexual assault of inmates. The Social Bond Theory can be used to help prevent correctional officers from the crime of sexual assault of inmates.

### **III: Theoretical Framework**

The sexual abuse of inmates by correctional staff is a crime that must be prevented. The literature exploring how inmates become victims of sexual abuse can be partially explained by routine activity theory (Cohen and Felson, 1979). Social bond theory (Hirschi, 1969) serves as a theoretical framework to identify and address social bonds that lack in the correctional officers' lives when searching for ways to prevent sexual abuse of inmates. The significance of this problem is to look at where, how, and why sexual abuse of inmates is occurring by Correctional Officers. A better grasp of the problem needs to be understood to determine what is not working.

#### **A. Routine Activity Theory**

Cohen and Felson's (1979) routine activity theory describes how the sexual abuse of inmates is occurring by correctional staff. Routine activities theory is an applicable theory for direct-contact predatory crimes. Routine activities theory looks at crime as part of an individual's everyday routine behavior which includes work. Cohen and Felson's routine activities theory includes the three elements of: a motivated offender, a suitable target, and lack of suitable guardianship. To have a crime occur there needs to be an opportunity to commit it. The motivated offender in staff vs. inmate sexual assault is the correctional officer. The suitable target is about the visibility, availability, and vulnerability of the person to become the victim. In a correctional facility this relationship entails the inmate as the visible and available victim. The inmate is also vulnerable because of the inability to leave that environment. The guardianship is whether the target is being watched or protected. In a correctional facility the guardianship would be the other correctional staff or the cameras that are recording facility activity. Routine activities theory states that crimes occur when a motivated offender is around suitable targets that are not being guarded. The correctional staff would know the other staff members' movements or whereabouts and they know where the cameras are. So the correctional staff offender would know where the assault would have to occur so

that it was not observed on camera or by others. Routine activities theory is not focused on the offender's motives, but on the offender's assessment of the target and the obstacles to get to it. The crime can only occur where there is the presence of opportunity. So the offender calculates picking a good target (inmate) to assault where there is no guardianship (cameras). Routine activity theory explains how the offender makes the decision to commit the offense by looking at the benefits versus risks and costs. During the daily routine of mundane activities of the correctional officers they see where the inmates go and they know where the security cameras are. The predatory crime of sexual assault of inmates occurs as the routines activities theory describes. The motivated offenders being the correctional officers, during their daily routine at the incarceration facility have access to the suitable targets of inmates and they know where there is an absence of capable guardians (Cohen & Felson, 1979).

## **B. Social Bond Theory**

Travis Hirschi (1969) developed the social bond theory as one of the control theories which shows how crime is connected with the absence or breakdown of control. The central thesis of Hirschi's social bond theory is that if individuals have social bonds they will not engage in criminal behavior. The social bond theory is based on the four categories of attachment, commitment, involvement, and belief (Hirschi, 1969). An individual's bond to society will determine their decision to commit a crime. If individual's social bonds are weak it increases the likelihood they will engage in crime. The social bond theory emphasizes that social bonds and delinquency are inversely related. The theory addresses four social bond elements that help prevent crime. The four social bond elements are attachment, commitment, involvement and belief. Attachment as a social bond theory element is the emotional connection of a person to other people. Attachment could be to parents, spouse or children. Attachment to parents is an important indirect social control. Commitment is another social bond element. A person who is committed will realized that their actions will have consequences. The element of involvement in social bond theory addresses that when a person is

involved in activities and have rules they must abide by, they are less likely to become drawn in to crime. The social bond element of belief is having the same value system as society. Belief is agreeing with the rules of society. The social bond theory has been put through numerous empirical tests and it has been found relevant that weak social bonds increase the chance of delinquent behavior.

### **C. Applications of Routine Activity Theory and Social Bond Theory to Preventions of Staff-Inmate Correctional Assault**

Routine activity theory and social bond theory combined is a theoretical framework helpful when creating methods for the prevention of sexual assault of inmates by correctional officers. A key to eliminating sexual assault of inmates by corrections staff is to remove either the opportunity for the act it to be done, or the removal of the offender. Removing the opportunity is central to Cohen and Felson's routine activity theory. By removing any of the three elements, motivated offender, suitable target, or no guardianship will prevent criminal activity from taking place (Cohen and Felson, 1979). Installing more video surveillance would eliminate the lack of guardianship. Hiring additional correctional officers and their presence throughout the facility would also eliminate the lack of guardianship.

Correctional officers undergo a socialization process when they start employment. This helps them adjust to the official and unofficial rules of the correctional officers' world. Lucien X. Lombardo did a study of correctional officers at New York's Auburn Prison and found that new hires had to forget the presumptions they had about inmates and correctional officers. Lombardo found that "rookies (officers) may be seriously disappointed in their experienced colleagues when they realize that the ideals of professionalism, often emphasized during early training, rarely translate into reality" (Schmallegger, 2003, p 545).

Correctional officers are considered to be at the bottom of the staff hierarchy behind the warden, captains, lieutenant, sergeants, doctors, counselors, and teachers, correctional officers hold a low occupational status. The correctional officer occupation has low wages, it is frustrating, and there is much

boredom (Schmalleger, 2003).

When a correctional officer is committed to their job and family they are less likely to jeopardize them by breaking the law. When the correctional officer is involved in community or hobbies they do not have the idle time to be drawn to crime. Correctional officers are not forced to commit criminal acts but do so because they lack ties to the conventional society. Social bond theory emphasizes that weak social bonds lead to criminal behavior.

Social bond theory can be used as a tool to see if correctional officers are maintaining social bonds with the four elements of attachment, commitment, involvement and belief.. General questions can be asked during the yearly job performance evaluation. The use of these questions can be used to determine if the correctional officer is still maintaining strong social bonds. What does the employee do in his free time, is he still involved in hobbies, family, or organizations like when he was first hired? Does the correctional officer get along with his peers? Is the correctional officer displaying professionalism with the inmates? Is there still enthusiasm about sports, nature, politics, or children? The correctional officer's work schedule may be very different from normal society because of working nights, holidays, and weekends. Is the officer feeling isolated from the normal population?

Attachment to other people is a strong social bond. Attachment to people and not wanting to let them down can be the social control that prevents individuals from committing crime. Commitment to the conventional roles of having a partner or spouse, living the American Dream, or keeping up with the Jones, are commitments that deter crime. Commitment to a community organization or service group gives individuals a purpose by being devoted to the cause. Commitment to a religion or church is helpful because morals are usually endorsed there and that is a deterrent to crime. By being involved the person feels they are part of society and belong. Involvement could be in sporting activities or hobbies. Involvement in some type of activity usually has rules that have to be abided by. Social bonds help to keep people from committing crime because of other people's expectations about appropriate behavior. Social control theory

shows how being involved, committed to, attached to and belief in people and institutions can be a barrier to committing crime.

The US Department of Justice has published a manual called *Addressing Correctional Officer Stress, Programs and Strategies* that can be recommended to correctional officers if they appear to have weak social bonds. Correctional officers with the strongest societal bonds are the least likely to commit sexual assault. So the goal is to have correctional officers with strong social bonds.

In conclusion the theoretical framework of routine activity theory describes how correctional officers get involved in inmate sexual assault and using social bond theory can be implemented to prevent inmate sexual assault. These theories show the need for increased training for correctional officers so they are aware what not to do to get involved with inmate sexual assault.

#### **IV: Current Training Programs to Prevent Inmate-Staff Sexual Assault**

Most jails and prisons train correctional officers before they begin their jobs. In New York correctional officers must complete six weeks of classroom instruction and the six weeks of on-the-job training to work in prisons (Schmallegger, 2003). In Wisconsin the Jail Officer Basic Training course is 160 hours for competencies and learning objectives (Wisconsin, 2008). The Federal Law Enforcement Training Center in Glynco, Georgia is where Bureau of Prisons employees undergo 120 hours of training. This is part of the 200 hours for formal training they are required to have in their first year of employment with the Bureau of Prisons (Federal Bureau of Prisons, 2009).

In 2005 the Urban Institute along with the Association of State Correctional Administrators coordinated a study of prison sexual assault. They surveyed correctional administrators in forty five states with interviews of 67 correctional personnel that were running prison sexual assault prevention programs. This team did eleven case studies by going to the facilities with the best programs in place. The states included Connecticut, Idaho, Kansas, Maine, Massachusetts, Minnesota, Ohio, Oregon, Pennsylvania, Texas and Utah. Many prison officials recognize the Texas Department of Criminal Justice's Safe

Prisons Program and the Ohio Department of Rehabilitation and Correction's Ten Point Plan as the most all-inclusive programs for the prevention of inmate sexual assault. Other states have used the Texas and Ohio programs as a basis to create their own policies and programs (Zweig and Blackmore, 2008). So the following is a description of the Texas Safe Prison Program and the Ohio Department of Corrections Ten Point Plan; their purposes, successes, and weakness.

#### **A. The Texas Safe Prison Program**

The main focus and purpose of the Texas Safe Prisons Program is the "zero tolerance for sexual abuse or any form of predation" (Zweig and Blackmore, 2008, p. 3).

In Texas correctional staff designed the sexual assault training program and then had experts that were outside of the corrections field evaluate their program and give recommendations. Texas then does annual training of their correctional staff (Zweig, 2008). Texas is working on implementing a formal orientation program for inmates at their four largest intake facilities of Woodman, Garza West, Holliday, and Middleton (US Department of Justice, 2007). This will focus on teaching inmates how to report sexual assault and how to prevent it. Texas is also going to keep "continuously assessing staff's attitudes towards sexual assault" (US Department of Justice, 2007, p. 37). Texas Department of Criminal Justice (TDCJ) began revising their prison system after a lawsuit in 1972 found Texas imprisonment was cruel and unusual punishment. The Safe Prisons Program in Texas was designed to focus on three main areas; sexual assault, extortion, and life endangerment (Zweig, 2005). The Texas Safe Prison Program was enacted by Texas legislature in 2001. The Texas Safe Prison Program was formed to develop policies and standards in regards to sexual assault in the prison system. The Program is also in charge of writing policy changes to keep up to date with the PREA and training curricula. The Texas Department of Criminal Justice (TDCJ) has the third largest prison system in the United States with over 150,000 inmates (Austin, 2006). Texas operates the Safe Prison Program Management Offices to "conduct statistical analysis of alleged sexual assaults,

monitor each reported incident to guarantee staff compliance with policies, facilitate staff training and awareness programs for offenders, and identify issues for further policy development" (Zweig, 2005, p. 17). These are definite strengths of the Texas Safe Prison Program. Texas even created a Special Prosecution Unit for the prison sexual assault cases.

The PREA Review Panel in 2006 identified the top four characteristics unique to the prisons systems with the highest rate of sexual assault as: "prisons are significantly understaffed; prisons have a high turnover rate among new corrections officers; prisons house maximum-security inmates; and soft pornography is permitted among the inmates" (McFarland, 2008, p. 23). Also after this set of hearings "the Texas prison system prison system instituted on its own initiative signing bonuses for new correctional officer recruits at their unit with the highest reported prevalence" (McFarland, 2008, p. 33).

Texas has a very thorough description of those who may have contact with Texas inmates in reference to sexual assault. "Texas law penalizes officials, employees, contractors, and volunteers at any correctional facility who sexually abuse inmates: "An official of a correctional facility, an employee of a correctional facility, a person other than an employee who works for compensation at a correctional facility, a volunteer at a correctional facility, or a peace officer commits an offense if the person intentionally [sexually abuses] an individual in custody" Under Texas Penal Code 1.07, "correctional facility" includes "a confinement facility operated under contract with any division of the Texas Department of Criminal Justice; and a community corrections facility operated by a community supervision and corrections department" (US Department of Justice, 2005, p. 20). Violating this Texas Penal Code is a state jail felony punishable by 180 days to 2 years in state jail and/or a fine not to exceed \$10,000 (Smith, 2007).

When a Texas inmate is sexually assault they are housed in the "transient" or "safe-keeping" areas until the investigation is done and their mental health assessment is completed. These housing units are not as restrictive as protective custody units and can care for the vulnerable victims. Once the investigation and

assessment are completed one of three things will happen; “return to the general population at the current prison, placed in protective custody, or transfer to a different institution” (Zweig, 2006, p. 51).

The Visual Tracking Grid is a paper mapping system that Texas uses to keep track of the sexual assaults that occur. For each occurrence a tack is placed on the map at the location of the incident. This helps officers maintain better information between shifts by the quick visual reference. This lets correctional officers also know where the potential problem areas are (Zweig, 2006).

The PREA gave the State of Texas a grant in which Texas used to fund their state PREA coordinators. The PREA grant went towards training on serology for investigators. Texas purchased five units at \$5,000 a piece that detect bodily fluids. The Texas Department of Criminal Justice received money from the Texas legislature which they used to develop and put into practice the Safe Prison Program. Texas received a \$1 million PREA grant that they had to match in state funds. One of the goals of the Texas Safe Prison Programs is to train all correctional officers on the zero-tolerance standard for sexual assaults. “All corrections staff are required to complete a 1.5 hour class regarding “Offender Sexual Assault.” During the offender sexual assault training, officers learn about sexual assault, traits and characteristics of potential victims, rape trauma syndrome(RTS), staff intervention practices, and evidence protocol” (Zweig, 2006, p. 155). This is the only weakness in the Texas Safe Prison Program because the training is only an hour and a half program to listen to and absorb a lot of information. The positive part of the program is that the training is done annually (Zweig, 2006).

The Texas Safe Prisons Program with the assistance of the office of the Inspector General has come up with a database to track sexual assault victims and aggressors. This helps with inmate classifications of where they will be placed for housing in the facility. This assists a crime analyst with the Texas Department of Criminal Justice to track patterns and even the unfounded cases.

## **B. The Ohio Department of Corrections Ten Point Plan**

“Ohio proscribes sexual abuse of a prisoner confined in a detention facility by an employee of that detention facility. According to Ohio Law, “detention facility” includes “any public or *private* place used for the confinement of a person charged with or convicted of any crime in this state or another state or under the laws of the United States” (US Department of Justice, 2005, p. 20). So even if an Ohio inmate is placed in a private prison and sexually assaulted there by a correctional officer, Ohio State law is still in effect. Ohio’s sexual battery code is 2907.03(A) and a felony of the third degree punishable by imprisonment of between 1 and 5 years (Smith, 2007). The Sexual Battery code says: “No person shall engage in sexual conduct with another, not the spouse of the offender, when any of the following apply: (6) The other person is in custody of law or a patient in a hospital or other institution, and the offender has supervisory or disciplinary authority over the other person. (11) The person is confined in a detention facility, and the offender is an employee of that detention facility” (Smith, 2007, p. 95). So in Ohio it is against the law for a correctional officer to even have sexual contact with an inmates’ spouse. Any sex in Ohio prisons is considered rape under Ohio law (Correctional Institution, 2005).

Before the introduction of the PREA 2003 the Ohio Department of Rehabilitation and Correction (ODRC) had policies in place in reference to sexual abuse in prisons and especially in regards to staff-inmate relationships (Zweig, 2006). The Ohio Correctional Institution Sexual Assault Abatement: A Ten Point Plan on Sexual Assault Abatement. 2004. Ohio has developed a zero tolerance strategy on sexual assault in “ten areas of focus: staff training; inmate education; sanctions; victim support persons; investigation procedures/training; electronic tracking/identification of inmate aggressors/manipulators; data collection; audits; process involvement team to address fear of reporting; and the federally mandated PREA” (Colorado, 2007, p. 14).

Ohio implemented a new policy 79-ISA-01 on July 1, 2005 to use as guidelines in the definition, detection, prevention and response to sexual assault in Ohio Prisons. The policy reads; “It is the policy of the Department of Rehabilitation and Correction to provide a safe, humane and appropriately secure

environment, free from the threat of sexual misconduct for all inmates, by maintaining a program of prevention, detection, response, investigation and tracking. The Department shall maintain a zero tolerance for sexual misconduct in its institutions. Sexual misconduct among inmate and by staff towards inmates is strictly prohibited" (Correctional Institution, 2005, p.41). This is a very clearly stated purpose for Ohio's Ten Point Plan.

Ohio also uses prevention efforts in hiring correctional officers by trying to screen out those who may engage in inappropriate relationships with inmates. The Ohio Department of Rehabilitation and Correction uses an Admission Screen Video as a guide to assess potential new correctional officers. Recruits view the video that has 66 scenarios and they must answer questions which measure what their behavior might be in similar situations. Some of the scenes include correctional officer and inmate inappropriate sexual contact. This is to help screen out hiring people not suited for a correctional facility (Zweig, 2006).

Ohio operates 32 prison facilities with 27 Ohio Department of Rehabilitation and Corrections male facilities, two privately operated male facilities, and three female Ohio Department of Rehabilitation and Corrections facilities. The American Correctional Association (ACA) has fully accredited the Ohio Department of Rehabilitation and Corrections. In February 2006 there were 45,000 prisoners in Ohio facilities (Zweig, 2006).

The Ten Point Plan had already been designed in 2003 before the PREA grants became available. The Ten Point Plan was put into action on July 1, 2005. But Ohio was still able to get grant money which they used for new technology for sexual assault prevention, such as electronic monitoring systems, Computer Voice Stress Analysis system, and multimedia equipment to create their training videos.

Ohio developed inmate education programs to educate inmates on the prevention of sexual assault. This education lets the inmates know what to do if they are sexually assaulted and who to contact (Zweig, 2006). "Criminologists have argued that like rape on the "outside", prison rape has less to do with the deprivation of normal sexual outlets and more to do with conquest and control,

revenge or retaliation, sadism and degradation, status and affiliation, and maintaining social hierarchy in prison" (Austin, 2006, p. 14).

Ohio has facility-based victim service coordinators but they also work with the community-based sexual assault organizations. When an Ohio inmate is being transported to a local hospital as the result of a sexual assault, the community-based sexual assault advocate will respond to the hospital to be with the victim at the hospital (Zweig, 2006).

Ohio's Department of Rehabilitation uses computerized voice stress analysis(CVSA) as an investigation tool during the sexual assault exploration. It cannot be the only determining factor in the investigation, just used to compliment other investigative techniques (Zweig, 2006).

In 2003 Ohio Department of Rehabilitation and Correction created a new way to document their victims and offenders of sexual assault with Department Offender Tracking System(DOTS). When an inmate has been found guilty of a sexual offense they are entered into the system as the aggressor (AGG) or if they were the victim (AGV). This system does not include any medical or mental health information. The DOTS system is frequently used by correctional officers and when they see that an inmate is an AGV or AGG it assists them in knowing the inmates status and they can adjust where they will house the inmate, programming options, and job assignments. This tool will also be used in the future to help develop prevention policies. This is another of the successful tools being implemented and used by the Ohio Department of Rehabilitation and Corrections (Zweig, 2006).

Ohio has designed a security review team that does "back to basics" security reviews of the prisons. The purpose of the review is to assess building security in the prevention of sexual assault. The team looks at the uses of cameras and mirrors, lighting, placement of furniture, and line-of-sight issues (Zweig, 2006). That is another positive direction toward reducing staff-inmate sexual assault by the design of newer jails. The older jails were built to give maximum control to correctional officers over inmates by the use of bars, thick walls, and architectural barriers to prevent inmate free movement. These barriers

to control inmates also limited visibility which made sexual assault easier to occur undetected. With new video technology it is easier to observe areas not previously observed as much. When new jails are built they are not designed like the old jails but are build as direct-supervision without the old physical barriers blocking visibility and hearing (Schmallegger, 2003).

Starting in 2005 when an inmate enters the Ohio Reception Center they are “screened for violence indicators, including sexually predatory behaviors” (Zweig, 2006, p.24). Then within 24 hours of arriving at a facility the inmates undergo a mental health screening to see if they have history of sexual victimization or predatory sexual conduct. If it appears that the inmate may be at a significant risk of sexual victimization they must go to the Sexual Assault Committee (SAC) in that facility.

In conclusion, the PREA has improved the ways that Department of Corrections are approaching inmate sexual assault. PREA has prompted new actions for corrections agencies and the agencies are doing many things to prevent sexual assault of inmates. Texas and Ohio are leaders in the area of having policies and procedures in place to prevent sexual assault of inmates.

## **V: Recommendations To Improve Correctional training Programs to Prevent Staff-Inmate Sexual Assault**

With a pre-employment psychological testing program, applicants not suited for a correctional position can be weeded out before the problems occur. A complete and thorough background check before hiring will identify if an applicant should be hired. Now that the correctional facility has hired sound correctional officers the institution must continue to monitor them with checks into their behavior with background checks and psychologically testing. Correctional officers also need to be kept informed with informational training. With improved and regular sexual assault prevention training the correctional officers will know clearly what actions are out of bounds and the penalties they face if they choose to break the law. State and national criminal history record

checks by fingerprint identification should be done every four years as a good business practice to see if staff have committed any crime without notifying the Department. Psychological testing every five years to make sure correctional officers are staying psychologically fit is another great way to prevent sexual assault of inmates.

#### **A. On-going Education and Training of Correctional staff**

Correctional officers need to have a thorough understanding of local, state, and federal laws that cover their employment and specifically the law in reference to sexually assaulting inmates. Staying up to date with the laws is essential because a mistake can be costly. Correctional facilities need to have correctional officer training programs specifically designed for the prevention of sexual assault/rape. Some of the training materials should be written and correctional officers encouraged to take with them and review on their own periodically, after the training session. The State of Minnesota uses an assortment of sexual assault training courses like “Crossing the Line,” “Avoiding Set-ups,” “Life Inside,” and “Sexual Misconduct” (Zweig, 2008). There are a variety of sexual assault training programs for jails/prison that can be used. Some instruction uses computer-based training which can be used at any time, on any shift. Or there are role-playing training programs, video trainings, or class room training programs. Minnesota also requires new inmates to view a video called “Sexual Misconduct for Staff” within the first 28 days they are incarcerated (Zweig, 2008).

The topics to focus on for correctional officer on-going sexual assault education are the definition of sexual assault, information about the Prison Rape Elimination Act, State and criminal statutes, punishment, liability, prosecution, the effects on the victims, detecting staff perpetrators, documentation of incidents, and investigating incidents of sexual assaults. Training is vitally important because what some correctional officers believe is just innocent play is sexual assault. The Bureau of Justice Statistics found in 2006 that in 344 substantiated staff on inmate sexual assaults reported in 2005 in federal, state, a private prisons that 62% of the perpetrators were female and 67% of the victims were male.

They also found that 73.6% of the staff on inmate sexual assaults had a romantic nature (Teichner, 2008).

Researchers have found that “Zero tolerance for sexual violence and other predatory behavior was cited as the foundations for successful programs” (Zweig and Blackmore, 2008, p. ii). The negative prison culture needs to be changed by having strong leadership that models positive attitudes and behaviors. This needs to start at the top level of management to be observed and imitated by all other staff within the prison. So all levels of management should attend the sexual assault training together so correctional officers know that this is important to the entire organization. In a nationwide study of State department of corrections looking at prison sexual violence it was found that only thirty-six states had sexual assault training programs for correctional officers (Zweig, 2006).

Some of the major national professional associations and organizations for jails are:

- American Jail Association (AJA)
- American Correctional Association (ACA)
- National Sheriff’s Association (NSA)
- National Commission on Correctional Health Care (NCCHC)
- International Association of Correctional Training Personnel

These various associations offer training programs, publish current literature on jails, and have conferences to share information (Correctional Law, 2007, p. 7). Some of these publish accreditation principles for jails. When a jail chooses to use one of the accredited standards in their jail they are considered to be more professional and liability is reduced because of the use of professionalism.

Every prison or jail should have a written manual of policies and procedures for correctional officers. This manual should clearly tell correctional officers what their job tasks and duties are. During the correctional officers yearly performance review the supervisor can quiz officers about random information found in the policy and procedures manual. When the correctional officers know this is going to happen they can review the policy and procedure manual and be prepared for questions. This will encourage correctional officers to know what is in the policy and procedure manual, instead of reading it only

once at the initial hire. The part of the policy and procedures manual that addresses sexual assault should be a part of the sexual assault training.

More on-going education can be done by developing staff in-service training programs that look at sexual assault of inmates by using the standards of the PREA of 2003. Inform prison staff what the PREA of 2003 is and the consequences of not abiding by it. Demonstrate to prison staff the investigation procedures that need to be done when a sexual assault is reported. Let the prison staff know that there is zero tolerance for sexual assault in the facility. Address the issue of sexual assault in the prison as protecting both the staff and inmates which result in a safer prison. Even the Prison Rape Elimination Act recognizes that training is especially important and that is why they will train the trainers (US Department of Justice, 2007). The Prison Rape Elimination Act has their own website and will assist those individuals or agencies with requests for information. The website is <http://www.nicic.org/PREA>.

Frank Schmalleger in his text *Criminal Justice Today, 7<sup>th</sup> Edition*, gives descriptions of personality types of correctional officers. The types of correctional officers are the dictator, the friend, the merchant, the turnkey, the climber, and the reformer. By knowing and understanding these types of correctional officers, training can be geared toward helping them understand the repercussions for their actions. The dictator correctional officer goes by the book to enforce and keep all rules. "Dictator guards may have sadistic personalities and gain ego satisfaction through the feelings of near omnipotence which come from the total control of others" (Schmalleger, 2003, p. 246). The friend correctional officer fraternizes with the inmates which can lead to bending the rules and then the inmates able to blackmail the officer. The merchant correctional officer brings items into the jail/prison that are not allowed in the facility. The merchant will sell these items to inmates who can pay for them. "Low salaries create the potential for mercantile corruption among many otherwise straight-arrow officers" (Schmalleger, 2003, p. 246). The correctional officer termed the turnkey is not concerned about what goes on in the facility. The turnkey is just there to turn the key, open and shut the doors. The turnkey

could be close to retirement or just tired of the monotony and is only concerned with the end of the shift. The climber officer is looking to better him/herself and looking to the ladder to climb. "They are more concerned with improving institutional procedures and with their own careers than they are with the treatment or day-to-day control of the inmates" (Schmallegger, 2003, p. 547). The correctional officer referred to as the reformer is the officer that tries to help the inmates with guidance or direction. The inmates are able to detect which officer falls into each category so they can manipulate them.

As directed by the Prison Rape Elimination Act of 2003, the Attorney General appointed a Review Panel on Prison Rape (McFarland, 2008). The Panel then has annual hearings to look at what the Bureau of Justice Statistics (BJS) gathered for information from the previous year from the three prisons with the most prison rape and from two prisons with the lowest prison rape. "The purpose of the hearings is to aid BJS in the identification of common characteristics of victims and perpetrators of prison rape" (McFarland, 2008, p. 2). In 2008 during the hearings they identified fifteen staff on inmate victim characteristics and twenty-nine staff perpetrator characteristics (McFarland, 2008). The characteristics of the victims of correctional officers sexual assault were listed as "had a history of substance abuse; engaged in horse-play or sexual interaction with a staff member (including non-sexual interaction that may have escalated to sexual involvement); knew personal information about staff members; had letters from or photos of staff; was in an unauthorized area, or was repeatedly out of his or her assigned place; exchanged telephone calls with staff; became pregnant or was diagnosed with a sexually transmitted disease; underwent a drastic behavioral change; wanted to start working before or after his or her regularly scheduled times; improved his or her appearance; had isolated work assignments; had family that was involved with staff's family; worked in a secluded area with staff; went out of his or her cell at unusual times; and had an unusually high balance or frequency of activity in his or her commissary account" (McFarland, 2008, p. 24). These are very important characteristics to watch for and train correctional staff on. This is based on evidence obtained from the

Bureau of Justice Statistics and the results are from more than one facility.

The 2008 Review Panel on Prison Rape also discovered twenty nine characteristics of staff sexual assault perpetrators, which are: “over-identifies with an inmate and his or her issues; engages in horse-play or sexual interaction with an inmate (including non-sexual interactions that may have escalated to sexual involvement); is isolated from other staff; grants special requests to an inmate or shows favoritism; spends an unexplainable amount of time with an inmate; exchanges telephone calls with an inmate; is in the facility while off-duty (outside of his or her regular schedule); is pregnant or is diagnosed with sexually transmitted disease; is overly concerned about an inmate; undergoes drastic behavioral change; has sole involvement with an inmate; views an inmate as indispensable to performing his or her assignment; has unusually high or low number of inmate grievances; confronts other staff over an inmate; intercepts or revises an inmate’s disciplinary infractions; tracks outside inmate calls; has isolated posts, positions, or work assignments; cannot account for time; has his or her family involved with an inmate’s family; works in a secluded area with an inmate; removes an inmate from his or her cell at unusual times; experiences a personal crisis(e.g., divorce, ill health, bankruptcy, or death in the family); has excessive knowledge about an inmate and his or her family; intervenes or helps with an inmate’s personal life and legal affairs; shares food or snack with an inmate; testifies for an inmate, or requests special treatment for an inmate; delegates duties to an inmate; is lonely or depressed; or brings into the facility large amounts of food, soda, or snacks" (McFarland, 2008, p. 19). These items need to be shared with the correctional officers that administration is watching for these things to try and identify if any sexual assault may be going on between inmate and officer. The more education given to the correctional officers the better equipped they are to make correct choices. Training is about educating correctional officers not to involve themselves in areas that could lead to sexual assault of inmates.

## **B. Extensive Criminal Background Checks Every Four Years**

“Sheriffs’ Departments employed a fourth of all State and local sworn officers nationwide” (Goldberg & Reaves, 2000, p. 1). This was in 1997 when a Bureau of Justice Statistics report was done on 3,000 sheriffs’ departments through the United States. Eighty percent of these sheriff’s departments operate a jail. Of the departments surveyed, 99% use criminal record background checks and 75% of the departments use psychological testing before an offer of employment is made (Goldberg & Reaves, 2000). Correctional staff are the crucial enforcers of human rights for inmates in correctional facilities and so they need to possess the highest professional and ethical standards. A thorough assessment of an applicant's background needs to be done in the hiring process and every four years afterward to ensure quality correctional employees. One of the drafts of the National Prison Rape Elimination Commission awaiting to be approved is “screens for egregious concerns, such as criminal history, history of engaging in sexual abuse, and other prior conduct suggesting a likelihood of engaging in abuse” when hiring correctional personnel (Stop, 2008, p. 4).

Law enforcement, because it has a high degree of public contact, “the courts have found that the employer has a higher duty of care to conduct a thorough background investigation of its employees” (Douris, 2006, p. 55). The employing prison or jail could be held accountable to punitive damages in a negligent hiring case. In a negligent hiring case a person’s past reputation and negligence are admissible in court (Douris, 2006). Negligent hiring is proved when the employer does not investigate the background and training of an candidate or knows the candidate is unfit, a work relationship exists and harm occurred that could have been foreseen (18 U.S.C. 1983). So a background check on an officer that does reveal criminal convictions needs to be looked at closely in regards to the nature and gravity of the offense. By conducting an extensive criminal background check again every four years post-employment, the facility is not negligent.

Law Enforcement depends on the National Crime Information Center NCIC because they are a valuable information gathering center for background checks. When a person is queried through NCIC it will respond with any felony

or misdemeanor charge and Protection Order/Injunction File information. Criminal history repositories are "collections of fingerprint, arrest and prosecution records at the FBI and in every state" (Identification, 2008, p. 1). A person's criminal history record is retrieved from the Interstate Identification Index (III). The District of Columbia and all 50 states participate in the Interstate Identification Index (III) and provide access electronically to their criminal history records. The III gives access to FBI identification and criminal records. Title 28 of the U.S. Code and federal laws preside over the use and access to III criminal history records. Title 28 directly specifies that the criminal history records obtained from the Interstate Identification Index can only be used by criminal justice agencies and for criminal justice purposes. "This includes the screening of employees or applicants for employment of criminal justice agencies" (Identification, 2008, p. 2). What separates the use of this record from one of non-criminal justice employment is that the Federal (III) and state records of the person will include their juvenile records as well as their adult records for criminal justice employment. Criminal justice employment is "used for official duties in connections with administration of criminal justice" which includes the duties of "detection, apprehension, detention, pretrial release, post-trial release, prosecution, adjudication, correctional supervision or rehabilitation of accused persons or criminal offenders" (TIME, 2009, p. 3). So every four years a criminal history background check should be done on each correctional officer to identify if any charge has been brought against a correctional officer. This way the institution will see if the officer's lifestyle is changing. If a new criminal charge is on the officers record that affects employment then it needs to be reviewed.

The Stop Prison Rape organization wants the National Prison Rape Elimination Commission to tighten the results of criminal history checks of correctional officers by saying "Criminal history should be clearly identified as a basis for termination during staff performance reviews, rather than merely "taken into account" (Stop, 2008, p. 4). This should be done every four years to protect the integrity of the facility. There would not be a big cost at all as all criminal

history is provided on-line. Criminal history record information is regulated by state and federal law to protect people, law enforcement, and employers (TIME, 2009). This protection also extends to inmates too by the employment of sound correctional officers.

### **C. Psychological Exam Required for Employment and Every Five Years Post-Employment**

A correctional officer may be hired with strong principles, moral values, and honesty, all traits an employer wants. But as time goes by a correctional officer may believe that it is their responsibility to help the inmates even if department policy says they should not. The values that correctional officers start with can change gradually over time. The states of "New York, New Jersey, Ohio, Pennsylvania, and Rhode Island, for example, all use some form of psychological screening in assessing candidates for prison jobs" (Schmallegger, 2003, p. 548).

Prospective new correctional officers should be psychologically screened and intensive use of the pre-employment interview done to determine if the candidate is suitable for the position. The Corrections Field needs emotionally stable personal, people able to accept responsibility and take independent actions. Correctional officers need to be able to adapt to change, dispel prejudice, and have allegiance to their institution. So to keep this caliber of employee once they are hired, psychological evaluation needs to be done on correctional officers every five years post-employment. The psychological evaluation has a distinctive role in identifying those people who will not adjust or fit well as a correctional officer. A complete psychological evaluation will test the areas of "emotional functioning, behavioral predispositions, cognitive skills, and psychosocial support system" (Holzman, 2003, p. 85). If these areas change drastically from the initial hire then administration will need to look at either dismissal, assistance for the correctional officer, or moved to an area of duty where they would not be alone with an inmate.

To be fair to the correctional officers "All psychological assessment

instruments used in the pre-employment evaluation must have proven their reliability (consistency in yielding the same results when administered at different times); validity (accurate measurement of what it intends to measure); and utility (usefulness and incremental value of the test results within the context of the entire selection battery). The instruments should have been standardized on officer candidates, and they should meet all the general requirements necessary for psychological tests" (Holzman, 2003, p. 87). This will remove any questions of inaccuracy if the five year post-employment psychological evaluation shows different results than the initial hire test. Correctional facilities want to retain good correctional officers.

## **VI. Summary and Conclusion**

Sexual assault of inmates by correctional officers is a crime that needs to cease. The PREA also recognizes that more improved training is needed by mandating that it be done. The goal of enhancing correctional officer training to prevent sexual assault is to create an environment where the staff and the inmates feel safe. What is needed in all jails and prisons is a cultural change in attitude toward sexual assault by both inmates and staff. Strong leadership at the top administrative level in prisons/jails is needed to bring about this change. Everyone needs to know that sexual assault is not an acceptable part of prison life. What many prisons/jails have found is the most difficult to change is the prison staff culture (Zweig and Blackmore, 2008). This can be done though with the use of on-going education and training. The PREA has certainly opened the door for changes to begin and it is a move in the right direction. The information and training is available it just needs to be put into practice by training the correctional officers.

The Review Panel met in 2006 in California with the panel consisting of researchers, union representatives, medical and mental health practitioners,

advocates, correctional administration and staff, and a rape victim. They were requested to answer the following questions:

- \* What factors and environments are and are not conducive to deterrence of sexual assault in prison?
- \* Which system protocols and policies require examination?
- \* Which staff positions in such a system would be key witnesses?
- \* How should one scrutinize the training of correctional officers and medical staff on prison rape?
- \* What are the likely barriers to reporting, accurately investigating, and deterring prison rape?
- \* How should one assess the role of the correctional officers' union in deterrence of prison rape? (US Department of Justice, National Institute of Corrections, 2007, p. 7).

These are the questions that need answers and then whatever works can be passed on to other correctional facilities. When there is no corruption or fear of rape the correctional facilities become a much safer place. Honest and educated correctional officers make a contribution to their field and community with appropriate behavior.

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