SEXUAL ASSAULT IN CORRECTIONAL SETTINGS AND THE PRISON RAPE ELIMINATION ACT OF 2003

Ann Novak

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Committee:
Dr. Jefferson Holcomb, Advisor
Dr. Melissa Burek
ABSTRACT

Jefferson Holcomb, Advisor

Sexual assault in correctional institutions is a serious problem that has recently secured the attention of national lawmakers. This manuscript explains the unique nature and characteristics of prison rape, as well as the various efforts that have been put forth to prevent its occurrence. The Prison Rape Elimination Act of 2003 was adopted in order to build new knowledge about prison rape and mandate more effective prevention efforts. The requirements of Prison Rape Elimination Act of 2003 are detailed and an assessment of the potential effects of the legislation will be presented. It is estimated that the largest impact of PREA may be the new knowledge gathered on prison rape, while improvements in prevention efforts may be minimal and require more time to be noticeable.
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# TABLE OF CONTENTS

<table>
<thead>
<tr>
<th>Section</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>INTRODUCTION</td>
<td>1</td>
</tr>
<tr>
<td>Extent of Prison Rape</td>
<td>1</td>
</tr>
<tr>
<td>Prison Rape Elimination Act of 2003</td>
<td>3</td>
</tr>
<tr>
<td>CHAPTER I. THE NATURE OF PRISON RAPE</td>
<td>5</td>
</tr>
<tr>
<td>Unique Features of Prison Rape</td>
<td>5</td>
</tr>
<tr>
<td>Characteristics of Prison Rape</td>
<td>9</td>
</tr>
<tr>
<td>Consequences of Prison Rape</td>
<td>15</td>
</tr>
<tr>
<td>Conclusion</td>
<td>18</td>
</tr>
<tr>
<td>CHAPTER II. OFFICIAL RESPONSES TO PRISON RAPE AND THE PRISON RAPE</td>
<td>19</td>
</tr>
<tr>
<td>Early Policies</td>
<td>19</td>
</tr>
<tr>
<td>History of Judicial Intervention</td>
<td>20</td>
</tr>
<tr>
<td>Prison Rape Reduction Act of 2002</td>
<td>22</td>
</tr>
<tr>
<td>Political Support for PREA</td>
<td>24</td>
</tr>
<tr>
<td>Justifications for PREA</td>
<td>26</td>
</tr>
<tr>
<td>Requirements and Resources</td>
<td>28</td>
</tr>
<tr>
<td>Conclusion</td>
<td>31</td>
</tr>
<tr>
<td>CHAPTER III. KNOWLEDGE AND DATA LIMITATIONS IN PRISON RAPE RESEARCH</td>
<td>34</td>
</tr>
<tr>
<td>Methodological Difficulties in Studying Prison Rape</td>
<td>34</td>
</tr>
<tr>
<td>Research on the Occurrence of Prison Rape</td>
<td>37</td>
</tr>
<tr>
<td>Section</td>
<td>Page</td>
</tr>
<tr>
<td>------------------------------------------------------------------------</td>
<td>------</td>
</tr>
<tr>
<td>Major Research Questions</td>
<td>41</td>
</tr>
<tr>
<td>Recommended Strategies to Improve Knowledge</td>
<td>42</td>
</tr>
<tr>
<td>PREA Requirements for Data Collection</td>
<td>43</td>
</tr>
<tr>
<td>PREA in Action – Ohio Department of Rehabilitation and Correction</td>
<td>48</td>
</tr>
<tr>
<td>Assessment of PREA on Knowledge</td>
<td>49</td>
</tr>
<tr>
<td>Conclusion</td>
<td>53</td>
</tr>
<tr>
<td>CHAPTER IV. THE PREVENTION OF PRISON RAPE</td>
<td>56</td>
</tr>
<tr>
<td>Current Prevention Strategies</td>
<td>56</td>
</tr>
<tr>
<td>Recommended Strategies to Improve Prevention Efforts</td>
<td>62</td>
</tr>
<tr>
<td>PREA Requirements</td>
<td>69</td>
</tr>
<tr>
<td>PREA in Action – Ohio Department of Rehabilitation and Correction</td>
<td>75</td>
</tr>
<tr>
<td>Assessment of PREA on Preventing Prison Rape</td>
<td>76</td>
</tr>
<tr>
<td>Conclusion</td>
<td>80</td>
</tr>
<tr>
<td>CHAPTER V. SUMMARY AND CONCLUSION</td>
<td>82</td>
</tr>
<tr>
<td>Limitations of the Current Study</td>
<td>83</td>
</tr>
<tr>
<td>Future Research and Questions</td>
<td>84</td>
</tr>
<tr>
<td>Conclusion</td>
<td>86</td>
</tr>
<tr>
<td>REFERENCES</td>
<td>89</td>
</tr>
</tbody>
</table>
INTRODUCTION

It is clear that prison rape\(^1\) is a recognized occurrence in correctional institutions among correctional staff. However, little has been done by correctional systems or governments to comprehensively address the problem of prison rape in the past. Recently, the Prison Rape Elimination Act of 2003 (hereafter PREA) was signed into law in response to prison rape. The new legislation calls for more emphasis on the problem of rape in correctional settings by improving accurate data collection and requiring institutions to develop strategies to deal with sexual assaults. Although PREA has many goals for knowledge building and prevention efforts, the potential effectiveness of the legislation is not yet known. There are several challenges that may be barriers to the achievement of the goals of PREA, such as problems with research methodology and the implementation of prevention efforts. This manuscript presents the difficulties in understanding prison rape and offers an analysis on the potential benefits and flaws that may exist in PREA.

The Extent of Prison Rape

There is not a consensus on how frequently sexual assault in prisons and jails occurs (Banbury, 2004). However, one measure of the scope of prison rape is the number of people potentially affected by the problem. At the end of 2004, the Bureau of Justice Statistics (2005; hereafter BJS) reported that there were 1,421,911 inmates in federal and state prisons. In addition, there were 713,990 people incarcerated in local jails by midyear of 2004 (BJS, 2005). The BJS (2005) reported 133 victims and 145 perpetrators of substantiated incidents of nonconsensual sexual acts in state prisons and 66 victims and 70 perpetrators of incidents in

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\(^1\) Throughout this paper, the term prison rape refers to adult male-on-male inmate sexual assault within a correctional institution that occurs with physical force or coercion.
local jails involving males. In addition, it was found that males were 90 percent of the victims and offenders of nonconsensual sexual acts in prisons and in jails (BJS, 2005). The BJS warned about the reliability of the data reported, due to the lack of uniform definitions and differences in reporting capabilities from one agency to another (2005).

Different studies have reported varying accounts of the occurrence of prison rape. In a research study of 142 inmates, Hensley, Koscheski, and Tewksbury (2005) found that 8.5 percent of their sample had been victims of sexual assault. Banbury’s (2004) study of 208 prior inmates found that one percent of the research sample had been raped and four percent had been sexually assaulted. In a study of 1,800 inmates, Struckman-Johnson, Struckman-Johnson, Rucker, Bumby, and Donaldson (1996) reported that twenty percent had been coerced or forced into having sexual relations. Finally, Nacci and Kane’s (1983) examination of 330 inmates found that .6 percent of the sample were made to perform a sex act and .3 percent of the sample were raped. The variation in these studies demonstrates the wide disparity in existing literature and the problem with obtaining an accurate account of prison rape.

There may be several reasons why a consensus on the prevalence of prison rape does not exist. Problems with accurate data on prison rape include a lack of reporting by victims and insufficient or inaccurate reporting by staff (Banbury, 2004; English & Heil, 2005; Robertson, 2003). Victims may fear being seen as a “snitch” and fear the retribution that may follow reporting their assaults. In addition, victims’ decisions to report an assault may also be affected by the physical pain and psychological harm they experience after the assault (English & Heil, 2005). Staff reporting may be problematic as well. English and Heil (2005) claimed that staff may not be capable of making a distinction between coerced sexual contact and consensual
sexual contact between inmates. Further, staff may not be familiar with the relationships between inmates and can have difficulty classifying sexual acts (English & Heil, 2005).

There are several additional factors that can affect the understanding of prison rape. Such factors may include restrictions placed on independent researchers who are looking into coercive sexual behavior, ethical concerns regarding research on coercive sexual activity, errors in data retrieved from institutions, non-reporting by victims, a lack of universal definitions for researchers to adhere to and use, and a use of single research designs (Banbury, 2004). Thus, past research has not demonstrated comprehensive methods to investigate prison rape and large variations regarding the topic have been reported. One of the goals of PREA is to improve this knowledge.

The Prison Rape Elimination Act of 2003

In an attempt to address the problem of rape in correctional institutions, the Prison Rape Elimination Act of 2003 was adopted by the United States Congress and signed into law by President George W. Bush on September 4, 2003. PREA is focused on drawing attention to the problem of sexual assaults in prisons and jails. The first purpose of the legislation is identifying prevention as a top priority (PREA, 2003). Second, increasing data on the incidence of prison rape is emphasized. Third, it is hoped that guidelines will help to standardize data collection. Fourth, the legislation discusses increasing the accountability of officials who are responsible for institutions. Finally, reducing the potential costs of prison rape to correctional agencies is targeted (PREA, 2003).

The new law attempts to achieve its goals in several ways. First, the legislation calls for the collection of data and oversight of the collection process (PREA, 2003). Second, national standards and definitions must be identified and established. Third, new standards must be set to
handle prosecutions of offenders. Finally, standards must apply to the distribution of available funds (PREA, 2003). Although the new legislation establishes many important standards and draws attention to the problem of prison rape, the effectiveness of the new legislation is unclear.

The focus of this manuscript is to evaluate the potential impact of PREA regarding inmate male-on-male sexual assaults in adult prisons and jails in the United States. While other groups in correctional institutions are also important, including females and juveniles, there is limited research available on these groups. Also, correctional staff have also been identified as perpetrators of prison rape. In order to maintain focus, this manuscript reviews the correctional population with the most prior research, male inmates. In the following chapters, several areas of prison rape are examined. The first chapter discusses the nature of prison rape. This discussion focuses on the characteristics of prison rape and its associated negative effects. Specifically, legal actions that have resulted from incidents of prison rape are noted. The second chapter contains a description of PREA. The requirements and resources are detailed and the Act is compared and contrasted to existing legislation and policy. The third chapter presents the data collection problems that have affected knowledge of the topic and recommendations for improving knowledge building. In addition, the potential impact of PREA on knowledge about prison rape is detailed. A case study on the implementation of PREA in the Ohio Department of Rehabilitation and Correction is also presented. The fourth chapter introduces various prevention strategies aimed at reducing prison rape and provides recommendations for improving prevention. The potential impact of PREA on the prevention of prison rape is addressed. Moreover, the Ohio Department of Rehabilitation and Correction’s prevention plan is presented. The final chapter summarizes the assessment of PREA and provides concluding remarks.
CHAPTER I

THE NATURE OF PRISON RAPE

In order to understand prison rape, it is important to understand its unique characteristics. The following sections present the features of prison rape that differentiate it from other forms of victimization in free society and prison. In addition, the common characteristics that are associated with victims, offenders, and institutions affected by prison rape are discussed. Finally, negative consequences of prison rape that have an effect on victims and institutions are detailed.

Unique Features of Prison Rape

One way to examine prison rape is by exploring what an assault intends to accomplish. O’Donnell (2004) explained that rape in prison is an act of power in an authoritarian environment where it is important to demonstrate dominance over others. For this reason, men who assault others in prison are not viewed as rapists, even though the same offense committed outside of prison would result in them being labeled as such. Thus, rape is a demonstration of power over another person and is only slightly an expression of sexual gratification (O’Donnell, 2004). The focus of rape in prison is on one person’s ability to dominate another. Wencelblat (2004) stated that violence between men is likely to arise in an environment where masculinity and physical strength are deemed important. A prison is an example of a setting where men exist in a highly masculine environment and masculinity is respected. Man and Cronan (2001) stated that in an all male prison, inmates may try to assert their dominance through rape by making other men conform to a submissive role that is viewed as feminine in the prison society. Rideau and Sinclair (1982) explained that inmates tend to construct their masculinity around the existence of women. When women are not available in a setting, such as prison, inmates who
are viewed as weak are made to assume feminine roles (Rideau and Sinclair, 1982). Lowering another man into a traditionally submissive role allows the aggressor to feel powerful and in control of another person.

Wencelblat (2004) stated that when a man is raped by another man, it affects the victim in two ways. First, the victim is made to feel like “a woman.” Second, the victim is made to participate in homosexual contact. Both of these factors affect how a man’s masculinity is viewed by others after he is attacked. These two factors show that when a victim’s masculinity is threatened, it is used as a tool of domination by aggressors. Another important characteristic of prison rape is the status of victims. Victims of rape are often not viewed as victims in the prison society, due to the fact that men are not viewed as “real men” when they are unable to fend off an attack (Knowles, 1999). Therefore, prison rape victims are not viewed as legitimate victims and may not receive the same assistance other victims receive. Offenders of prison rape also have reasons for participating in sexual assaults. For example, Nacci and Kane (1984) found that offenders rape those they view as weak and effeminate for the purpose of being seen by other prisoners as “tough” so they will not be bothered.

Sexual assaults in prison may occur with the use of physical force or with the use of coercion. An example of physical force would be a violent gang rape on one inmate. Coercion would include the promise of favors or goods by one inmate in return for sexual favors supplied by another inmate. However, Donaldson (1993) stated that the term "survival driven" applies to instances of rape where an inmate is forced to participate in a sexual relationship in order to obtain protection from other inmates. This relationship is seen as "survival driven" because participation in this type of relationship is made necessary by the nature of the prison environment and social culture (Donaldson, 1993).
One significant difference between sexual assaults in prisons and jails and sexual assaults that occur in free society is the victim-offender dynamic. Prison rape victims are rarely assaulted once and may be trapped in a relationship with their attacker (O’Donnell, 2004). In free society, rape victims are rarely repeatedly victimized by their attacker at different times and will not continue to be forced to participate in a relationship. Victims of prison rape can be assaulted many times over the course of their sentence and may be under the control of their attackers during this time (O’Donnell, 2004). There are several ways in which victims of sexual assault are used in correctional institutions (Banbury, 2004). Victims may stay with their attacker, stay with their attacker and be pimped out to others, or be assaulted by others (Banbury, 2004). Thus, victims of prison rape are at a high risk of continued victimization once they are assaulted (Banbury, 2004). Nacci and Kane (1983) found that 36 percent of cases were multiple assaults involving one victim. Repeat victimization is then a unique and serious aspect of prison rape.

Victim reactions may differ depending on the number of assaults an inmate has experienced. When a victim is attacked for the first time, he may dismiss the assault as a one time occurrence and strive to move on (Jones and Schmid, 1989). However, if a victim is attacked a second or third time, his dismissal of assaults being a one time occurrence can no longer be seen as true and the inmate may attempt to defend himself from future attacks (Jones and Schmid, 1989). In addition, the multiple assault victim may gradually experience less shock for each assault he experiences (Jones and Schmid, 1989). Therefore, victim reactions to rape in prison have a different dynamic than reactions to rape in free society.

In addition to the reactions from the physical act of sexual assault, fear of sexual assault while in prison can have negative effects on inmates. Jones and Schmid (1989) stated, “The typical first time inmate thus approaches his sentence with the gravest of fears for both his
physical survival and sexual integrity” (p. 55). A fear of sexual assault may exist for some inmates who have not been attacked, but have anxiety over the possibility of an attack (O’Donnell, 2004). In a study of 200 victims of coercive sexual behavior, all of the victims reported being scared of future sexual coercion while incarcerated (Banbury, 2004). Eighty-nine percent of the same group of victims reported that they had been previously threatened with coercive sexual behavior prior to being victimized (Banbury, 2004). If an inmate is fearful, it can lead to negative consequences. Tewksbury (1989) stated that inmates who are fearful of sexual assault may be seen as weak by others. Inmates who are seen as weak are more likely to be assaulted, which Tewksbury (1989) defines as a self-fulfilling prophecy.

Robertson (1999) explained that sexual harassment in prison can lead to inmates fearing a future assault. Inmates who have never been sexually assaulted may develop extreme fear of a possible assault, and this fear may be compounded by others’ verbal and physical communication toward them. Smith and Batiuk (1989) found that inmates change their behavior in order to appear more masculine and less feminine, due to a fear of being sexually assaulted. For example, inmates must avoid displaying fear, sorrow, and concern for other inmates in order to be viewed as highly masculine (Smith and Batiuk, 1989). In a study of 150 inmates, Tewksbury (1989) found that height and weight were strongly related to an individual’s fear of sexual assault. Inmates who were below average in height and above average in weight were more fearful (Tewksbury, 1989). The explanation that is offered for this difference is that inmates who are overweight may not feel that they are capable of defending themselves (Tewksbury, 1989). Sexual harassment also serves to feminize inmates who are looked at by others as candidates for sexual victimization (Robertson, 1999). It can communicate the aggressive objectives of another to a victim and assign an identity to inmates in the institutional
social world (Robertson, 1999). Accordingly, sexual harassment in correctional institutions is a serious problem related to prison rape and may contribute to an environment that encourages sexual violence and creates fear in inmates.

**Characteristics of Prison Rape**

Valuable descriptive information has been obtained from previous research on prison rape. For example, research has discovered common characteristics of victims, offenders, and locations of assaults (e.g. Banbury, 2004; Dallao, 1996; Man and Cronan, 2001; Nacci and Kane, 1983; Tewksbury, 1989).

**Characteristics of Victims**

There are several names that are used to describe victims of prison rape. Weiss and Friar (1974) listed some of these names as including "punks, tricks, fags, faggots, fairies, queers, sissies, wives, homos, bitches, women, pieces of ass, and gal-boys" (p. 138). Victims tend to have unique characteristics that make it appealing to others to target them. Dallao (1996) stated that those at risk of sexual assault will most likely be targeted and assaulted within the first days of their sentence. One study reported that over half of the inmates surveyed were sexually coerced within one month after incarceration (Banbury, 2004). New inmates are more likely to be victimized because they are unaware of the complexities of the prison social system and will be identified as naïve by other, more experienced inmates (Man and Cronan, 2001). Such inmates may not be able to identify when they are at risk of being victimized. In addition, victims and offenders are likely to live in the same unit within an institution (Nacci and Kane, 1983). Victims may have difficulty removing themselves from dangerous situations because they typically live in close proximity to their attacker.
A variety of common characteristics have been identified among victims of prison rape. Banbury (2004) found that those most likely to be victimized are homosexuals, young inmates, inmates who are seen as effeminate, inmates who are seen as inexperienced, and inmates who are not aggressive. Chonco (1989) found that inmates who are seen as weak and unable to defend against an assault are more likely to be victimized. Similarly, Hensley, Koscheski, and Tewksbury (2005) found that victims were more likely to be single, homosexual, and had committed personal crimes. Nacci and Kane (1983) found that seventy percent of targets of a completed or attempted assault were homosexual or bisexual. Man and Cronan (2001) reported that physically smaller inmates are at a greater risk of being victims of sexual assault. Characteristics of inmates that can be easily identified by other aggressive inmates may also lead to victimization. Tewksbury (1989) found a significant racial difference across victims. Forty percent of whites in the study reported being victimized, compared to twenty-five percent of non-whites (Tewksbury, 1989). Nacci and Kane (1983) also found that whites were more likely to be victims of assaults.

Some inmates are targeted for an assault, but manage to avoid completion of the assault. Inmates who are able to successfully avoid being raped are those who minimize association with other inmates, do not accept items or favors, and those who have an institutional reputation for being able to fight well (Chonco, 1989). Also, inmates who avoid being sexually assaulted are more likely to be “street-wise” and aggressive based on their prior experience in free society (Man and Cronan, 2001). Those who do not have experience in violent situations will be viewed as an easier target by an attacker (Man and Cronan, 2001).

Assaults on victims may come from one or more offenders. In one study, nearly half of all victims reported being sexually coerced by more than one offender, 42 percent reported
coercion by multiple offenders, and only 8.5 percent reported being coerced by only one offender (Banbury, 2004). In addition, victims usually had no prior warning of their assault (Nacci and Kane, 1983).

Inmate life is dominated by a set of unofficial rules known as the prison code, which may affect the reporting of rapes. The prison code affects how victims and offenders of prison rape are viewed by others in the institution. Kupers (2001) detailed the problems victims face when dealing with the aftermath of a rape. Victims may choose not to report their assault, due to the fact that they will be asked to reveal the names of their attackers. This behavior is viewed as snitching and is a violation of the prison code. Victims who tell prison officials about their rape may be assaulted or killed by the offender in retaliation for snitching (Kupers, 2001). Prison rape victims may face even more danger in reporting their assault than being assaulted.

Ninety-nine percent of victims in one study chose not to report their assault to prison staff (Banbury, 2004). The reasons given by respondents for not reporting included fear, shame, lack of staff acknowledgement, frequency of dismissed allegations, existence of false accusations, fear of punishment, and limited access to psychological and medical treatment (Banbury, 2004). Nacci and Kane (1983) reported that 68 percent of victims did not use official means to address their victimization and staff were not aware of 63 percent of assaults and attempted assaults. Inmates may also choose to report their assaults to those other than institutional employees. One study found that 23 percent of male inmates reported their assault to family and friends or to another inmate (Struckman-Johnson et al., 1996). In addition, 18 percent reported their assault to counselors or clergy and 10 percent disclosed the attack to medical staff (Struckman-Johnson et al., 1996).
**Characteristics of Offenders**

Names are also given for offenders of prison rape. These names include "wolves, animals, bills, gorillas, jockers, husbands, and aggressive homos" (Weiss and Friar, 1974, p. 138). Those who are more likely to be offenders are those who have a prior history of violence before being sentenced to prison (Man and Cronan, 2001). The violence that an inmate demonstrated prior to being incarcerated may appear during his incarceration. Also, inmates who were of a low socio-economic status prior to being sentenced to prison are more likely to be offenders (Man and Cronan, 2001). Nacci and Kane (1983) reported that there are more African American offenders, due to African Americans grouping together to commit assaults. However, African Americans and whites are equally likely to be offenders (Nacci and Kane, 1983; Nacci and Kane, 1984). Scacco (1975) further elaborated on the tendency of offenders to be African American. The author questioned African American offenders to determine their motivation for attacks. Scacco (1975) was told by one African American that whites are targeted because "now it is their turn" (p. 48). This led Scacco (1975) to infer that attacks are carried out against whites for the purpose of getting revenge on whites for the historical societal oppression of African Americans.

Nacci and Kane (1984) identified several additional characteristics of offenders. Offenders are usually larger and older than the victim, although they are younger than the average inmate. Also, offenders are more likely to be incarcerated for the commission of a violent crime and are known to violate prison rules. Offenders are usually from urban areas and have had contact with the criminal justice system as a juvenile (Nacci and Kane, 1984). Chonco (1989) found that offenders are more likely to be serving a longer than average sentence and
have been incarcerated in different institutions. In addition, offenders have usually served approximately six months of their sentence before assaulting another inmate (Chonco, 1989).

Finally, Moss, Hosford, and Anderson (1979) identified several characteristics that may allow potential offenders to be identified before harming other inmates. The researchers used information available in inmates’ files, including type of offense, age, education, race, and number of disciplinary reports, to identify typical characteristics of offenders (Moss, Hosford, and Anderson, 1979). Knowing the likely characteristics of victims and offenders is helpful because it allows prison staff to identify targets and aggressors before an incident occurs. These descriptives may give prison officials an opportunity to develop proactive responses in order to prevent sexual violence.

**Characteristics of Institutions**

Research has also provided descriptions of locations where assaults are most likely to occur. Through the use of interviews and surveys, Banbury (2004) investigated coercive sexual behavior in prisons among 408 former adult prisoners. The study found that assaults occurred most often in areas that offer privacy and isolation. These areas included prison cells (especially those housing more than one inmate), shower areas, restrooms, association rooms, search rooms, prison libraries, and inmate work places (Banbury, 2004). Similarly, Nacci and Kane (1983) found that living quarters were used for attacks more often than other areas in institutions. It appears that most assaults occur in the evening and night, especially following visits (Banbury, 2004). Not surprisingly, locations and times that offer the lowest levels of institutional supervision are utilized most often to carry out sexual assaults.

Research has also contributed to the knowledge regarding institutional characteristics that may encourage sexual assaults. Specific institutional characteristics that may contribute to
sexual assaults include overcrowding, inadequate staff and prisoner awareness of sexual assault, absence of sexual relationships, the existence of homophobia, general intolerance, and the inability of inmates to implement their legal rights (Banbury, 2004). Also, reductions of inmates’ mobility and space in an institution may become frustrating and inmates may turn to violence when a suitable outlet for frustration is not available to them (Barrett, 2005). Particular institutional factors, therefore, have a significant impact on the functioning of inmates and specific institutional characteristics may encourage the growth of an environment that allows sexual assault to occur.

Hensley, Koscheski, and Tewksbury's (2003) study of 441 state prison wardens noted several institutional characteristics that are correlated with reporting of sexual assaults. Prisons with larger inmate populations and conjugal visitation programs were more likely to have reports of sexual assaults (Hensley, Koscheski, and Tewksbury, 2003). While minimum security level prisons were less likely to have reports of sexual assaults (Hensley, Koscheski, and Tewksbury, 2003). This may be due to the fact that more violent inmates are incarcerated in higher level security prisons.

The responses of correctional officers and staff to prison rape are an important consideration. Research has found that correctional officers are willing to respond to prison rape, but are more willing to assist heterosexual victims, than homosexual or bisexual victims (Nacci and Kane, 1984). The reasons for the difference in willingness to help may lie in the fact that correctional officers may not be able to distinguish consensual homosexual acts from forced or coerced assaults on homosexuals (Nacci and Kane, 1984). Warden’s attitudes and opinions of prison rape are also important. In a study of 226 wardens, Hensley and Tewksbury (2005b) found that 65 percent of wardens believed the level of fear in their institutions regarding sexual...
assault was low. In addition, no warden surveyed felt that fear of sexual assault was high in their institutions (Hensley and Tewksbury, 2005b). Moreover, the same researchers found that, overall wardens do not feel that a significant portion of inmates are active in coerced or forced sexual activities (Hensley and Tewksbury, 2005a).

Consequences of Prison Rape

Prison rape is associated with several negative consequences. These include the spread of HIV, AIDS, and other infectious diseases, increases in homicides and violence in institutions, intensifying racial tensions in institutions, and physical and psychological damage to victims (Prison Rape Elimination Act, 2003).

Consequences to Victims and Offenders

Psychological effects are often associated with victims of rape. Banbury (2004) reported the occurrence of depression, guilt, shame, anxiety, nightmares, anger, attempted suicide, and drug use in victims of sexual coercion. Struckman-Johnson et al. (1996) found that immediately following an assault, victims reported the emotional impact of the assault to be an average of 6.3 on a maximum scale of seven. The researchers reported that after an assault, males felt distrustful, nervous around others, and showed signs of depression. In the same study, victims reported feeling racial prejudice and wanting revenge on their attacker. In some cases, victims reported wanting to kill their attacker (Struckman-Johnson et al., 1996). Negative effects to victims also include physical injuries, post-traumatic stress disorder, loss of one’s social rank in the prison social system, labeling, and stigmatization (Dumond, 2000). Respondents in another study reported physical injuries including anal bleeding, cuts, swelling, and bruises after assaults (Banbury, 2004).
Social rank in a prison is important to an inmate's functioning. At the highest level, the prison hierarchy is composed of the most dominant men who rule over those who are weak (Kupers, 2001). Inmates who are raped assume the lowest position in the prison society hierarchy; therefore, the social rank of an inmate is affected by a rape (Kupers, 2001). The negative effects of prison rape may also remain with an individual even upon release from incarceration, as rape victims may then have difficulty transitioning back into society. Kupers (2001) states, “And even some of the most demeaned of prisoners, when eventually they leave prison, find themselves acting abusively toward others” (p. 117).

Dumond (2000) stated that victims may be given a possible death sentence through the transmission of infectious diseases such as HIV. For example, an inmate who was incarcerated for credit card and securities fraud in federal prison was raped in prison and contracted HIV (Tucker, 2003). Banbury (2004) reported that victims and offenders seldom used protection from disease transmission during assaults. Inmates who are expecting to serve their sentences and be released may face a more serious challenge if they are raped, that of living with a potentially fatal disease.

Although limited, consequences exist for prison rape offenders as well. Some of the commonly known disciplinary strategies utilized in prison are disciplinary action taken within an institution, such as a loss of privileges or placement in solitary confinement. Also, prison rape offenders can be criminally charged for their actions. However, it is clear that consistent disciplinary actions are not imposed on offenders (Abraham, 2001). One problem is that correctional institutions do not consistently investigate and punish instances of prison rape (Abraham, 2001). In addition, it is more common for correctional institutions to use disciplinary actions within institutions rather than refer the assault to prosecutors (Abraham, 2001). Even
when offenders are referred for criminal prosecution, prosecutors do not often proceed with prosecution (Abraham, 2001). It is apparent that consequences do exist for offenders; however, the extent to which disciplinary action is utilized to punish offenders is limited.

**Consequences to Institutions**

Institutions are also affected by prison rape. Legal action has been brought against prison staff with claims that inmates’ Eighth Amendment rights against cruel and unusual punishment are being violated. A recent example of this is the case of Roderick Johnson in 2005 (“Sexual Slavery”, 2005). Upon being incarcerated, Johnson was approached by several inmates who threatened and raped him. He submitted written requests to prison officials to be placed in protective custody, but stated that prison officials ridiculed him because he is openly homosexual. Johnson stated that he was told by prison officials to either fight off his assailants or submit to them in return for protection. The lawsuit alleged that he was subjected to cruel and unusual punishment due to the indifference of prison staff (“Sexual Slavery”, 2005).

In *LaMarca v. Turner* (1987), inmates brought a lawsuit against the superintendent of their correctional institution after being gang raped (Mariner, 2000). The inmates alleged that the superintendent did not protect them from harm that was foreseeable (Mariner, 2000). The inmates were awarded monetary damages when the court ruled that their Eighth Amendment rights were violated during their incarceration (Mariner, 2000). *Redman v. County of San Diego* (1991) stated that the supervisor in the institution where a physically small inmate was raped while incarcerated was responsible for the assault (Mariner, 2000). The court stated that the supervisor ignored the possible danger that faced the small inmate and placed him in the general population of the facility with deliberate indifference for his safety (Mariner, 2000).
However, when inmates who have been attacked are ruled in favor of by the courts, damages are not always awarded. For example, in *Butler v. Dowd* (1992) the jury found that prison officials were deliberately indifferent to three inmates who had been raped (Mariner, 2000). The inmates were only awarded one dollar each in damages by the jury (Mariner, 2000). Similarly, in *James v. Tilghman* (1999) the court found that an inmate was raped due to negligence on behalf of the institution, but awarded the inmate no damages (Mariner, 2000).

Conclusion

This chapter has presented the very serious nature of prison rape and its unique aspects. In addition, the consequences that affect inmates and institutions were addressed. In the next chapter, the history of prison rape legislation and policy is presented. The past and current efforts that have been implemented to address the consequences of the problem are highlighted. Attempts at improving the knowledge of prison rape and preventing prison rape are also discussed.
CHAPTER II
OFFICIAL RESPONSES TO PRISON RAPE AND THE PRISON RAPE ELIMINATION ACT OF 2003

Although research has shown that prison rape has negative effects on inmates and institutions, official attention has rarely been given to the problem. It was not until the beginning of this century that prison rape was specifically addressed by the federal government. The following sections discuss the history of official responses to prison rape and responses that have occurred since the passage of PREA.

Early Policies

Prior to the passage of the PREA, some institutions developed written policies to deal with the problem of prison rape. For example, the San Francisco Sheriff’s Department developed a policy for its jail in October 1978, which was revised in September 1997 (San Francisco Sheriff’s Department, 1978). The purpose of the policy is to ensure that inmates who were assaulted are given access to adequate physical, psychological, and social services care. Through the identification of victims, verification that an assault has occurred, and staff intervention (e.g., evidence collection, handling of assailants), the San Francisco Sheriff’s Department hopes to minimize the occurrence and harms associated with prison rape (San Francisco Sheriff’s Department, 1978).

The North Carolina legislature passed legislation that implemented a pilot program in its state prisons (Mariner, 2000). The program provided information about prison rape to incoming prisoners. It also mandated that inmates be classified regarding their risk of becoming a victim or offender and that the classifications be used when housing assignments are made. In addition,
the legislation required that institutions collect data on assaults and provide training for employees about prison rape (Mariner, 2000).

Attempts at reducing and preventing prison rape also existed at the federal level. The Federal Bureau of Prisons adopted policies in 1998, creating an information guide for inmates regarding prison rape (Federal Bureau of Prisons, 1998). The guide defined prison rape and explained what inmates should do if they are victimized (Federal Bureau of Prisons, 1998). Thus, it appears that while relatively recent, some institutions and jurisdictions have taken steps to address the problem of prison rape. This work, however, has been sporadic and prior to the passage of the PREA, there was little consistency in the details of those policies. In addition to early policies that were adopted, the courts have also started to respond to concerns from victims of prison rape.

History of Judicial Intervention

Inmates have turned to the court system to obtain relief from dangerous correctional environments. When an inmate is raped, he is able to bring a lawsuit against correctional officers for failing to protect him from harm (Ries, 2005). However, there are requirements that must be met for inmates to succeed in litigation. The common standard used by courts to determine if an inmate’s claim has merit is “deliberate indifference” (Robertson, 2003). Deliberate indifference was first created in Estelle v. Gamble (1976) (Robertson, 2003). The case involved an inmate who was physically injured while incarcerated (Robertson, 2003). The inmate claimed that the medical treatment he was given violated his Eighth Amendment rights against cruel and unusual punishment (Robertson, 2003). The Supreme Court declared that prison officials and staff cannot be deliberately indifferent to inmates’ medical needs (Robertson, 2003). The standard of deliberate indifference has been applied to inmates who have been raped...
in correctional facilities. However, as district and circuit courts began using the standard of deliberate indifference in their decisions, some courts relied heavily on what defendants (i.e. prison officials) were proved to have known, while other courts relied heavily on what defendants should have known (Robertson, 2003). The case of *Wilson v. Seiter* (1991) helped to further elaborate the exact meaning of deliberate indifference (Robertson, 2003). This case ruled that deliberate indifference meant allowing inmates to come to harm in a reckless manner on the part of prison officials (Robertson, 2003).

The United States Supreme Court further clarified the concept of deliberate indifference in *Farmer v. Brennan* (1994). This case involved a preoperative transsexual inmate who was housed in the general population of a male correctional institution. The inmate was beaten and raped by another inmate while being housed in the general population. The lawsuit was brought against the prison based on allegations that the prison administration did not fully protect the inmate from harm. The Supreme Court ruled that a prison official can be held accountable “for acting with ‘deliberate indifference’ to inmate health or safety only if he knows that inmates face a substantial risk of serious harm and disregards that risk by failing to take reasonable measures to abate it” (*Farmer v. Brennan*, 1994). The decision further stated that inmates have a right to humane conditions under the Eighth Amendment and prison administrators have a responsibility to provide humane conditions (*Farmer v. Brennan*, 1994). This case made new clarifications to previous rulings about deliberate indifference (Robertson, 2003). First, courts may decide that a defendant had to have known about the risk of rape to an inmate due to having knowledge about the severity of potential risk to the inmate (Robertson, 2003). Second, individual inmates do not always have to show that great risk existed for them personally, if all inmates would be placed at risk in the same situation (Robertson, 2003).
Assaulted inmates have not always succeeded in their attempts to be vindicated by the courts even after the creation of the deliberate indifference standard. In *McGill v. Duckworth* (1991), the Seventh Circuit Federal Court ruled that an inmate’s rape was not cruel and unusual punishment, due to the fact that the inmate did not tell prison staff about threats that were made to him before the assault (Robertson, 2003). In this case, the court felt that it was important that an inmate tell prison staff about threats to his physical safety. Thus, prison staff would had to have been told directly about the threat of harm for them to have acted in a deliberately indifferent manner. In *Turner v. Marshall* (1992), a United States District Court ruled that prison staff were not accountable for an inmate’s rape, even though the inmate identified his assailants as a potential threat prior to the attack occurring. No protective measures were taken to secure the threatened inmate, due to the fact that the inmate did not tell the prison staff of a specific threat that would indicate he was in danger (Robertson, 2003). It appears, therefore, that while the courts were providing some relief for the most extreme cases, there were still considerable gaps in the protection of prison inmates from sexual assault. It was this legal environment that may have promoted the passage of the Prison Rape Elimination Act of 2003.

**Prison Rape Reduction Act of 2002**

In the past, prison rape was not specifically addressed by the federal government through legislation ("Activists", 2005). However, Congress chose to include men and inmates in the definition of rape in federal criminal statutes in 1986 (Bell, Coven, Cronan, Garza, Guggemos, and Storto, 1999). Prior to that time, men and inmates in federal detention were not protected by federal law from rape. Eventually, federal efforts to decrease prison rape would be initiated.

The Prison Rape Reduction Act of 2002 was the first federal legislative attempt at drawing attention to the lack of knowledge and prevention of prison rape (S. 2619, 2002;
“Washington in Brief”, 2002). Senators Edward Kennedy (D-MA) and Jeff Sessions (R-AL), along with Representatives Robert Scott (D-VA) and Frank Wolf (R-VA) sponsored the Prison Rape Reduction Act of 2002 (“Washington in Brief”, 2002). When the Prison Rape Reduction Act was introduced, however, it was not signed into law. Senate Bill 2619 (2002) called for the Bureau of Justice Statistics to complete a yearly data collection on the occurrence of prison rape. It also would have established the Review Panel on Prison Rape to help the Bureau of Justice Statistics in its study of prison rape. In addition, the Attorney General would have been required to gather complaints from inmates and hand them to the appropriate administrators. After handling the complaints, the Attorney General would have had the responsibility to review how the complaints were handled (S. 2619, 2002).

The Attorney General would also have been responsible for creating a national clearinghouse to handle information about prison rape and instituting training and education for authorities who are in charge of addressing the problem (S. 2619, 2002). Under this bill, the Attorney General would have been accountable for distributing grants that were one year in length and not more than one million dollars. The National Prison Rape Reduction Commission would have been created to conduct a study about various aspects of prison rape. This Commission would have been responsible for providing recommendations for addressing prison rape. The proposed legislation also would have mandated that the Attorney General create rules for the establishment of national standards for prison rape. The Secretary of Health and Human Services would have been required to review acute trauma treatment for prison rape victims. This bill also would have demanded that organizations that accredit agencies adopt standards for accreditation regarding prison rape and its prevention (S. 2619, 2002).
The Prison Rape Reduction Act of 2002 was a comprehensive effort in attempting to focus on prison rape. New legislation, implemented one year later, would be required before attention was given to prison rape in national law. The Prison Rape Elimination Act of 2003 (hereafter known as PREA) was the first piece of federal legislation passed to specifically address prison rape. The question as to why attention was not previously given to the subject, especially when agencies were made aware of the problem in the past, is certainly a legitimate concern.

**Political Support for PREA**

The previous lack of concern regarding prison rape brings to mind the possible motivations for addressing the problem through legislation. In the past, prison rape was not discussed in federal law. However, the current legislation was passed unanimously with bipartisan support in both the House of Representatives and the Senate. Therefore, it may lead some to wonder why a sudden concern for inmates developed in the federal legislature. A great deal of credit is given to Michael Horowitz of the Hudson Institute for the creation and passage of the legislation (Mair, Frattaroli, and Teret, 2003). Horowitz pushed for the legislation, with the help of additional organizations, including Stop Prisoner Rape and the Christian Coalition (Mair, Frattaroli, and Teret, 2003). In Congress, PREA was primarily sponsored by Representative Frank Wolf (R-VA), Representative Robert Scott (D-VA), Senator Edward Kennedy (D-MA), and Senator Jeff Sessions (R-AL). In addition to support from lawmakers, organizations of varying backgrounds showed support for the act. Supporting organizations included Amnesty International, the Center for Religious Freedom, Christian Coalition, Human Rights Watch, NAACP, the Salvation Army, Stop Prisoner Rape, the American Probation and
Prior to the passage of PREA, Representative Wolf allowed victims and family members of victims to share personal stories with members of the United States House of Representatives (Wolf, 2003). The stories of those affected by prison rape appeared to be a strong motivation (Wolf, 2003). During his speech, Representative Wolf noted that the legislation represented a respect for human dignity and stopping “deliberate indifference” toward prison rape (Wolf, 2003). Representative Wolf also added that although he feels that society should be tough on crime, prison rape is an additional punishment for inmates that should not be tolerated (Wolf, 2003). Representative Scott also stated that prison rape should not be tolerated in society during a speech in the United States House of Representatives (Scott, 2003). Representative Scott stated, “Whatever their crimes and whatever the prescribed punishment for them, in a humane society prison rape should not be a part of it. Prison rape not only derails justice – it destroys human dignity” (Scott, 2003).

In the Senate, the motivations for the legislation were similar to those in the House of Representatives. In a speech to the United States Senate after the approval of the legislation, Senator Kennedy agreed with a quote from Winston Churchill which stated that the treatment of inmates by a society reflects the state of a civilization (Kennedy, 2003). Senator Kennedy further elaborated on the seriousness of prison rape, including negative effects on victims, institutions, and communities (Kennedy, 2003). Senator Sessions’ interests in legislation were based on personal experience and stated that as a prosecutor and attorney general, he was responsible for the imprisonment of many (Sessions, 2003). The Senator addressed the Senate in a speech following the approval of the legislation and stated that inmates should be treated fairly
in the court system, as well as the correctional system (Sessions, 2003). In addition, he noted that rape should not be seen as part of an inmate’s sentence (Sessions, 2003).

The major catalysts for the legislation appeared to be concern for inmates’ dignity and a consideration for how inmates are viewed by society. The Representatives and Senators further expressed concern for inmates being treated fairly in all phases of the criminal justice system, not only when in contact with the police and the courts. Support for the legislation came from a wide range of sources; therefore, one can deduce that concern for inmates’ humane treatment is a common theme behind the legislation.

Justifications for PREA

PREA identified several problems surrounding prison rape that prompted the legislation. First, rapes in prison are not always reported and victims who do report are not always given adequate care (PREA, 2003). Victims may also have difficulty re-entering society, due to physical and psychological damage endured. In addition, prison staff members are not prepared to handle reports or victims of sexual assault. Prison rape increases levels of violence within institutions, such as the occurrence of homicides, violence against staff, and riots. Thus, the occurrence of prison rape increases governmental expenses, including health care needs. Finally, prison rape can have many negative effects on inmates, including inmate contraction of serious diseases, increases in violent behavior after release, and igniting tensions within institutions (PREA, 2003).

The primary intention of PREA is to communicate that prison rape will no longer be tolerated in correctional institutions. PREA identified several policy goals that will help to push correctional systems in the right direction in reducing and preventing prison rape (PREA, 2003). First, the prevention of prison rape must become a priority in correctional systems (PREA,
Setting prevention as a main priority demonstrates that the problem is serious and requires attention. Second, the act instituted a zero-tolerance policy for prison rape (PREA, 2003). This policy is intended to communicate that the federal government will no longer tolerate state and federal correctional institutions and administrators overlooking the problem of prison rape. Third, the Act developed national standards for the prevention of prison rape in order to achieve the creation of a uniform plan of prison rape prevention (PREA, 2003). The national standards aim to ensure consistent minimum practices across jurisdictions. Fourth, focus was placed on increasing information about prison rape (PREA, 2003). The increase in information is necessary to developing a more accurate depiction of the problem and developing prevention strategies. Fifth, prison officials will be held accountable for the occurrence of prison rape in their institutions and those prisons and correctional systems deemed as failing will be required to appear before the Review Panel on Prison Rape to explain their poor performance (PREA, 2003). In order to enforce the steadfast commitment to reducing and preventing prison rape, Congress has reinforced its message by holding officials accountable for problems in their institutions. Sixth, the legislation seeks to protect the Eighth Amendment rights of inmates (PREA, 2003). Finally, the Act promotes the use of public funds in an efficient and effective manner to respond to prison rape (PREA, 2003). The legislature has a responsibility to use public funds in an effective and appropriate manner. This language suggests that the decision making process in distributing PREA funds should be sensitive to cost while recognizing that such expenditures have the potential to reduce long term costs associated with prison rape. Examples of long term costs include the increase in national prison operation expenditures, due to the effects of prison rape, such as AIDS transmission (PREA, 2003).
Upon review, it appears that PREA targets two main areas: (1) increasing the knowledge available about prison rape and (2) developing better prevention strategies to combat the problem. These areas are reflected in the eight policy goals explicitly stated by the legislation. Each of these goals can be categorized as either seeking to improve knowledge of prison rape or attempting to decrease prison rape through prevention efforts. The primary method of improving knowledge is by increasing the reliability and validity of data. The purposes that can be classified as improving prevention include setting a zero-tolerance policy, identifying prevention as a top priority, implementing national standards, increasing accountability, protecting inmate rights, increasing funding efficiency, and reducing costs.

Requirements and Resources

PREA provided several resources for achieving its various goals. Under the legislation, the Bureau of Justice Statistics will be responsible for the yearly collection of data on the incidence of prison rape (PREA, 2003). The data collection must include information regarding the common characteristics of victims, offenders, and prisons with high occurrences of prison rape. The Bureau of Justice Statistics will also be responsible for defining rape and determining the best method to gather information about staff assaults on inmates. How to gather information other than through inmate self-reports and managing variations in the data among prisons will be left to the discretion of the Bureau of Justice Statistics. In addition, this agency will determine how to classify prisons. To decrease potential problems of sample selection and participation, the legislation required that institutional administrators participate and provide access to inmates if they are selected by the Bureau of Justice Statistics to participate in prison rape research (PREA, 2003).
The Review Panel on Prison Rape was created by the legislation to ensure the mandates were carried out (PREA, 2003). This panel consists of three members who are appointed by the Attorney General. The main purpose of the Review Panel on Prison Rape is to complete public hearings every year regarding the institutional operations of the three prisons with the highest rates of prison rape and the two prisons with the lowest rates of prison rape. The three prisons with the highest rates of sexual assault will have an individual hearing in order to identify common characteristics of victims, offenders, and prisons with high and low rates of prison rape. During the Review Panel on Prison Rape hearings, those who may testify include federal, state, and local officials, victims of prison rape, and those who are subpoenaed to testify by the Review Panel on Prison Rape. The Attorney General will be responsible for completing a report on the actions of Bureau of Justice Statistics and the Review Panel on Prison Rape regarding the effects and incidence of prison rape. Also, the Attorney General’s report is to identify any institutions that did not cooperate with the Bureau of Justice Statistics’ research. The Attorney General may also offer grants for additional research studies from the National Institute of Justice (PREA, 2003).

The legislation also established resources for the prevention and prosecution of prison rape. First, a clearinghouse for information was created in the National Institute of Corrections to aid federal, state, and local administrators in preventing and investigating prison rape (PREA, 2003). Second, the National Institute of Corrections was required to provide training and education aimed at the prevention, investigation, and punishment of prison rape. Third, the National Institute of Corrections was given the responsibility of reporting on how Department of Justice efforts have contributed to decreasing the occurrence of prison rape during the previous year (PREA, 2003).
The distribution of funds is directed primarily towards the purpose of protecting inmates and communities. The legislation provided $40 million for use as grant funds to be distributed by the Attorney General to states for personnel, training, the collection of data, and equipment used to prevent prison rape (PREA, 2003). Strict guidelines are stated for the use of grant funds and the grants may be used by the grantee or through subgrants for the purposes of protecting inmates and safeguarding communities. Protecting inmates is defined by the legislation as preventing prison rape, investigating occurrences of prison rape, and prosecuting occurrences of prison rape. Safeguarding communities includes providing training for managing prison populations, providing analysis of prison populations and risk assessment, mapping the location of released inmates, encouraging group efforts among various officials, and providing policies that reduce expenses for prisons. Grant requirements state that grants may not last for more than two years or exceed one million dollars. In addition, those who receive grants must submit a report detailing their actions to the Attorney General. If grantees do not comply with national standards, the funding they receive may be reduced (PREA, 2003).

The Act included the establishment of the nine member National Prison Rape Reduction Commission that will hold public hearings (PREA, 2003). The purpose of this commission is to conduct a study on the various effects that prison rape can have on governments, communities, and individuals. The study must include current policies that attempt to address prison rape, the effect of prison conditions on prison rape, causes of prison rape, the effect of prison rape on HIV and sexually transmitted diseases, characteristics of offenders, the impact of prison rape on various groups, evaluations of prison rape prevention tactics, the connection between prison violence and prison rape, the connection between training and the occurrence of prison rape, and an evaluation of reporting systems for prison rape. The National Prison Rape Reduction
Commission was required to detail their findings in a report that will provide recommendations for addressing the problem of prison rape (PREA, 2003).

The Act detailed how national standards regarding prison rape will be put into effect. The Attorney General is responsible for establishing the national standards based on recommendations from the National Prison Rape Reduction Commission (PREA, 2003). The Attorney General will then pass on the standards to federal, state, and local prison administrators. States that do not comply with the national standards may be penalized by not having access to all of the funds available to them. Once states have corrected problems and prove that they comply with national standards, the states will be granted full access to funds (PREA, 2003). The legislation will also affect agencies that accredit prisons and jails (PREA, 2003). In order for accreditation agencies to receive grants provided by the legislation, the agencies must institute accreditation standards for the handling of prison rape. Furthermore, definitions that are used to discuss the topic of prison rape in the legislation were uniformly defined. These terms include carnal knowledge\(^2\), inmate\(^3\), jail\(^4\), HIV\(^5\), oral sodomy\(^6\), police lockup\(^7\), prison\(^8\), prison rape\(^9\), rape\(^10\), sexual assault with an object\(^11\), and sexual fondling.\(^12\) The use of standardized definitions was designed to diminish confusion regarding common terms used in the legislation and when discussing prison rape (PREA, 2003). It appears that PREA was a concerted effort to address several problems surrounding prison rape, including increasing knowledge on the topic and attempting to improve prevention strategies. These goals were targeted in a number of research, policy, and fiscal measures.

**Conclusion**

It appears that while not unanimous or consistent, there were some policy attempts made by state and local governments to address prison rape. These efforts, however, appear to be the
exception rather than the norm. It was not until federal legislative efforts in the late 20th century and early part of the 21st century that national policy attention was placed on the topic of prison rape. Recently, state legislation has been developed to address prison rape and adhere to PREA. For example, California passed the Sexual Abuse in Detention Elimination Act (2005). The legislation mandated that all inmates be protected from sexual abuse while incarcerated in California Department of Corrections and Rehabilitation institutions. In order to adequately address the problem, the law required that (1) prevention be made a top priority, (2) procedures for responding to prison rape be implemented, (3) data collection be accurate, (4) institutions and administrators be held accountable, (5) the rights of inmates be protected, and (6) state spending be made more efficient (Sexual Abuse in Detention Elimination Act, 2005).

The following terms are defined in the Prison Rape Elimination Act of 2003:

2 Carnal Knowledge: “contact between the penis and the vulva or the penis and the anus, including penetration of any sort, however slight.”

3 Inmate: “any person incarcerated or detained in any facility who is accused of, convicted of, sentenced for, or adjudicated delinquent for, violations of criminal law or the terms and conditions of parole, probation, pretrial release, or diversionary program.”

4 Jail: “a confinement facility of a Federal, State, or local law enforcement agency to hold persons pending adjudication of criminal charges or persons committed to confinement after adjudication of criminal charges for sentences of one year or less.”

5 HIV: “the human immunodeficiency virus.”

6 Oral Sodomy: “contact between the mouth and the penis, the mouth and the vulva, or the mouth and the anus.”

7 Police Lockup: “a temporary holding facility of a Federal, State, or local law enforcement agency to hold inmates pending jail or trial; inebriates until ready for release; or juveniles pending parental custody or shelter placement.”

8 Prison: “any confinement facility of a Federal, State, or local government, whether administered by such government or by a private organization on behalf of such government, and includes any local jail or police lockup and any juvenile facility used for the custody or care of juvenile inmates.”

9 Prison Rape: “the rape of an inmate in the actual or constructive control or prison officials.”

10 Rape: “the carnal knowledge, oral sodomy, sexual assault with an object, or sexual fondling of a person, forcibly or against that person’s will; the carnal knowledge, oral sodomy, sexual assault with an object, or sexual fondling of a person not forcibly or against the person’s will, where the victim is incapable of giving consent because of his or her youth or his or her temporary or permanent mental or physical incapacity; or the carnal knowledge, oral sodomy, sexual assault with an object, or sexual fondling of a person achieved through the exploitation of the fear or threat of physical violence or bodily injury.”

11 Sexual Assault with an Object: “the use of any hand, finger, object, or other instrument to penetrate, however slightly, the genital or anal opening of the body of another person.”

12 Sexual Fondling: “the touching of the private body parts of another person (including the genitalia, anus, groin, breast, inner thigh, or buttocks) for the purposes of sexual gratification.”
In the following chapter, difficulties that plague data collection on prison rape are addressed and the existing knowledge on the extent of prison rape is presented. In addition, methodological problems that have occurred in past research are addressed. The recommended strategies for improving knowledge about prison rape are discussed. The next chapter also illustrates the requirements of PREA regarding the improvement of knowledge and provides an example of state implementation of PREA requirements. Finally, an assessment of the potential effect of PREA on knowledge about victims, offenders, and institutions is provided.
CHAPTER III

KNOWLEDGE AND DATA LIMITATIONS IN PRISON RAPE RESEARCH

Numerous research studies have attempted to identify the occurrence, extent, and characteristics of prison rape. Such studies have been conducted in United States prisons (Hensley, Koscheski, and Tewksbury, 2005; Krienert and Fleisher, 2005; Nacci and Kane, 1983; Struckman-Johnson et al., 1996; Tewksbury, 1989), as well as prisons in foreign countries (Banbury, 2004). However, the findings of these studies vary considerably. As a result, the research on prison rape is characterized by a diversity of methods and findings. This chapter reviews current knowledge on prison rape, focusing primarily on the United States. In addition, problems and limitations of this research are addressed. The following section details several research studies that have attempted to measure the extent, as well as fear of prison rape. As noted in previous chapters, a primary goal/purpose of PREA was to improve knowledge of prison rape. Thus far, however, the current knowledge base is somewhat limited in uncovering salient facts about prison rape. This chapter examines the specific requirements of PREA related to knowledge building. Finally, utilizing a case study approach, changes instituted by Ohio are evaluated relative to the implementation of PREA’s requirements.

Methodological Difficulties Studying Prison Rape

As with all topics, methodological problems also exist in the study of prison rape. However, due to the sensitive nature of the topic and special population being targeted, problems have resulted when researchers have attempted to study prison rape. This section addresses the major problems related to grasping the true picture of prison rape, which are (1) the lack of valid and reliable official data; (2) researcher bias; (3) cooperation of prison officials; (4) respondent
bias; (5) methods of data collection; (6) sensitive nature of the topic under study; (7) agreement on operational definitions; and (8) low response rates.

One large obstacle to studying prison rape is the lack of availability of valid and reliable data on the occurrence of prison rape. Dumond (1992) stated that accurate data on the national incidence of prison rape is not available to researchers. For example, until recently, the Federal Bureau of Investigation, which is responsible for the annual publication of crime incidents, did not specifically report data on prison rape. In addition, state level data did not give accurate accounts of prison rape. For example, in Massachusetts, the number of victims of prison rape was counted by contacting a rape crisis center because the state’s Department of Corrections did not maintain a record of inmate rapes (Dumond, 1992). When accurate data is not available to researchers, policy makers, and the like, it inevitably leads to inconsistent measures of the occurrence of prison rape.

To overcome the lack of official data, independent researchers have conducted studies on the nature and extent of prison rape, but this approach has also been plagued by problems. One concern is with researchers themselves. Restrictions may be placed on researchers who are not associated with the prison system; therefore, access to prisons and prisoners may be difficult to gain or may be denied (Banbury, 2004). Prisons may not fully cooperate with researchers if there are ethical concerns regarding the research. In addition, if researchers use reported incidents as a measure of the occurrence of prison rape, questions of the data reliability may be raised. Inconsistency may be due to under-reporting or over-reporting by staff and inmates. Furthermore, inmates may not wish to disclose information about traumatic events they have experienced. If inmates choose to disclose incidents, they may suffer negative effects, such as
resorting to self-harm or drug abuse, from having to discuss a traumatizing incident (Banbury, 2004).

The type of research method selected to secure the data can also pose problems for understanding the extent of prison rape. Early researchers chose either surveys or interviews to gather information (Banbury, 2004). Oftentimes, surveys and interviews were used together in studies to maximize the amount of information obtained. A benefit of using surveys and interviews is that inmates may feel more comfortable disclosing information if they are able to choose whether to complete a survey in private or discuss incidents personally with researchers (Banbury, 2004). While some researchers have offered this option, information on prison rape has been gathered primarily through the use of self report instruments; despite the fact that a large portion of inmates are illiterate (Hensley and Tewksbury, 2002). This may raise questions about the validity of results based on surveys that inmates complete individually.

In addition to literacy issues with written surveys, respondents are expected to be truthful when responding to such instruments, but the sensitivity of the topic may lead to inaccurate statements (Hensley and Tewksbury, 2002). Furthermore, inmates may choose not to report acts of prison rape out of fear of retaliation from other inmates or because they may be placed in protective custody for safety reasons. The latter of which is often interpreted as a punishment. Another reason for not reporting prison rape may include maintaining one’s reputation. For example, an inmate who is raped may choose not to disclose the incident because other inmates may view the victim as weak, which would affect the inmate’s reputation. It is important to be perceived as strong by other inmates; therefore, reporting an incident that symbolizes weakness to others may be harmful to the victimized inmate (Hensley and Tewksbury, 2002).
An additional problem is the absence of a uniform set of definitions to present to inmates and staff (Banbury, 2004). Those within the prison setting may define prison rape differently than researchers. Therefore, inmates and staff may not be reporting incidents to researchers that are defined as rape and/or may be reporting consensual acts as rape in official prison records (Banbury, 2004). Thus, surveys and interviews must include well defined and uniform definitions when discussing non-consensual sexual activity.

Response rates have also been a problem in past research using surveys. Although most researchers stated that there are policy implications to their research, Hensley, Koscheski, and Tewksbury (2005) warned of the limitations that existed in their study, due to having a response rate of 18 percent. Struckman-Johnson et al. (1996) reported a response rate of 30 percent regarding surveys distributed to inmates. The BJS (2004) noted that the average completion rate for questionnaires is approximately 25 percent. The low response rates are yet another example of the difficulties researchers face when studying prison rape.

The previous section described the various problems that affect prison rape research. These problems have ranged from difficulty accessing inmates to research to attempting to gather data in inappropriate ways, such using written surveys to question illiterate inmates (Banbury, 2004; Hensley and Tewksbury, 2002). The variety of problems that affect research has led to a range of estimates on the occurrence of prison rape. The following section presents several of the estimates on the occurrence of prison rape that have been produced by previous research.

Research on the Occurrence of Prison Rape

It is important to review research on the occurrence of prison rape because little official data exists on the topic. For example, Hensley, Koscheski, and Tewksbury (2003) noted that the
Federal Bureau of Investigation does not address prison rape in the Uniform Crime Reports. Thus, most information on the occurrence of prison rape has been gained through research (Hensley, Koscheski, and Tewksbury, 2003).

Moss, Hosford, and Anderson (1979) attempted to determine if inmates who raped other inmates were significantly different from inmates who were non-perpetrators. The authors found that although rape was not a frequent occurrence in the institution used in their study, there was a racial difference between offenders and victims. Specifically, victims were in almost all cases white, while offenders were African American or of Mexican ethnicity. Also, none of the offenders assaulted victims who were the same race as the offender (Moss, Hosford, and Anderson, 1979). A limitation of their study, however, was the relatively small sample size of rapists. Of the 1,100 inmates at the prison in their study, only 12 inmate rapists were identified.

Nacci and Kane (1983) surveyed 330 inmates and 500 correctional officers in the Federal prison system. The study found that only one inmate exchanged sex for protection. However, seven percent of inmates were coerced into sexual activity by other inmates offering favors or gifts. In addition, two percent of inmates had engaged in sex for money. The researchers also found that nine percent of inmates in Federal prison reported that another inmate attempted to force them into sexual activity (Nacci and Kane, 1983).

Jones and Schmid (1989) used participant observation and interviews to examine how inmates who enter prison for the first time react to prison life. They found that when new inmates experience many traumatic events (e.g., suicides and assaults), they are less likely to be greatly affected by these dealings. The results suggested that inmates would gradually accept dramatic events as normal occurrences in prison life. Inmates entering prison for the first time were more affected by the shock of prison rape. The feeling of shock began to subside the
longer an inmate was incarcerated. The authors also discovered that inmates did not define prison life only by their existence in prison, but through their experiences prior to being incarcerated. New inmates regarded prison rape as a random and unpredictable act; however, as an inmate became more accustomed to prison life, prison rape was viewed as an act that was used to enforce the informal norms of the prison. For example, an inmate who was unable to repay a debt may be asked to provide sexual favors for another inmate rather than provide money (Jones and Schmid, 1989).

Tewksbury (1989) studied fear of sexual assault and the incidence of sexual assaults in prison. The 150 inmates in the study reported no incidents of sexual assault while in their institution. However, fear of sexual assault was reported to exist. Specifically, height and weight were significantly related to fear of sexual assault. Inmates who reported higher levels of fear of sexual assault were typically shorter or heavier than the average inmate. Thus, although fear of sexual assault was not high, it was still present in the prison setting (Tewksbury, 1989).

Struckman-Johnson et al. (1996) found that 22 percent of male inmates reported incidents of sexual coercion in their study of prison rape. When the incidents involving males were looked at individually, 50 percent of incidents involved anal sex, 8 percent involved oral sex, 14 percent involved genital touching, and 14 percent involved attempted sexual coercion (Struckman-Johnson et al., 1996).

More recently, Banbury (2004) interviewed and surveyed 408 British inmates. Inmates were split into two groups. The first group, labeled "victims," included 200 inmates who were victims of coercive sexual behavior. An additional 208 inmates composed another group, labeled "participants." Only 5.3 percent of the "participants" were victims of coercive sexual behavior. The results showed that all of the "victims" were scared of sexual coercion and 89
percent of "victims" had been threatened in the past. On the other hand, 49.5 percent of "participants" were scared of sexual coercion and 90.9 percent of this group had not been previously threatened. Interestingly, it was discovered that 211 inmates reported being victims of sexual coercion and 34 of these inmates admitted to being a perpetrator (Banbury, 2004).

Hensley, Koscheski, and Tewksbury (2005) conducted a study of 142 inmates in a maximum security prison. The researchers surveyed inmates to measure the occurrence of prison rape and identify characteristics associated with prison rape. They found that 26 inmates had been threatened in a sexual manner and 12 inmates were raped. Of the inmates who had been threatened, 92.3 percent had been threatened only once. The researchers concluded that a minority of inmates are threatened in a sexual manner, but of those who are threatened, about half were actually sexually assaulted (Hensley, Koscheski, and Tewksbury, 2005).

Krienert and Fleisher (2005) interviewed male inmates in close custody and high security institutions to discover the extent of prison rape. The researchers found that many inmates did not have direct experiences with incidents of prison rape, but believed that rape occurred in other institutions. Many inmates had never witnessed or been a victim of prison rape and did not know any victims or offenders. After interviewing several hundred inmates, Krienert and Fleisher concluded that inmates believed that rapes occurred, despite not personally knowing victims or attackers or witnessing an assault. This observation was a common theme in their research on prison rape (Krienert and Fleischer, 2005).

Based on a review of the past literature, it becomes readily apparent there are reports of varying frequencies of prison rape (Banbury, 2004; Hensley, Koscheski, and Tewksbury, 2005; Krienert and Fleisher, 2005; Nacci and Kane, 1983; Struckman-Johnson et al., 1996; Tewksbury,
The following section reviews some of the important research questions identified by researchers, but as of yet, have not been addressed.

**Major Research Questions**

There are several research questions that have been identified as important, but have not yet been evaluated. Several important groups of inmates have been excluded from prior research. For example, Knowles (1999) explains that the role that prison gangs play in the occurrence of prison rape is not currently known. Although a racial element of prison rape has been identified by previous researchers, studies have not addressed the role that racially divided prison gangs may play (Knowles, 1999). In addition, inmates who are viewed as less than human by other inmates have not been addressed directly in research (O’Donnell, 2004).

Specifically, inmates who are incarcerated for sexual offenses, who are homosexual, and who are viewed as weak by other inmates are at a higher risk for victimization, but have not been given attention in previous research (O’Donnell, 2004). One reason that these groups have not been targeted by researchers is that it is difficult to gain the respect of other inmates when one is interviewing an inmate that is not respected (O’Donnell, 2004). Thus, researchers have felt that it is more important to gather information from the majority of inmates rather than a marginalized few.

Additionally, the issue of staff members raping inmates has not been comprehensively discussed in previous literature (O’Donnell, 2004). O’Donnell (2004) noted that previous researchers have been made aware of the problem of staff assaulting inmates, but little has been done to investigate (O’Donnell, 2004). The unaddressed topics that have been presented illustrate the problems with conducting research on prison rape. The following section examines the recommended strategies for improving knowledge about prison rape.
Recommended Strategies to Improve Knowledge

Researchers identified areas for potential improvements to the knowledge about prison rape, such as improving the research methods used. Although there are limitations to this knowledge, prior research has provided insights into important areas such as the characteristics of those most likely to be victims, characteristics of institutions with a high number of prison rapes, and the negative effects of prison rape on victims and institutional operations (see chapter two). This research has led to the promotion of several policy and methodological changes designed to further improve the understanding of prison rape.

Several recommendations are aimed toward uncovering rapes that have gone unreported in the past due to flawed reporting practices. For example, Dallao (1996) has suggested that correctional staff be required to report all activities and allow more experienced professionals to decide if a rape occurred. This practice could reduce the number of rapes that are not reported due to misinterpretation by correctional staff (Dallao, 1996). In addition, there is the lack of reporting by inmates (Dallao, 1996). Dallao (1996) recommended that staff members encourage reporting by being open about the subject of rape and demonstrating to inmates that they will assist with handling reports. Dumond (1992) encouraged individual institutions to measure the incidence of prison rape by using official reporting, inmate reporting, staff interviews, and observation. In addition, reporting of any occurrence of sexual aggression should be made mandatory, with no exceptions (Dumond, 1992).

Finally, Banbury (2004) recommended using controlled studies in hostels to gain a greater understanding of the extent of prison rape to include those who have just left prison. While Banbury (2004) specifically discusses released inmates in Britain, such an approach can also be applied to the United States. For example, surveys can be distributed to released inmates
who live in halfway houses in the United States to determine if they had been victims or offenders of prison rape. Including previously incarcerated individuals may help to develop a more inclusive and clear picture of the extent of prison rape.

Although researchers have produced several recommendations for improving the knowledge available about prison rape, PREA has also endeavored to develop solutions to the problem of knowledge. PREA attempted to address the methodological problems and the range of estimates that have emerged from prior research studies by mandating that accurate and reliable data be collected. The following section explains the detailed requirements of PREA in regard to building knowledge on the topic of prison rape.

PREA Requirements for Data Collection

PREA mandates that an annual collection of data be conducted by the BJS (PREA, 2003). The collection of data must include the occurrence and effects of prison rape. The legislation clearly states that the data collection must identify the characteristics of victims and offenders of prison rape. In addition, characteristics of prisons and prison systems with a high number of incidents of prison rape must be identified. A main goal of the legislation is to discover the accurate number of incidents of prison rape that occur in correctional facilities annually (PREA, 2003).

The legislation also provides some guidance to the BJS regarding the data collection process. For example, the Act states that the BJS should determine an appropriate definition for prison rape and other sexual acts to be used for data collection (PREA, 2003). These definitions will help to ensure that when inmates and administrators are asked about specific sexual behaviors, they will understand what each behavior entails and improve the reliability of the data. Researchers will also understand exactly what each behavior listed in the


data entails. The BJS (2004) has already met this requirement by creating an operational
definition of prison rape. The agency decided to divide sexual assault into three categories. The
categories include completed non-consensual acts, attempted non-consensual sexual acts, and
abusive sexual contacts. The definitions for these acts are:

Inmate-on-inmate non-consensual sexual acts include contact of any inmate without his
or her consent, or of an inmate who is unable to consent or refuse; and contact between
the penis and the vulva or the penis and the anus involving penetration, however slight; or
contact between the mouth and the penis, vulva, or anus; or penetration of the anal or
genital opening of another person by a hand, finger, or other object (BJS, 2004, p. 2).

Inmate-on-inmate abusive sexual contacts include contact of any inmate without his or
her consent, or of an inmate who is unable to consent or refuse; intentional touching,
either directly or through the clothing, of the genitalia, anus, groin, breast, inner thigh, or
buttocks of an inmate (BJS, 2004, p. 2).

The difference between the definitions appears to be the lack of penetration in abusive sexual
contacts, whereas non-consensual sexual acts are defined by the element of penetration. Also,
non-consensual sexual acts can be argued as being more serious violations because the acts
involve penetration. On the other hand, abusive sexual contacts are defined by contact and
touching and can be argued to be less serious violations than non-consensual sexual acts.

Incidents involving sexual acts between staff members and inmates are also addressed by the
BJS (2004). The BJS noted that any type of sexual relationship or sexual act that occurs between
a staff member and an inmate is prohibited and includes those acts when defining prison rape (2004).
The Act also places the responsibility of determining how data should be collected with the BJS (PREA, 2003). Specifically, the legislation expects data to be collected in a means other than inmate self-reports. Inmate self-reports can be used, but additional methods should be used as well and the confidentiality of each respondent must be ensured (PREA, 2003). The BJS (2004) announced that it was testing the use of computer questionnaires in gathering data. The Audio Computer-Assisted Self-Interview (audio-CASI) allows inmates to respond to questions through a touch-screen computer with instructions given to them through headphones. It is hoped that this system will encourage inmates to accurately report incidents of prison rape because there will be more privacy without a researcher asking personal questions. Also, asking questions and giving instructions in audio form will allow inmates who are not literate the ability to participate in the data collection (BJS, 2004).

In addition to the audio-CASI system, computer assisted interview and paper and pencil interview methods will be used as additional survey instruments (BJS, 2004). The BJS is also going to conduct a collection of data from institutional administrative records. The purposes of the collection of administrative records are to obtain the number of incidents of prison rape, discover how incidents are reported, determine the information that is reported, locate where incidents occur, and ascertain additional information available through records. Data collection was expected to begin in 2005 and full implementation of data collection is expected in 2006 (BJS, 2004).

13 The BJS (2004) stated that sexual acts involving staff members include “any behavior of a sexual nature directed toward an inmate by an employee, volunteer, official visitor, or agency representative; all completed, attempted, threatened, or requested sexual acts between staff and inmates; any incident of intentional touching of the genitalia, anus, groin, breast, inner thigh, or buttocks, with the intent to abuse, arouse, or gratify sexual desire; incidents of indecent exposure, invasion of privacy for sexual gratification, or staff voyeurism” (p. 2).
The BJS will also determine how data are to be adjusted to account for differences between institutions (PREA, 2003). For example, institutions may be differentiated by size, security level, or jurisdiction. Prisons are to be categorized into three groups for purposes of data collection. One mandatory group will include all federal and state prisons. The institutions included in the other two groups will be determined by the Attorney General for purposes of comparison. Prior to undertaking the annual data collection, the BJS must determine if a preliminary study should be done. Embarking on a preliminary study may allow for the agency to determine methodological flaws in the research before committing an extensive amount of resources to a national data collection effort (PREA, 2003).

According to PREA, the BJS is to obtain opinions from knowledgeable sources prior to making final decisions about the data collection. Sources of knowledgeable opinions include prison and jail administrators, juvenile correctional facility administrators, former inmates, victims’ rights advocates, and researchers. Appropriate sampling techniques are described in the Act as well. The data collection conducted by the BJS must use a random sample of a minimum of 10 percent of all federal, state, and county prisons. In addition, a representative sample of municipal prisons is required by the legislation. The sample must have a minimum of one prison from each state included. Prisons that are selected for participation cannot be notified prior to commencing the study. Once an institution has participated in the data collection one year, it may be required to participate in the data collection in following years. If an institution is contacted by the BJS to participate in the data collection, the institution must provide access to all inmates and will be required to participate in the research (PREA, 2003).

The BJS was handed a great deal of responsibility in data collection under PREA. The agency, however, is given assistance through the creation of the Review Panel on Prison Rape
(PREA, 2003). This panel will be created within the Department of Justice and will assist with the collection of data. The panel will consist of three members who are knowledgeable on the topic of prison rape and are appointed by the Attorney General. The purpose of this panel is to hold public hearings on the operations of prisons with high and low incidences of prison rape. The panel will be responsible for collecting information on the characteristics of prisons that have high and low incidences of prison rape that is obtained from the public hearings. In addition, the panel will also be required to identify characteristics of victims and offenders of prison rape. During the public hearings, public officials and victims will be given the opportunity to testify. Public officials who may testify include prison directors and those in charge of prison systems with high incidences of prison rape. The panel may subpoena people to testify at hearings. If a subpoena is ignored, the Attorney General may choose to enforce it through court order (PREA, 2003).

The Act also explains how the activities of the BJS and the Review Panel on Prison Rape will be reported (PREA, 2003). The Attorney General must submit a report regarding the actions of the BJS and the Review Panel on Prison Rape every year. The report must discuss the effects and incidence of prison rape. Specifically, the report will break down the findings by government level (i.e. federal and state), prison system, and prison security level. Any institutions that failed to comply with a request to participate will be reported by the Attorney General (PREA, 2003).

Thus, PREA attempts to address the methodological problems of previous research through the development of an annual data collection program on the incidence of prison rape. In addition to data collection aspects, the legislation addresses specific problems that have affected previous research, such as inconsistent definitions and data collection techniques.
Institutions that are found to have high incidences of prison rape will be singled out for additional attention (PREA, 2003). These institutions will then be required to develop strategies to lower their incidence of prison rape (PREA, 2003). The goal of the data collection process will be to draw a more accurate picture of prison rape. The mandated review board and reports are intended to make institutions and institutional administrators accountable for high incidences of prison rape. The next section of this chapter will detail the recent efforts of the State of Ohio Department of Rehabilitation and Corrections in adhering to the knowledge building requirements of PREA.

PREA in Action – Ohio Department of Rehabilitation and Correction

The Ohio Department of Rehabilitation and Correction (hereafter ODRC) has recently developed new policies in order to adhere to the data collection requirements of PREA (ODRC, 2004). In order to remain in compliance with PREA and any future developments in the legislation, the Inmate Sexual Abuse Oversight Committee was created. This committee has the responsibility of responding to the legislation and directing the actions of the ODRC in complying with the law. For example, the committee can inform the ODRC on how to change data collection practices. The ODRC also attempted to address the problem of the lack of reporting by inmates. A process reporting team was developed to address the problem of low and non-reporting. This team was tasked with developing recommendations for the ODRC regarding how to respond to inmates who are not reporting their assaults or others' assaults (ODRC, 2004). Addressing the problem of inmate low and non-reporting demonstrates compliance with PREA’s goal to improve the quality of data. Improving reporting will help to increase the reliability of data.
The responsibility of collecting information about inmate-on-inmate sexual assaults was given to the ODRC Bureau of Research (ODRC, 2004). The Bureau of Research collects this information and distributes it in reports. In addition, the Department has instituted the Departmental Offender Tracking System (hereafter DOTS) in April 2004, which is a database of inmates who are prison rape victims and offenders. Information that is collected by the Bureau of Research that pertains to victims and offenders will be entered into the DOTS database for use by institutional staff and researchers. The creation of DOTS is an example of improving the classification of inmates, which is one of the goals of PREA. In March of 2004, the ODRC created a process improvement team in order to determine the most effective way to use the available data for the development of policies for institutions. The process improvement team provided recommendations for the ODRC in July of 2004 (ODRC, 2004). This suggests that PREA has led to some policy and operational changes at the state level. Specifically, the ODRC has taken large steps toward addressing the problem of inmate rape by developing new data collection methods and oversight committees.

It is clear that institutions and correctional systems are changing in order to adhere to the new requirements set forth by PREA. However, it is not yet clear what the outcome of the changes will be. The following section presents an assessment of the potential effects of PREA on the knowledge about victims, offenders, and institutions.

Assessment of PREA on Knowledge

Arguably, the largest problem that has hindered the improvement of knowledge about prison rape is the lack of available data on the topic. PREA attempts to address this problem by implementing a large scale effort to collect data on the incidence, characteristics, and effects of prison rape. This new effort can be instrumental in assisting future research. Prior studies have
focused on single institutions or groups of institutions and have not encompassed a large sample of inmates (e.g. Banbury, 2004; Hensley, Koscheski, and Tewksbury, 2005; Krienert and Fleisher, 2005; Nacci and Kane, 1983; Struckman-Johnson et al., 1996; Tewksbury, 1989). Thus, estimates of the occurrence of prison rape have been inferred from generally small inmate samples. However, PREA offers the opportunity to look at the incidence of prison rape in a large sample of inmates from different institutions. PREA also allows for more insight into the administrative record keeping of institutions by collecting the official records of certain institutions. This focus may allow for researchers to have a better understanding of the reporting practices of correctional staff members and officials. In addition, the data may be more reliable because it is being gathered from a much larger sample than individual research studies have used in the past. The new data should aid researchers in drawing new conclusions about prison rape.

As a group, researchers can help to improve the knowledge available of prison rape. Researchers have used various definitions of rape and this has led to varying estimates of prison rape. For example, Moss, Hosford, and Anderson (1979) defined prison rape as a completed sexual assault on an inmate by another inmate. The researchers found that prison rape was not a common occurrence in the facility they studied (Moss, Hosford, and Anderson, 1979). On the other hand, Banbury (2004), who included forced drug searches and attempted sexual coercion when defining prison rape, found that one percent of inmates had been raped and five percent had been sexually coerced. The incidence of rape may fluctuate from study to study due to differences in what researchers classify as rape. Thus, if researchers’ efforts to develop a set of common definitions regarding sexual acts, such as those set forth by the BJS, and uniformly apply them, it may help to limit confusion about the occurrence of rape. Researchers could also
choose to study other sexual acts, but can note the dissimilarities and the exact definition they are using in their studies.

Assessment of PREA on Knowledge about Victims and Offenders

The manner in which relevant terms are defined may also lead to problems. The definitions created by the BJS include *inmate-on-inmate non-consensual sexual acts* and *inmate-on-inmate abusive sexual contacts* (BJS, 2004). The difference between these two definitions was noted previously (see chapter three). This difference may lead to an underreporting of *abusive sexual contacts* when compared to *non-consensual sexual acts*. *Abusive sexual contacts* are distinguished by touching and contact between individuals. However, *non-consensual sexual acts* are distinguished by the act of penetration in addition to contact. Inmates may be more willing to report more invasive and serious personal violations, such as completed rapes, than less invasive personal violations, such as sexual touching. Inmates may choose to break the inmate code and report an incident if it is viewed as a serious violation. *Abusive sexual contacts* may not be worth the risk of retaliation for inmates to report them. On the other hand, attempted or completed rapes may drive an inmate to break the inmate code and report an incident to ensure his own safety.

Thus, the difference in definitions that will be used by the BJS may lead to variations in reporting for various types of offenses. Inmates may be encouraged to report more serious violations, but may still be afraid to report less serious violations. Therefore, all victims will not be reporting their assaults. Some inmates may be forced to withstand more frequent, abusive sexual contacts, while others may suffer through one very serious, non-consensual sexual act. It is important that data collectors be aware of the reporting differences between defined types of
sexual acts. When drawing conclusions from data, it is important to consider the variations in reporting that may occur.

The way in which terms are defined by the BJS may also have an affect on offenders. Offenders may choose to participate in behaviors defined as abusive sexual contacts and victims may be less likely to report those contacts. It is also possible that offenders may become aware of higher institutional emphasis on punishing what is traditionally thought of as prison rape, which is a completed assault. Thus, offenders may be encouraged to assault other inmates in different ways, rather than through a completed rape. Victims may then be forced to suffer through continuous, minor assaults, rather than less frequent major assaults.

Assessment of PREA on Knowledge about Institutions

Although the new data collection shows promise for future research, critics have pointed out potential problems with the newly implemented requirements that may affect institutions. One concern is that the problems of unreliable observations and underreporting will cause collected data to be incorrect (Barrett, 2005). In addition, the law has been criticized for failing to address the underlying problems that contribute to prison rape. Barrett (2005) noted that while overcrowding may make an institution more likely to have incidents of prison rape, many factors exist that lead to overcrowding, such as mandatory sentencing and the preference to use incarceration rather than rehabilitation. The legislation does not attempt to address these larger issues. Therefore, while the Act may collect large amounts of data, it does not resolve the underlying problems that may lead to prison rape, such as mandatory minimum sentences and the preference to use sanctions based on the philosophies of incarceration rather than rehabilitation (Barrett, 2005).
In addition to collecting new data, PREA mandated the collection of administrative records of institutions (PREA, 2003). However, this mandate also appears to have limitations. The administrative records of an institution will be limited to the incidents of rape that are recorded by officials for that institution. Also, official records of institutions are commonly viewed by researchers as flawed and inconsistently used by inmates to report incidents (Mair, Frattaroli, and Teret, 2003). The official records of an institution are not always reliable and may contain incorrect information. The Act also mandated that administrators of prisons with high incidents of rape are to be summoned before the Review Panel on Prison Rape (PREA, 2003). Not surprisingly, administrators will not want to be identified as having high rates of rape in their institution. Therefore, the provision in the Act that attempts to hold officials accountable for high rates of prison rape may also encourage officials to be inaccurate in reporting rapes. For example, if an administrator is aware that his or her institution is producing high rates of rapes, he or she may decide to report lower numbers of rapes than what actually occur. Also, an administrator may choose to record incidents of completed rape as a lesser offense; therefore, leading to inaccuracies in official records. Administrators may also discourage full reporting by inmates or staff. Furthermore, it would be difficult to determine if the administrative records of an institution have been adjusted. One possible solution available to address this potential problem is to use the results of inmate surveys to compare to the data retrieved from administrative records. However, due to problems with inmate reporting, the results obtained from inmate surveys may also be unreliable for purposes of comparison.

Conclusion

It is apparent that there are problems with prison rape research. While researchers have contributed greatly to the understanding of prison rape, remaining methodological problems of
prior research must be addressed before more questions can be answered. PREA has taken a step in addressing these problems by focusing efforts on improving data collection. Focusing improvements on data collection may help to improve the knowledge available about the occurrence and affects of prison rape. This chapter has reviewed some of the current knowledge about prison rape, challenges to improving that knowledge, and the potential impact of PREA on future understanding of this phenomenon. This information is summarized in Table 1. States, like Ohio has illustrated in this chapter, have already begun to comply with PREA. Thus, it appears that more attention has already been placed on the knowledge building problem of prison rape. The next chapter focuses on the prevention building requirements of PREA. Past strategies used to prevent the occurrence of prison rape and recommendations for future prevention efforts are also discussed. In addition, the requirements for prevention created by PREA will be explained and an example of the implementation of the legislation at the state level will be presented. Finally, an assessment of PREA’s potential effect on prevention strategies targeting victims, offenders, and institutions will be produced.
Table 1
Current Knowledge about Prison Rape and PREA

<table>
<thead>
<tr>
<th>Target Population</th>
<th>Characteristics</th>
<th>Impact of prison rape</th>
<th>Limitations of Current Knowledge</th>
<th>Potential Positive Impact of PREA on Knowledge</th>
<th>Limitations of PREA on Knowledge</th>
</tr>
</thead>
<tbody>
<tr>
<td>Victims</td>
<td>• New inmates</td>
<td>• Psychological effects</td>
<td>• Lack of consensus on the extent of victimization</td>
<td>• Large amount of new knowledge gained</td>
<td>• Definitional problems</td>
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<td></td>
<td>• Housed near offender</td>
<td>• Social effects</td>
<td>• Reporting problems</td>
<td>• Addresses reporting problems</td>
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<tr>
<td></td>
<td>• Homosexual</td>
<td>• Physical effects</td>
<td>• Response rates</td>
<td>• Draws attention to problem</td>
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<td></td>
<td>• Young</td>
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<td>• Type of research method</td>
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<td></td>
<td>• Effeminate</td>
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<td>• Inexperienced</td>
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<td>• Non-aggressive</td>
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<td>• Single</td>
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<td>• Committed personal crimes</td>
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<td></td>
<td>• Physically small</td>
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<td></td>
<td>• Racial difference</td>
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<td>Offenders</td>
<td>• Prior history of violence</td>
<td>• Disciplinary action</td>
<td>• Lack of information</td>
<td>• New knowledge gained</td>
<td>• Definitional problems</td>
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<td></td>
<td>• Low socio-economic status</td>
<td>• Criminal charges</td>
<td>• Reporting problems</td>
<td>• Addresses reporting problems</td>
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<td></td>
<td>• Racial difference</td>
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<td>• Larger than victim</td>
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<td>• Older than victim</td>
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<td>• Committed violent crime</td>
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<td>• Previous contact with criminal justice system</td>
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<td>Institutions</td>
<td>• Areas that offer privacy and isolation</td>
<td>• Legal action</td>
<td>• Lack of reliable official data</td>
<td>• Large amount of new knowledge gained</td>
<td>• Unreliable institutional records</td>
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<td></td>
<td>• Times that offer low levels of supervision</td>
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<td>• Reporting problems</td>
<td>• Addresses reporting problems</td>
<td>• Institutional administrators may influence reporting</td>
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<td>• Overcrowding</td>
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<td>• Lack of staff and inmate awareness</td>
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<td></td>
<td>• Existence of homophobia</td>
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CHAPTER IV

THE PREVENTION OF PRISON RAPE

The prevention of prison rape is an important, but difficult, task for correctional institutions. In the previous chapter, the difficulty that prison officials have in knowing simply how often prison rape occurs was highlighted. Prevention is an even more daunting challenge to corrections than gathering information on the occurrence of prison rape. Institutions have attempted to reduce prison rape by implementing various techniques. The techniques that have been utilized, however, have created problems that challenge their effectiveness. The present chapter explores these dilemmas in more detail and discusses prevention strategies that have been attempted. The following section details the prevention strategies that are currently utilized.

Current Prevention Strategies

There are several strategies that correctional institutions may use when attempting to prevent the occurrence of prison rape. These strategies have been aimed at victims, offenders, and institutions.

Strategies Targeting Victims and Offenders

One of the most common ways to prevent an inmate from being harmed is to remove him from the general population. When inmates are removed from the general population for safety concerns, they are typically placed in protective custody. The purpose of protective custody is to remove the victim from further harm by keeping the inmate in a separate area of the institution away from inmate aggressors. There are several reasons why institutions may place inmates in protective custody. For example, if an inmate has been physically threatened by another inmate, the threatened inmate may ask to be placed in protective custody. Also, if an inmate has been
previously raped, he may be placed in protective custody to prevent future attacks. Rape victims, however, are not always encouraged to seek protective custody by correctional staff because it sometimes fails to protect them (Man and Cronan, 2001). For example, inmates may still be raped or threatened while in protective custody (Man and Cronan, 2001). In addition, prison rape offenders may also be placed in protective custody. Placing an offender in protective custody will remove him from the victim that he has assaulted. This may prevent any future assaults because the offender will simply not have access to the victim.

Negative consequences threaten inmates who are in protective custody. Robertson (2003) explained that inmates who are placed in protective custody may be stigmatized as feeble or believed to be informants. As noted earlier, being seen as weak in the prison environment can lead to an inmate being targeted by others. Thus, temporary placement in protective custody may only exacerbate problems upon reentering the general prison population. While in protective custody, inmates have limited opportunities for recreation and physical activity and may not be given access to prison programs, including prison jobs (Robertson, 2003). When inmates do not have the opportunity to participate in programming, they have few activities to choose from in order to use their time constructively. Also, victims will have limited availability to treatment options to assist in their recovery. For example, victims in protective custody may have limited access to psychological and medical services. Offenders will also not have access to services that may help them to stop assaulting others. For instance, offenders will not be able to have access to counseling and programming that may help prevent them from raping other inmates in the future. Additionally, inmates who are placed in protective custody have been found to suffer from adverse psychological effects (Zinger, Wichman, and Andrews, 2001). Zinger, Wichman, and Andrews (2001) found that inmates who are segregated from the general
population reported more psychiatric symptoms, interpersonal distress, and depressive symptoms. Therefore, placing a victimized inmate in protective custody may cause additional psychological trauma to occur. Offenders who may have psychological problems may also be further damaged through removal from the general population. Although there are many negative consequences associated with protective custody, at times, the use of segregation is necessary to assist with increasing the level of immediate security of an inmate.

Classifying inmates by the level of risk of victimization is another option that can be used to aid in the prevention of prison rape. Classification is used currently in some institutions, but some researchers feel that classification systems need to be improved (Dallao, 1996; English and Heil, 2005; Jones and Schmid, 1989; Knowles, 1999; Ries, 2005). Inmate classification has been utilized in the past in correctional institutions, but was not recommended by the American Correctional Association as a functional prevention measure (Ries, 2005). In the first chapter of this manuscript, some of the common characteristics of victims were described. Those most likely to be victims include homosexuals, young inmates, inmates who are seen as effeminate, inmates who are seen as inexperienced, and inmates who are not aggressive (Banbury, 2004). Inmates with these characteristics can be identified by correctional staff and be kept away from predatory inmates, such as through more informed housing assignments.

Inmate classification can also be used to identify possible offenders. Some of the common characteristics of offenders are noted as being larger than the victim, being older than the victim, having committed a violent crime, and being known to violate prison rules (Nacci and Kane, 1984). Institutional staff can use the available knowledge of prison rape offenders to identify and separate them from potential victims. It would not be necessary to separate potential
offenders from all other inmates. It is most important to ensure that those most likely to be potential offenders do not have access to those most likely to be potential victims.

Although some researchers support using an improved classification system to separate potential victims from potential offenders before an assault occurs (Jones and Schmid, 1989), others have warned of the potential problems that may subsequently occur when classifying inmates based on risk factors (Moss, Hosford, and Anderson, 1979). Separating potential victims from potential offenders may lead to an institution being segregated by race because prison rape has a distinctive racial element (Moss, Hosford, and Anderson, 1979). However, Nacci and Kane (1984) noted that separating inmates would have the benefit of clearly demonstrating to staff and inmates that prison rape is unacceptable.

**Strategies Targeting Institutions**

Several prevention strategies have been developed to apply specifically to institutions and institutional operations. One strategy is for institutions to have adequate numbers of staff and appropriate staff training in order to prevent prison rape from occurring (Robertson, 2003). For example, more staff members would allow for an increased amount of supervision for inmates. Barrett (2005) warned that institutions with too few guards may be at risk for more incidents of violence. It is necessary to have a sufficient number of guards in order to adequately protect and supervise inmates.

In addition, some institutions have encouraged staff to develop positive relationships with inmates, which may encourage the mediation of small problems (Sumner, 1976). In order for mediation to be effective, a small number of inmates are selected as leaders who put forward issues to staff members and propose possible solutions. Inmates are selected to be leaders based upon their relationship with other inmates in the institution. Leaders should be respected by
others and generally cooperative. Inmate leaders are encouraged to present problems to staff members in order to prevent larger, more serious incidents from occurring. For example, an inmate leader may tell staff that a rape is likely to occur because an inmate is marked by another group of more aggressive inmates. The leader and staff members can work together to develop a beneficial solution to the problem. In addition, the staff and the inmate leader may meet with the inmates who are involved in the potentially dangerous situation to solve the problem. This system of mediation through staff and inmate leaders has proven to be beneficial and has helped to reduce violence in some institutions (Sumner, 1976). However, a system of mediation may not work in all institutions because it relies heavily on the positive participation of inmates and staff members. If staff members do not believe in the mediation system or refuse to make themselves accessible to inmates, the system is not likely to work. Also, if inmates do not feel that the system will work or that staff members cannot be trusted, the system may fail.

Moreover, the physical layout of a correctional facility must not subject inmates to an elevated risk of prison rape (Robertson, 2003). For example, allowing inmates to be alone in areas that cannot be visually checked by staff at all times is problematic (Robertson, 2003). Chonco (1989) noted that prison rape occurred in places with limited supervision, such as bathrooms, shower areas, gyms, and cells. Similarly, Banbury (2004) found that more rapes occurred in areas such as shower areas, association rooms, libraries, workplaces, and cells holding more than one inmate. The common characteristic held by these areas is that correctional officers will not be able to monitor them effectively at all times. There are times when these areas or sections of these areas will be left unmonitored while correctional officers are supervising inmates in another location. One suggestion to eliminate the potential dangers of unsupervised areas is to increase direct supervision (Robertson, 1999). This approach would
allow smaller groups of inmates to be supervised by correctional staff, rather than relying on the physical layout of an institution to deter inmates from committing rapes (Robertson, 1999).

Governments and institutions have also attempted to independently develop strategies to prevent prison rape from occurring. Many institutions have written policies regarding the prevention of prison rape and detail the procedures to be followed in responding to rape (San Francisco Sheriff’s Department, 1978; Sexual Abuse in Detention Elimination Act, 2005). For example, educating inmates about prison rape and ways in which to prevent its occurrence is a strategy used by the federal correctional system and those in California and Ohio (Federal Bureau of Prisons, 1998; Sexual Abuse in Detention Elimination Act, 2005). Inmates are given informational pamphlets that describe how to respond when victimized (Federal Bureau of Prisons, 1998). In addition, inmates are also educated on the consequences that exist for offenders (Federal Bureau of Prisons, 1998). General information on prison rape and methods of prevention is even displayed on posters in some institutions (ODRC, 2004).

A controversial policy recommendation has been the use of conjugal visits. A lack of conjugal visits has been blamed for causing prison rape (Barret, 2005; Knowles, 1999). A lack of conjugal visits has been criticized as creating an environment where rapes are more likely to occur (Knowles, 1999; Nacci and Kane, 1984). Weiss and Friar (1974) noted that the practice of allowing married male inmates the opportunity for conjugal visits in Mississippi improved the morale of inmates. In addition, inmates who were unmarried did not express discontent that they were not eligible for conjugal visits (Weiss and Friar, 1974). However, permitting conjugal visits is not viewed as a beneficial strategy in preventing rape because prison rape is viewed as an act of power and aggression, and it is not based on sexual urges (Knowles, 1999). The following section discusses more practical strategies useful for improving the prevention of prison rape.
Recommended Strategies to Improve Prevention Efforts

The knowledge obtained by research on prison rape, though limited, has improved the understanding of the topic and has the potential to serve as the foundation for more effective prevention strategies. As discussed in chapter four, researchers have also provided recommendations for improvements in the prevention of prison rape. One impediment to the successful prevention of prison rape is lack of favorable public opinions toward inmates (Scacco, 1975). Scacco (1975) stated that the first step in addressing the problem of prison rape is to change the public’s opinion about inmates. Currently, inmates are seen as less than human and not deserving of adequate conditions while imprisoned (Scacco, 1975). In order for prison rape to be addressed adequately, however, public attitudes will have to change and recognize that inmates deserve protection and freedom from harm while incarcerated. While Scacco (1975) recommended that positive attitudes toward the disadvantaged members of society be encouraged starting at a young age, this is a challenging strategy and would likely take some time to have a demonstrated impact.

Abraham (2001) argued that the first steps to preventing prison rape should be taken by institutions. Recommended strategies include creating rape crisis facilities in prisons, training staff to be unbiased in their treatment of victims, classifying inmates to prevent victimization, and educating inmates on how to prevent rape (see also, Dallao, 1996; Hensley, Koscheski, and Tewksbury, 2005; Jones and Schmid, 1989; Moss and Wall, 1995; Reitzel, 2005; Struckman-Johnson et al., 1996). In addition, pushing the public to be more aware of the problem of prison rape will assist in prevention. If the public is aware of the problem, it may be more willing to address the problem and encourage the adoption of prevention strategies (Abraham, 2001). Support from the government has also been identified as essential in developing prevention strategies.
strategies (Robertson, 2003). Robertson (2003) stated that a long-term government response
dedicated to preventing prison rape may assist in drawing awareness to the problem of prison
rape.

Several recommendations for prevention strategies have been targeted specifically at
institutions. Due to the fact that inmates must live in prison for extended periods of time, it was
suggested that institutions develop long-term prevention strategies (Dumond, 1992). Hensley,
Koscheski, and Tewksbury (2003) recommended that institutions lower their populations in
order to reduce sexual assault. The researchers found that institutions with higher populations
had higher rates of reported rapes (Hensley, Koscheski, and Tewksbury, 2003). It is possible
that lowering the number of inmates in an institution would allow for better staff supervision.
However, in the current political climate, it is unlikely that additional funds would be given to
construct many smaller institutions, due to the fact that it is cheaper to warehouse inmates in
large facilities. Although this recommendation is possible, it is not currently practical.

Nacci and Kane (1984) advocated attempts to reduce homosexual activity in general in
institutions because, in their opinion, it may lead to a decrease in sexual aggression. According
to the authors, covering up characteristics, such as effeminate mannerisms, that would make at-
risk inmates appear as targets to other inmates may lead to a reduced risk. For example, inmates
could be discouraged from discussing their sexual orientation with other inmates in order to
avoid possible victimization. It was also recommended that inmates avoid going into areas
where staff has difficulty monitoring and inmates should be assertive, but non-violent when
responding to conflicts in prison (Nacci and Kane, 1984).

An additional strategy recommended for improving prevention efforts is staff training.
The training of staff members typically occurs when institutions develop new policies or change
existing policies leading to a need for staff to be introduced to the new modifications. In order for the policy to be implemented correctly, staff members must be trained about the new policy. Staff members should receive extensive training about rape in order to be adequately prepared to handle such reports (Dallao, 1996). Appropriate staff training also allows staff to be familiar with the signs of rape (Robertson, 2003). In Illinois, staff members are required to have two hours of training regarding the identification and prevention of prison rape (Dallao, 1996). This training was instituted in response to increased attention given to prison rape by Farmer v. Brennan (1994) (Dallao, 1996).

However, Dallao (1996) explained that although training is currently given to correctional officers, correctional officers’ attitudes often hamper the effectiveness of training. For example, although staff may attend training, they may not implement new skills and techniques because they disagree with the philosophy of the training. Staff members may choose to overlook incidents or choose to not respond to incidents when made aware of them. Nacci and Kane (1984) found that as correctional officers spent more time in their profession, they felt less responsible for preventing homosexual acts from occurring. Therefore, correctional officers may have developed personal beliefs about inmates that they are unwilling to change, even after being trained and educated. Even though some staff members may choose to disregard a new policy, it is important to demonstrate that an institution is taking the prevention of prison rape seriously through the implementation of new policies. Currently, the National Institute of Corrections is developing training for prison staff members on how to better inform inmates to avoid and prevent prison rape (Ries, 2005). It is also imperative that staff be trained continuously, not only once, in order to change set attitudes staff may have about prison rape (Dumond, 1992).
An additional recommendation regarding correctional staff is that medical staff and psychological professionals trained in caring for rape victims be brought to the prison after a rape occurs (English and Heil, 2005). This approach is recommended both to decrease transportation costs and provide the necessary services to the victim. This recommendation would also provide treatment for offenders and it is recommended that offenders be given necessary treatment during their incarceration to prevent them from assaulting others (English and Heil, 2005). Additionally, staff who aid victimized inmates with their physical and mental health should be extensively trained in how to manage victimized inmates (Moss and Wall, 2005). Furthermore, clinical staff can be a resource to educate correctional staff on prison rape and how to properly respond (Reitzel, 2005).

In addition to educating and training correctional staff, researchers have noted that inmates must also be educated about new policies and what services they should expect (Moss and Wall, 2005). It is imperative to explain to inmates their rights and the behavior that is expected out of staff members. One way to determine if policies are being followed is to survey with inmates. Due to the fact that inmates must interact with staff members every day, inmates will be in the best position to know if staff members are following policies in the correct manner (Moss and Wall, 2005).

Additionally, it is recommended that inmates have access to general information about prison rape. Jones and Schmid (1989) recommended that inmates have a more thorough orientation when entering prison. The orientation should address fears that new inmates might have about prison life and the situations they may be faced with while in prison (Jones and Schmid, 1989). Dumond (1992) recommended that a specific plan be developed and explained to inmates so they know what to do in the event of a rape. Reitzel (2005) recommends that
correctional staff inform new inmates of the potential for rape. In addition, it is important to inform new inmates about the negative consequences of engaging in any type of sexual activity while incarcerated (Reitzel, 2005). Hensley and Tewksbury (2002) suggested that the consequences to inmates’ physical health be addressed in prevention strategies. For example, institutions should focus a great deal of energy on informing inmates of the risk of transmitting sexually transmitted diseases and HIV when participating in prison rape (Hensley and Tewksbury, 2002). Inmates may be less willing to be aggressors if they feel that the behavior is too risky to their health. Knowing the serious risks of prison rape may encourage inmates to actively participate in prevention strategies. For example, even though an inmate has not been a victim or aggressor of prison rape in the past, he may choose to actively participate in prevention efforts to decrease his future risks of assault.

Recommendations have also specifically focused on the education of at risk inmates. Hensley, Koscheski, and Tewksbury (2005) recommended distributing information to bisexual and homosexual inmates who are just beginning their incarceration on the potential risks prior to them being assaulted. Potential risks may include the risk of physical assault or coercion in the form of inmates offering gifts to them in exchange for sexual favors. The authors also suggested that homosexual and bisexual inmates have access to psychological services to aid them in their transition into prison life (Hensley, Koscheski, and Tewksbury, 2005). The transition from life in free society to prison life may be overwhelming to some inmates. Additional psychiatric and emotional support may help to make the transition smoother and assist them in coping.

Inmates can also be incorporated and utilized when implementing preventions strategies. For example, Dallao (1996) recommended that older inmates be used as role models by prison administrators. For example, if older inmates are told that rape is a problem in the institution and
informed of the negative effects it has on inmates and the institution, they may be willing to offer suggestions in order to make their life in prison more bearable (Dallao, 1996). Lockwood (1982) advocated using human relations training to assist inmates in preventing rape may help to reduce its occurrence. Inmates who are targeted by more aggressive inmates would be focused on by the training. The training helps inmates to develop interpersonal relationship skills, resolve problems of group tension, and promote problem solving skills. Human relations training may help targeted inmates to confront aggressive inmates in assertive manners in order to avoid a violent conflict. Lockwood (1982) also claimed that social literacy training could be implemented to address the aggressive inmates who confront others. Social literacy training helps inmates to understand the causes of prison rape in order to more effectively address and understand the problem as a whole. This training is recommended because it requires the participation of inmates and the application of skills by inmates to prevent rape (Lockwood, 1982). Allowing inmates to participate more fully in their institution may lead to them wanting to reduce rape because they will feel that they have a stake in institutional decisions.

The investigation of rape is considered crucial in prevention (see Abraham, 2001; Dallao, 1996; Dumond, 1992; English and Heil, 2005; Robertson, 2003). The response to prison rape by institutions must be made more severe and swift (Dumond, 1992). Staff must adequately investigate rapes and punish offenders in order to show that risk to a specific inmate was not disregarded (Robertson, 2003). If rapes are not investigated fully or effectively, there will be little or no consequences for offenders. The importance of leadership in preventing prison rape is also noted (Moss and Wall, 2005). If correctional officers are not supported in their efforts by higher levels of prison administration, the prevention efforts will be short lived and ineffective (Moss and Wall, 2005).
After an investigation has been completed and offenders have been identified, it is important to determine the appropriate consequences. English and Heil (2005) recommended the use of institutional disciplinary procedures and criminal charges when handling prison rape offenders. Robertson (1999) also advocated using inmate disciplinary codes to punish offenders. However, the author stated that it is important for disciplinary codes to specifically address all types of sexual harassment (Robertson, 1999). Documenting offenders is important because it allows them to be identified and communicates the serious consequences for participating in prison rape (English and Heil, 2005).

Finally, if institutions continue to provide inadequate safeguards and policies to prevent prison rape, legal action against the institution may be available to inmates. Man and Cronan (2001) state, “Successful litigation against prisons that fail to take adequate preventive measures may be the most effective way to stimulate reform” (p. 129). When legal action is taken by an inmate who has been raped, it may prevent future rapes from occurring in an institution (Robertson, 2003). For instance, an institution may be forced to improve its prevention strategies when it is condemned for not adequately protecting inmates (Robertson, 2003). The court system has developed a history of case law that addresses prison rape and the accountability for its occurrence. It has been established that prison officials can be held responsible for the occurrence of a rape if the officials were aware of the risk and chose to disregard it (Robertson, 2003). There are several ways that staff can be viewed as having been aware of risk and made a conscious decision to disregard said risk. For example, a disregarded risk includes when staff do not assist inmates who have been marked by other inmates as targets for rape. Also, risk is disregarded if prison staff do not make attempts to locate weapons that were used in prison rapes (Robertson, 2003).
It is clear that there are many strategies available to institutions to aid in prevention efforts. Strategies may focus on staff (Dallao, 1996; Dumond, 1992; English and Heil, 2005; Nacci and Kane, 1984; Reitzel, 2005; Ries, 2005; Robertson, 2003), inmates (Dallao, 1996; Hensley, Koscheski, and Tewksbury, 2005; Hensley and Tewksbury, 2002; Jones and Schmid, 1989; Lockwood, 1982; Moss and Wall, 2005; Reitzel, 2005), or institutions (Dumond, 1992; Hensley, Koscheski, and Tewksbury, 2003; Nacci and Kane, 1984). However, prison rape is still viewed as a problem in some institutions. PREA attempted to overcome some problems faced by prevention efforts. The following section details the requirements of PREA in regard to preventing prison rape.

PREA Requirements

Recall that PREA is an attempt to address the limited knowledge available about prison rape by mandating improved data collections on the topic. The Act also addresses problems in developing prevention strategies for prison rape. PREA attempts to improve the prevention of prison rape by implementing several strategies designed to increase directly and indirectly prevent prison rape. For example, direct prevention efforts include applying national standards which institutions are required to comply with. Indirect prevention efforts would include improving the knowledge available about prison rape and its causes. This new knowledge may help institutions to target the underlying causes of prison rape, thereby improving future prevention efforts. While improving knowledge was the focus of chapter three, the following section will focus on those PREA initiations that may have a direct impact on the occurrence of prison rape. The strategies stated in PREA include creating a national commission to provide prevention recommendations, making grant funds available, instituting national standards, and requiring better access to information and assistance regarding prison rape (PREA, 2003).
The legislation created the National Prison Rape Reduction Commission (hereafter “national commission”) for the purpose of recommending prevention strategies (PREA, 2003). The national commission is tasked with completing a study on the impact that prison rape has on various levels of government and communities. Study requirements include how prison rape affects institutions and the physical and mental well-being of inmates. The social, medical, and economic effects of prison rape are also expected to be addressed within the national commission’s report. In order to provide effective recommendations for prevention, the legislation requires that the national commission review the prevention strategies currently used to address prison rape in its study. Moreover, the characteristics of offenders, victims, and institutions that are associated with prison rape are to be identified. Current practices designed to identify at risk individuals or institutions and the effectiveness of existing interventions will also be examined. In addition, the national commission’s study is to examine the affect of prison rape on the transmission of sexually transmitted diseases and HIV (PREA, 2003).

The national commission is responsible for assessing surveillance or undercover operations to reduce the occurrence of prison rape. The Act also requires that the study look into the relationship between the physical attributes of prisons and their affect on the occurrence of prison rape (PREA, 2003). As noted earlier, areas that cannot be easily monitored by staff, such as bathing areas, libraries, association rooms, and cells with more than one inmate, often serve as the location for rapes (Banbury, 2004). Also, the cost and ability to implement any possible changes that institutions would need to make to prevent prison rape must be addressed (PREA, 2003). The national commission is expected to study areas of research that have been overlooked in the past. For example, relationships between specific characteristics of inmates or institutions and the occurrence of prison rape are to be explored. These relationships include that
of general prison violence and rape and the competency of staff and levels of rape. Finally, the study is to investigate if prisons are ensuring adequate protective measures for inmates who report incidents of prison rape (PREA, 2003). This is consistent with the recommendations of Hensley and Tewksbury (2002) who elaborated on the importance of protecting victims or witnesses who may be afraid to report rapes due to the possibility of being labeled as snitches and subject to retaliation.

PREA also provides $40 million in funding for the purpose of preventing prison rape to be distributed to individual states by the Attorney General (PREA, 2003). The funding is to ensure that institutions have funding to address prison rape. For example, if a state decides to reduce the budget of its correctional department, funding will be available through PREA in order to ensure the prevention of prison rape will remain a top priority. The funding is provided for use in specific areas, including (1) staffing issues, (2) data collection, (3) technical assistance, and (4) equipment. The two purposes that funding can be distributed for are the protection of inmates and the protection of communities. The Act states that the protection of inmates includes efforts to effectively prevent rape, investigate rape, and prosecute offenders. The protection of communities includes providing training and assistance to areas that are considering strategies to reduce prison populations (PREA, 2003). There is a concern that victimized inmates will act out aggressively upon release into society (Kupers, 2001). Improving the understanding of the risks that communities face when inmates are released is thought to be important to protecting communities (PREA, 2003). Strategies, such as mapping the location of released inmates to develop better policing and post-release services, represent a way to protect communities (PREA, 2003). Communities can also be protected by assisting government officials in understanding the effect of large numbers of released inmates and studying the effect of reduced
spending of prisons in safe ways (PREA, 2003). Once a grant has been given, the grantee is responsible for submitting a report to the Attorney General regarding the actions that were taken with the funding (PREA, 2003). Grantees’ reports have to include the incidence of prison rape and what action was taken in response to the reported incidence. In addition, reports must include how the grantee’s actions influenced prison safety and community safety (PREA, 2003).

Following its initial study, the National Prison Rape Reduction Commission must recommend national standards to be adopted to reduce and prevent prison rape (PREA, 2003). These recommendations will cover a range of areas including (1) inmate classification, (2) report handling, (3) evidence handling, (4) victim care, (5) staff training, and (6) data collection. Recommendations will focus on how to better improve reporting rates, investigate inmate rapes, preserve evidence, and train staff. While seeking to increase reporting of rapes, the national commission must ensure that the identity of victims or other inmates who report is not revealed, that investigations of rapes are not biased, and victims are not judged by those to whom they report incidents. Also, the National Prison Rape Reduction Commission will recommend how to provide better physical and emotional care to victims, including the type of treatments that should be made available to rape victims and the length of time victims should have access to treatment. In addition, recommendations will focus on reducing and preventing the spread of sexually transmitted diseases after a rape has occurred. Although the National Prison Rape Reduction Commission has been tasked with providing recommendations for national standards regarding prison rape, restrictions have been placed on the recommendations. The legislation states that the recommendations that are provided should not put great strain on governments to provide additional funding for the prevention of prison rape (PREA, 2003).
Once the national commission provides its recommendations, the Attorney General is responsible for establishing the national standards to be implemented regarding the prevention of prison rape (PREA, 2003). The legislation states that the Attorney General is responsible for making the final decision of what the national standards will be, but will use the recommendations of the National Prison Rape Reduction Commission to guide the decision. The Attorney General has discretion in what standards to emphasize, but is not able to implement standards that would put unreasonable strain on the budgets of governments. Recommendations that would require additional expenditures should be considered by correctional facilities, but the recommendations would not be mandatory. The national standards will be given to all governmental officials who take part in the regulation of prisons. Once the Attorney General provides a final list of national standards to each State, the Federal Bureau of Prisons will also be required to adhere to them (PREA, 2003).

There are mechanisms in place, however, to ensure that entities are adhering to the national standards (PREA, 2003). For example, any state that receives PREA grant funds, but does not comply with the national standards will have its funding reduced by five percent for each year that it does not adhere to PREA. In addition, the Attorney General is responsible for ensuring that any entity that was given grant funds through the Act and does not comply with the national standards will be recognized in a published report. The legislation also affects agencies that accredit correctional facilities. In order for accrediting agencies to receive grants that are provided by PREA, the agencies must incorporate national standards in their accreditation requirements (PREA, 2003).

The Act addresses the lack of information and assistance available to institutions and administrators by allocating five million dollars to the National Institute of Corrections (hereafter
NIC) (PREA, 2003). The NIC has been designated as responsible for several areas of prison rape prevention. First, PREA creates a national clearinghouse in the NIC that contains information about prison rape and provides assistance to institutions and administrators in addressing prevention. Institutions and administrators have access to the clearinghouse in order to develop prevention strategies, gain assistance in investigating prison rapes, and access resources for determining appropriate punishments for offenders of prison rape. Second, the NIC is given the large task of providing training and education programs for correctional authorities. This training will target prevention, investigation, and punishment of prison rape. Finally, the NIC must complete a report on the effectiveness of the actions of Department of Justice in decreasing prison rape during the previous year (PREA, 2003). Thus, the NIC has considerable responsibility under PREA both in improving knowledge about prison rape and developing effective prevention strategies.

The preceding section reviewed the requirements of PREA regarding the prevention of prison rape. Perhaps most significantly, the legislation attempts to improve the prevention of prison rape through developing national standards to be implemented by the Attorney General after recommendations are provided by the National Prison Rape Reduction Commission (PREA, 2003). In addition, PREA tries to encourage accountability by mandating the reporting of institutions with high rates of prison rape and imposing financial penalties on states who do not fully comply with PREA’s requirements (PREA, 2003). The following section provides an example of institutional changes that have been implemented by the State of Ohio Department of Rehabilitation and Correction in order to comply with PREA’s requirements for increasing prevention. Specifically, the ten point plan that the ODRC designed to improve prevention efforts is presented.
PREA in Action – Ohio Department of Rehabilitation and Correction

Recently, the Ohio Department of Rehabilitation and Correction (hereafter ODRC) implemented a ten point plan in order to reduce and prevent the occurrence of prison rape (ODRC, 2004). The majority of the plan is directed at prevention efforts. One of the largest changes is the creation of the Inmate Sexual Abuse Oversight Committee to ensure that the ODRC remains in compliance with PREA and any updated requirements. This committee is to help to ensure that the ODRC is not reprimanded for failing to comply with the many requirements of PREA (ODRC, 2004).

The ODRC mandated that new employees be trained in topics regarding the prevention of prison rape (ODRC, 2004). This training focuses on informing correctional officers what is available to them to assist in preventing prison rape from occurring in the institution. Moreover, inmates must be given information about prison rape and prevention of prison rape. Inmates are given pamphlets and shown a video about prison rape and its prevention. Posters addressing prison rape are also displayed in institutions to educate inmates (ODRC, 2004).

Additionally, the plan appointed a process improvement team to assess the effectiveness of current disciplinary processes and the involvement of the institution in prosecutions of prison rape offenders (ODRC, 2004). The treatment of inmates while a rape is being investigated must be addressed, in addition to the role of the institution in assisting prosecutors with investigations. Also, the ODRC provided staff members who are able to assist victims after an assault occurs. Inmates may be in need of emotional support after a rape; therefore, staff members are provided in the institution to assist them. Prior to the implementation of this plan, no training was given regarding the proper procedures for investigating inmate rapes. The new policy provides special training to staff on the investigation of prison rape and the proper procedures to follow.
Furthermore, once offending inmates are identified, they are entered into a newly created database, the Departmental Offender Tracking System (hereafter DOTS), of inmates who were found to have participated in a rape to monitor the placement of potentially dangerous inmates. Such databases can be essential in improving housing assignments. To maintain its accreditation status, the ODRC has stated that it will remain in compliance with any American Correctional Association standards regarding the prevention of prison rape (ODRC, 2004).

Assessment of PREA on Preventing Prison Rape

Although PREA details several requirements for the prevention of prison rape, it is not yet clear if those requirements will be effective. Though it is not yet possible to know the outcomes of the prevention efforts initiated by PREA, one can judge the potential effect PREA may have based upon previous research and commentaries on the subject. The following sections discuss the potential effects that PREA may have on victims, offenders, and institutions.

Assessment of Prevention Efforts on Victims and Offenders

The use of protective custody as a way to safeguard victims and segregate offenders of prison rape was previously discussed. A concern of the use of protective custody is that changes may be necessary in its use as a placement for victims and offenders of prison rape. While in the general population of an institution, inmates typically have access to a variety of programs and recreational activities. When an inmate is placed in protective custody, however, he is not always given access to the same programs and is given few options for recreation. Thus, victims who are removed from the general population for safety reasons and placed in protective custody may feel that they have received a punishment. A possible improvement is to alter the use of protective custody in order to encourage inmates to use it for safety reasons. Programs and recreation should be available to those who require additional security. Victims of rape should
not be given limited privileges after reporting an assault. An effort should be made to make a victim’s environment as normal as possible. Abruptly changing the environment and removing a victim from the general population may cause unneeded stress and further harm their ability to cope. English and Heil (2005) suggested removing the offenders rather than victims to avoid limiting the programs available to victims. However, the victim may be at risk from other aggressors, not only from the inmate who assaulted the victim. In this case, only removing the offender would not be practical because it would still leave the victim vulnerable to assaults.

The availability of resources and services for inmates who are victims and offenders of prison rape is also a concern (Man and Cronan, 2001). Man and Cronan (2001) noted, “By denying rape victims medical attention and counseling, failing to collect evidence of rape, and failing to provide rape kits, prison officials cast considerable doubt on whether they take the problem of prisoner rape seriously” (p. 147). It may be beneficial to have services within institutions to handle not only rape victims and offenders, but victims and offenders of other crimes as well. Psychological and medical services are examples of the resources that should be available within every institution to respond to the effects of rape. Inmates will be reluctant to come forward if they do not feel that their cases are taken seriously. Instituting services to respond to victims and offenders will help to show that rape is viewed as a serious offense. In addition, having services available within institutions may encourage inmates to report rapes because they can have an immediate response to their situation. In house services can also lead to swifter and more thorough investigations of offenders. These services have the added operational benefit of minimizing the use of outside agencies to come to the institution to handle problems. Also, offenders can be more quickly assessed by trained professionals and informed decisions can be made regarding how to discipline offenders.
It may also be beneficial to target inmates with prevention efforts because inmates must live every day within institutions; therefore, they have a considerable stake in supporting and enforcing reforms. Prison rape is a disruptive occurrence within institutions, even for those inmates who are not victims or offenders. Therefore, these inmates may want to create a safer and more secure environment. It may be beneficial to utilize well behaved inmates as role models to influence others. Staff can help to educate inmates, but inmates can help to influence each others’ ideas and actions. For example, Sumner (1976) described a system where a select group of inmates served as mediators and addressed problems with staff and other inmates. Gaining the support and participation of inmates in prevention may be helpful in reducing the occurrence of prison rape.

Assessment of Prevention Efforts on Institutions

PREA’s requirements for prevention may also affect institutions. There are several aspects of the new legislation that may fail to solve the problems posed by prison rape to institutions. For example, one criticism lies in the fact that the legislation focuses so much attention on prison rape (Barrett, 2005). Critics have pointed out that inmates face many forms of violence in prison that are a result of underlying issues, such as overcrowding, and only addressing prison rape will not be an effective strategy (Barrett, 2005). PREA attempts to address only prison rape, but does require that the link between general violence in prison and prison rape be studied (PREA, 2003). Thus, this concern may be addressed in the National Prison Rape Reduction Commission’s report and recommendations.

An additional problem with PREA may lie with the implementation of national standards. A national commission is responsible for developing recommendations for the national standards (PREA, 2003). The national standards that will eventually be implemented by institutions,
however, will be determined by the Attorney General (PREA, 2003). Allowing the Attorney General to make the ultimate decision regarding national standards may be problematic. The commission is composed of professionals who have spent a great deal of time studying and attempting to understand prison rape. The commission’s recommendations are a reflection of the wealth of knowledge that the members have on the topic. However, the Attorney General has the power to ignore or follow any recommendation when establishing national standards. Although the Attorney General may be well briefed on the topic through the furnished reports, the ultimate decision to establish national standards may best be made by professionals who have studied prison rape and produced the report. The Attorney General may decide to ignore crucial recommendations made by the commission, due to conflicting interests with other areas of government.

Another concern is that the national standards to be implemented are only minimum guidelines (PREA, 2003). The Act allows for a considerable amount of discretion by institutions and administrators. Therefore, policies enacted in compliance with PREA may be diverse and vary widely from institution to institution. Some institutions may choose to place prison rape prevention at the top of the priority list, while other institutions may choose to implement prevention strategies that achieve the bare minimum of what the Act requires. The lack of specifically mandated strategies may lead to a wide variety of strategies being utilized. Although a variety of prevention strategies may be utilized to address prison rape, the strategies will help to raise new awareness about the topic of prevention.

There have been concerns about the handling of prison rape investigations and some have criticized investigations as being biased and lax (e.g. Abraham, 2001). One solution to the problem of careless prison rape investigations is to create review boards. In order to ensure that
investigations are being conducted consistently and fairly, review boards (similar to that implemented in Ohio) should be implemented for every state. Review boards can receive complaints from inmates who believe that their case was handled in an inappropriate manner. Allowing inmates to give feedback to a review board may improve consistency in institutional investigation and punishments to offenders.

Conclusion

While this chapter has discussed various prevention strategies for sexual assault, successful efforts are not an easy task for correctional administrators and until recently, only limited attempts have been made to prevent prison rape (Abraham, 2001). Prevention efforts have included inmate education efforts, classifying inmates, and increasing the number of staff members (Dallao, 1996; English and Heil, 2005; Jones and Schmid, 1989; Ries, 2005; Robertson, 2003). However, the prevention strategies that have been implemented have not always been beneficial or effective (Barrett, 2005; Knowles, 1999; Man and Cronan, 2001; Robertson, 2003). PREA’s various requirements encourage the use of more effective prevention strategies, but only time will tell if those strategies will be effective. Table 2 summarizes this information and the potential problems and gaps in prevention policies. The final chapter of this manuscript will provide an overview of the potential effectiveness of PREA on knowledge building and prevention efforts. In addition, the limitations of the current study will be discussed, as well as possible topics for inclusion in future research.
### Table 2
**Current Prevention Strategies for Prison Rape and PREA**

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<tr>
<td>Victims</td>
<td>• Protective custody •</td>
<td>• Potentially negative psychological effects</td>
<td>• More awareness of problem</td>
<td>• Barriers still exist for victims</td>
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<tr>
<td></td>
<td>Classification</td>
<td>• Limited access to services and programs</td>
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<td>• Implementation difficulties within institutions</td>
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<tr>
<td>Offenders</td>
<td>• Protective custody •</td>
<td>• Negative psychological consequences</td>
<td>• Emphasis on disciplinary actions and punishments</td>
<td>• Implementation difficulties within institutions</td>
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<td></td>
<td>Classification</td>
<td>• Limited access to services and programs</td>
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<tr>
<td>Institutions</td>
<td>• Policies • Legislation</td>
<td>• Correctional staff attitudes</td>
<td>• More awareness of problem</td>
<td>• Focuses only on institutional prison rape and not violence in general</td>
</tr>
<tr>
<td></td>
<td>• Court cases • Staff training</td>
<td>• Failure to correctly implement policies/ legislation</td>
<td>• Mandated national standards</td>
<td>• National standards are only minimum guidelines</td>
</tr>
<tr>
<td></td>
<td>• Physical layout</td>
<td></td>
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<td>• Attorney General implements national standards</td>
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CHAPTER V
SUMMARY AND CONCLUSION

PREA has set several important goals for correctional institutions. While these goals have arguably good intentions, including bringing prison rape prevention to the forefront of correctional policy and attempting to gather the largest dataset on prison rape to date (PREA, 2003); there are concerns about the ability of PREA to achieve those goals. Barrett (2005) noted that critics of PREA feel, “the Act is simply an empty gesture that does show high-level governmental recognition of the problem of prison rape, but does not provide for any real remedy” (p. 15). On the other hand, supporters of PREA praise the legislation. Lara Stemple, a prison rape activist, stated that PREA is, “a major milestone, finally bringing prisoner rape out of the shadows” and “if knowledgeable reformers are appointed to the PREA’s commission and if the law is implemented conscientiously, it will signify attention at the highest levels of government to a problem that has been denied, ignored and trivialized for decades” (in Barret, 2005, p. 15). Previous research has identified considerable challenges to improving knowledge about prison rape and the development and implementation of effective prevention strategies.

The most significant improvements that PREA potentially offers include a better insight into the incidence, characteristics, and effects of prison rape through a large scale data collection effort. It is also likely that awareness of prison rape will increase due to the political attention given to the issue and the public hearings and reports required by PREA. In addition, correctional institutions will be pressured to improve their response to prison rape in order to comply with the law and maintain funding and accreditation. The efforts to prevent prison rape, however, may not be as successful as those of knowledge building. The legislation places the ability to adopt specific prevention strategies in the hands of individual institutions. This plan
may lead to a wide variety of prevention programs with differing levels of effectiveness. Therefore, prevention efforts will vary in success from prison system to prison system.

Although there may be beneficial impacts of PREA, it is commonly known that there are always barriers to the implementation of legislation, even when the legislation has good intentions. One goal of the implementation of PREA is to ensure that inmates are protected and that they have resources available to them if they become victims of rape. However, the Prison Litigation Reform Act (1995) (hereafter PLRA) is an example of a barrier that may be problematic for prison rape victims (Golden, 2004; Ries, 2005). The PLRA established that inmates cannot bring lawsuits against prison officials if they have not used all of the institutional procedures available to them prior to beginning litigation (Ries, 2005). Also, inmates are required to show proof of sustaining physical injuries from a rape in order to proceed with a lawsuit (Golden, 2004; Ries, 2005). Requiring proof of physical injuries would make it difficult for raped inmates who suffer no injuries from obtaining a judgment in their favor. For example, an inmate who is coerced into oral sex, without the element of force, would have no physical injuries although he was sexually assaulted. Thus, the use of litigation to hold institutions and administrators accountable would be more difficult for inmates who have already been victimized.

Limitations of the Current Study

Although the current study attempted to be as comprehensive and inclusive as possible, several areas were not addressed. The largest limitation of the current study was the lack of available data on the topic of prison rape. PREA was passed just three years ago and has not yet been fully implemented. For example, the results of the nationwide data collection by the BJS...
will not be reported until 2007. Therefore, data produced by PREA’s requirements was not available at this time.

While the negative consequences that prison rape has on institutions, inmates, and communities were discussed, these were not discussed in depth. For example, the techniques used to address the psychological problems that victims may suffer were not presented. Also, the relative effectiveness of prevention strategies that have been used in the past and currently was not offered. These omissions are largely due to the fact that there is limited knowledge about the effectiveness of such strategies.

Furthermore, this study focused on male inmate-on-inmate sexual assault in prison. PREA is intended to protect all institutionalized individuals. Therefore, juveniles, females, and individuals institutionalized in places other than prisons are covered by the legislation. In addition, staff members who assault inmates are also addressed in PREA. The omission of the populations from the study does not imply that other groups affected by prison rape should not be given attention and concern. However, it is common knowledge that adult males are currently the largest prison population. In addition, there is very limited knowledge and research available on groups, such as females and juveniles, regarding prison rape. It also would not have been practical to adequately discuss the specific issues of these different groups in one study.

Future Research and Questions

Clearly, several areas have not been specifically addressed in previous research on prison rape. The data collected by PREA may help to answer some remaining questions about the characteristics of inmates and institutions that are affected by prison rape. Furthermore, research has not comprehensively evaluated the services that are available to inmates. Services and programs that are offered to victims and offenders should be identified and evaluated for their
effectiveness. It is also important to determine if inmates are aware of the services that are created to assist them. Inmates will be unlikely to use programs and services if they are not aware that the services are available. In addition, researchers should make more efforts to verify the services that inmates would like to have available. Inmates may have many suggestions about how to manage prison rape, but they must first be asked for their opinion.

Inmate reporting is widely known to be problematic. Future research should focus on the attitudes of correctional officials toward prison rape. The handling of rape complaints should be studied to determine if correctional officials’ attitudes about prison rape affect reporting rates. Equally important will be an assessment of correctional officer response to rape reports and the potential impact of such behavior on prison rape, victim reporting, and institutional response.

After the enactment of PREA, many institutions will be developing new plans for record collection and prevention. Researchers should use the opportunity to compare and contrast different prison systems, prisons, staff characteristics, and inmate characteristics and their relationship to the occurrence of prison rape. It will be important to evaluate the new data to determine strategies and data collection methods that are effective and those that should be abandoned. Accordingly, the policies that are unique to particular institutions should be identified and evaluated for effectiveness. It is important that researchers address not only the formal policies that institutions have, but uncover the informal policies utilized by correctional officers in daily interactions with inmates and other staff. Informal policies may have a large impact on the functioning of an institution and also on the effectiveness of formal policies.

Finally, future research should address the formal and informal methods of handling victims, likely victims, offenders, and likely offenders of prison rape. It will be important for the various methods that are used to be evaluated for their effectiveness and impact on institutional
operations. The unintended consequences of policies designed to prevent prison rape should also be considered to ensure that such policies are not creating additional problems.

Conclusion

This manuscript has attempted to address many facets of prison rape. The uncertainty over the occurrence of prison rape was addressed at length and the nature, characteristics, and effects of prison rape were presented. Prison rape is a unique phenomenon in that it occurs in an institution with a distinctive social structure. Inmate victims face a variety of problems that are specific to their situation. For example, inmates may face great danger if they choose to report a rape because this is viewed as “snitching” in prison (Kupers, 2001). Victims and offenders also have been shown to have particular characteristics. Victims are often homosexual, young, effeminate, inexperienced, and non-aggressive (Banbury, 2004). Offenders tend to be older and larger than the victim, to have been incarcerated for a violent crime, and are often disciplinary problems within the institution (Nacci and Kane, 1984). There are various consequences for inmates and institutions. Victims may have severe negative psychological reactions, including depression, attempting suicide, and anxiety (Banbury, 2004). Institutions may suffer from the spread of sexually transmitted diseases and the increase in inmate violence (PREA, 2003). In addition, institutions and administrators may have legal action brought against them after inmates are raped (Man and Cronan, 2001; Robertson, 2003).

Government and institutional responses to the problem of prison rape have been varied. Early policies were rare and when they did exist, appear to have been limited in scope. The court system has only recently become involved in the problem of prison rape. The history of prison rape cases has produced a standard of deliberate indifference to determine the level of responsibility of correctional officials (Farmer v. Brennan, 1994). The standard of deliberate
indifference established that correctional administrators cannot purposely disregard the potential danger posed to inmates (Farmer v. Brennan, 1994). More recently, the Prison Rape Elimination Act of 2003 appears to be a significant step in drawing attention to prison rape. This federal legislation attempts to improve our understanding of prison rape, while at the same time developing more effective prevention strategies to protect inmates.

Previous research has identified numerous methodological problems that exist when attempting to study prison rape. Perhaps the most significant challenge is with the quality and quantity of available data. Prior to PREA, no official data on prison rape was consistently available to researchers. Furthermore, it is difficult to obtain an accurate account of prison rape through surveys or interviews alone (Banbury, 2004). Therefore, it has been recommended that both methods be used when gathering data (Banbury, 2004). As mandated by PREA, the Bureau of Justice Statistics is currently developing ways to gather data, including using computer assisted surveys (BJS, 2004). Prevention strategies that have been recommended by previous research include classifying inmates based on risk levels (Dallao, 1996; English and Heil, 2005; Jones and Schmid, 1989; Knowles, 1999; Ries, 2005) and improving staff (Robertson, 2003) and inmate (Moss and Wall, 2005) education about prison rape. PREA specifically instructs the National Prison Rape Reduction Commission to address these issues in its study and report (PREA, 2003). It is apparent that there are several ways to manage the problems that prison rape presents. However, it will take time to notice the changes in institutional and governmental policy developed to address these problems.

Historically, relatively little has been done to face the problem of prison rape. Although it is clear that incidents of prison rape have occurred for some time, meaningful policy efforts to reduce such events were not common until the late 20th century. In the past, it seemed that those
who were the most marginalized in society were also those that received the least protection and consideration. PREA is an attempt to show that society is concerned for those it least desires and has a declared duty to protect them. Although it has taken far too long for prison rape to be addressed, PREA should be commended for the admirable goals and efforts it has put forth.
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