

**APPA Testimony to the National Prison Rape Elimination Commission**

**United States District Courthouse for the Eastern District of Louisiana  
New Orleans, Louisiana**

**December 5, 2007**

Mr. Chairman and Members of the Commission:

My name is Carrie Abner, and I am a research associate for the American Probation and Parole Association (APPA). On behalf of APPA, I would like to thank you for the opportunity to testify today on PREA and its implementation in community corrections, an issue on which APPA is actively engaged.

APPA is an international association composed of members from the United States and its territories, Canada and other countries actively involved with probation, parole and community-based corrections, in both adult and juvenile sectors. All levels of government, including local, state/provincial, and federal, and from all three branches—legislative, executive, and judicial—are constituents. Since its establishment in 1975, APPA has grown to become the voice for thousands of probation and parole practitioners, including line staff, supervisors and administrators. The association represents a strong and unified voice for the field of community corrections.

In its many efforts to develop standards, provide training and shape public policy, APPA is guided by a vision statement that states, in part, “we seek to create a system of Community Justice where a full range of sanctions and services provides public safety by ensuring humane, effective, and individualized sentences for offenders, and support and protection for victims.” Perhaps nowhere is this dual focus on offender accountability and support for victims more critical than in addressing sexual assault victimization of offenders under correctional supervision.

**Community Corrections—An Overview of the Field**

According to the Bureau of Justice Statistics, in 2005, there were approximately 4.9 million adult men and women sentenced to Federal, state, or local probation or parole, and 2.2 million adults incarcerated in the US. Nearly 70% of the adult correctional population is under probation and parole supervision, and the number of individuals involved in community corrections is expected to increase in coming years as offenders incarcerated under the sentencing laws of the 1980s approach their release dates and continued post-release supervision in the community.

Often, the terms “probation and parole” and “community corrections” are used interchangeably to describe community supervision of criminal offenders. While probation and parole are certainly integral components of efforts to manage offenders in the community, community corrections is a much broader field, consisting of a range of organizations and actors with varying roles and responsibilities.

William Burrell described probation and parole in the United States as “a fragmented, heterogeneous collection of organizations found at the federal, state, county and municipal levels, housed in the judicial and executive branches. There are even some private companies and non-profit organizations providing probation services.”

He adds, “in addition, probation and parole agencies are part of a large, complex and interdependent array of government, non-profit and private agencies and organizations that comprise the criminal and juvenile justice systems. Almost no aspect of the work of probation and parole can be considered in isolation, as they are affected by and have an impact on many other agencies.”<sup>1</sup> A simple way to think of community corrections is as a group of non-institutional sanctions for adults or juveniles either by a court instead of prison or by a parole board after serving some time in prison. Regardless of the specific program, all community corrections efforts are directed toward achieving offender accountability, behavior change, surveillance, and cost effectiveness.

Beyond probation and parole, the community corrections field includes pre-trial services, court mandated substance abuse treatment programs, half-way houses, work release, court diversionary programs (including drug and other specialty court programs), day reporting, home detention and community service programs. While some community corrections agencies provide only type of program, others offer an array of these services. An overview of the various types of community corrections programs is included as an addendum to this testimony.

Moreover, community corrections programs vary greatly in the levels of supervision employed. For instance, intensive supervision probation may require an offender to have contact with their probation or parole officer several times a week, while offenders on administrative probation may be required to report infrequently. Meanwhile, offenders subjected to electronic monitoring may be required to make contact daily with the supervising agency. The intensity of an offender’s supervision may be determined through the sentencing process, through risk assessments conducted while under supervision, or a combination of the two.

Community corrections is a vast and diverse branch of the justice system, representing residential and non-residential, public and private, federal, state and local agencies and programs. Common among each of these agencies, however, are the dual and equal goals to monitor and rehabilitate offenders based on their individual risks and needs. While the diversity of the community corrections field presents certain, clear challenges related to the successful implementation of PREA, it also presents an opportunity for the field to support and enhance broader efforts addressing corrections-based sexual assault through a variety of targeted programs and services.

## **PREA & Community Corrections—Implications and Challenges**

Perhaps one of the biggest challenges for incorporating the principles of PREA in the policy and practice of community corrections lies in the name of the law, itself—the *Prison Rape*

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<sup>1</sup> Burrell, William, “Trends in Probation & Parole,” [www.appa-net.org/ccheadlines/docs/Trends\\_Probation\\_Parole.pdf](http://www.appa-net.org/ccheadlines/docs/Trends_Probation_Parole.pdf) (October 2007).

Elimination Act. Unfortunately, since its passage, PREA has been widely misunderstood as being relevant only to our nation's prisons, with many in the community corrections field wondering, "what does PREA have to do with me?"

Efforts to dispel the misperception that PREA does not affect community corrections are having a positive impact, with more and more community corrections agencies and staff paying attention to the law. Nevertheless, there remain many unanswered questions about PREA and its implications for the community corrections field. For instance, while some community corrections settings clearly fall under the jurisdiction of PREA, including community residential facilities, halfway houses, pretrial detention and other custodial settings in the community, the reach of PREA over probation and parole agencies is less clear.

Community corrections agencies and staff need clear guidance on not only their legal obligations under PREA, but also how they can play a key role in addressing sexual assault in corrections as part of a larger effort to enhance public safety. In particular, it is critical that the community corrections field is informed on appropriate methods for detecting, reporting, investigating and referring sexual assault cases for prosecution. Community corrections officers need information about appropriate treatment for and supervision of both victims and perpetrators of prison rape, collecting data and maintaining confidentiality on sexual assault cases. APPA applauds the Commission for its inclusion of community corrections experts in the standards development process in an effort to ensure the relevance and applicability of the standards for the entire corrections field. These standards, once approved and published, will set the foundation for efforts to educate community corrections agencies and staff on the important role they can and must have in addressing prison rape and sexual victimization.

In the meantime, however, APPA recognizes the need to continue raising awareness about PREA within the community corrections field, including agency administrators, managers and line officers, alike, and developing the "buy in" that is crucial to incorporate the spirit of the law in the daily operations of community corrections throughout the country. We know little about the incidence and prevalence of sexual assaults that occur in community corrections settings, however, through the efforts of the Bureau of Justice Statistics we are learning more about the incidence of sexual assault in institutions. Moreover, it is clear that the experiences of offenders within institutional settings directly affect their behavior once released into the community and that community supervision strategies must reflect the whole of these experiences. Given that the majority of probationers and parolees spend some time in custody—either following their arrest, as part of a split sentence or following a violation of their community supervision sentence—the community corrections field should be actively engaged in efforts to "Safeguard Communities" against corrections-based sexual assault. This role must be emphasized in any efforts to educate the community corrections agencies and staff about PREA.

At the cornerstone of any good practice are sound policies and protocols, and this certainly holds true in regards to PREA. In a recent online survey of community corrections agencies conducted by APPA, approximately two-thirds of the 44 respondents reported having some policies in place pertaining to sexual assault. Among agencies reporting having sexual assault policies in place, all (n=25) reported that the policy addressed staff sexual misconduct, while 84% (n=21) reported that policies outlined existing state laws, a zero tolerance statement, legal and/or organizational

reporting requirements, and investigative and confidentiality requirements. Another 80% (n=20) reported that their agency's policy addressed offender-on-offender sexual assault, while 92% (n=23) of policies included procedures for reporting sexual assaults.<sup>2</sup>

While clearly a number of community corrections agencies have developed policies to address sexual assault issues, it appears that fewer have developed protocols for carrying out specific activities related to a sexual assault response. For instance, of participating agencies in our survey, only 21% (n=9) reported utilizing any protocols or instruments to detect signs of possible sexual assault victimization among offenders, and just over 30% (n=13) reported having protocols in place for sharing information on sexual assault victimization and perpetration with institutional settings. Approximately 60% (n=24) of responding agencies reported having investigative protocols in place for alleged sexual assault incidents. In order for community corrections staff to consistently and effectively carry out the spirit of PREA in their work with offenders, agencies need clear protocols in place for detecting, reporting, investigating, sharing information about and making referrals for incidents of sexual assault.

Perhaps the greatest challenge for community corrections in developing PREA policies and protocols is the diversity of the field. As indicated above, the community corrections field is a heterogeneous mix of agencies and organizations with individualized roles, activities, structures and settings. Vulnerabilities for sexual assault are likely to be significantly different among agencies, as are appropriate procedures for responding to alleged incidents. Policies and procedures for prevention and response to sexual assault in community corrections should be customized to the individual agency—no single “model” policy or protocol will be appropriate for all settings. Identifying the variety of vulnerabilities for sexual assault, as well as methods for preventing and responding to incidents, that are appropriate to the range of different community corrections agencies and organizations will be a daunting, but necessary, task for the development of effective policies and procedures.

In addition to the development of PREA related policies and protocols, training on PREA is greatly needed for line staff and supervisors. Caseloads for community corrections staff are already large and workloads continue to expand as both the number of adults on probation and parole, and supervision requirements have increased over the past two decades. In an environment where staff are being asked to do more with less, there is likely some reluctance among line staff to take on additional responsibilities in detecting and reporting sexual assaults and ensuring appropriate treatment and supervision strategies are in place for both victims and perpetrators.

It is critical that training for line staff and supervisors in community corrections agencies underscores the importance of recognizing and addressing sexual assault victimization for the effective supervision of an offender in the community.

Given the relationships they develop with offenders, their families and friends, front line community corrections staff are in a unique position to detect sexual assault victimization and

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<sup>2</sup> The web-based survey was conducted in Spring 2007. The survey was emailed to approximately 3000 individuals, and was accessible on the APPA, PSRC, and ICCA Web sites. A total of 44 responses were received. The survey results are not meant to be generalized to a broader population, but rather the survey served as an exploratory request for information on efforts to address PREA and sexual assault issues within the community corrections field.

perpetration in correctional environments. Through conversations with offenders; information received from families, friends, employers and external agencies; and direct observation of offender activities, line staff are the eyes and ears of community corrections and are therefore likely to be first responders in these settings. In order to accurately identify the signs of sexual assault, respond in an appropriate manner, and avoid retraumatization of the victim, however, community corrections line staff must receive training on a range of topics, including: recognizing the “Red Flags” of sexual assault, conducting interviews about sexuality and sexual assault victimization, reporting sexual assault, preserving evidence, requesting an investigation, maintaining confidentiality, referring victims and perpetrators to appropriate treatment and services, and developing appropriate supervision strategies for victims and perpetrators of sexual assault.

Equally important, line staff and supervisors can play an important role in preventing sexual assaults from occurring, and should be trained accordingly. Through their work with offenders, line staff serve as the conduit of information to offenders, and should inform offenders of their rights to be protected against sexual assault—by other offenders, as well as by agency staff, volunteers and contractors—while under correctional supervision. Staff in residential facilities should be trained how to utilize classification systems to identify offenders who may be vulnerable to sexual assault, as well as offenders who are likely to commit sexual assaults, and make appropriate housing decisions.

Moreover, as a result of a decade-long effort to address staff sexual misconduct issues, many agencies provide training to staff on maintaining appropriate relationships with offenders under community supervision. Training on staff sexual misconduct should continue to be provided to community corrections professionals to enhance adherence to the principles of PREA.

Given its multifaceted structure and collaborative approach, the community corrections field is in a position to provide a range of treatment and services to both victims and perpetrators of correctional sexual assault. Through referrals to community sexual assault treatment programs, mental health clinicians and others, as well as through the development of supervision strategies that address the needs and concerns of both victims and perpetrators of sexual assault, community corrections professionals can play an important role in providing a comprehensive response to sexual assault incidents. In order to fulfill this role, however, line officers need instruction on how to develop targeted supervision plans for both victims and perpetrators of correctional sexual assault and in referring those offenders to appropriate services in the community.

While this collaborative approach allows for a multidimensional approach to supervision and behavior change, it also provides specific challenges regarding information sharing on sensitive issues like sexual assault. What information should be shared and with whom? How should confidential information be shared among agencies without putting at undue risk to the privacy of the victim? What information do outside agencies need to know for purposes of appropriate treatment, services and supervision? What are the victim’s rights?

Since the majority of individuals under community supervision spend some time in custody, the inter-agency sharing of information on sexual assault victimization of offenders may be

necessary. In these instances, staff should report the assaults to correctional professionals in the facilities in which the assaults took place, or directly to the appropriate administrative body (i.e. state department of corrections). In other cases, probation and parole agencies may need to share information on a sexual assault incident with treatment providers to ensure that the victim receives appropriate services. In either case, clear guidance on how information should be shared among agencies is critical to protecting the victims of sexual assault.

Another challenge for the community corrections field is ensuring compliance across all agencies—public or private, residential or non-residential. Probation and parole agencies, pretrial services and community corrections residential facilities need guidance on how contracts and/or Memorandums of Understanding they hold with outside organizations should incorporate requirements to comply with PREA. Moreover, formal mechanisms for information sharing should be established between community corrections agencies and their partners (i.e. treatment providers, mental health clinicians, support groups, etc.) in order to track sexual assault incidents and facilitate appropriate responses across agencies.

### **American Probation & Parole Association Activities on PREA in Community Corrections**

Despite the many challenges listed above, a number of efforts are underway to incorporate the spirit of PREA into the policies and practice guiding community corrections nation wide, and the American Probation & Parole Association is pleased to be engaged in these initiatives. Through a cooperative agreement with the Bureau of Justice Assistance, Office of Justice Programs, U.S. Department of Justice, APPA, in partnership with the International Community Corrections Association and the Pretrial Justice Institute (formerly the Pretrial Services Resource Center), is developing a guidebook for front line community corrections staff and supervisors on preventing and responding to sexual assault. This guidebook is being developed with an aim to heighten sensitivity among community corrections line supervisors and line staff to sexual assault issues in the context of community corrections and will include specific, step-by-step guidance on working with individual clients who may be victims of sexual assault. The specific objectives for this project include:

- Research and identify effective programs, policies and strategies currently developed for front line community corrections staff and line supervisors to address sexual assault in community corrections settings.
- Develop a guidebook to assist front line community corrections staff and line supervisors in understanding PREA and addressing sexual assault in community corrections.
- Disseminate project information to community corrections agencies and staff through the established communications networks of APPA, PJI, and ICCA.

To date, APPA has conducted a literature review to identify relevant materials on PREA, specifically as it relates to community corrections. In addition, APPA has conducted three separate requests for information among the constituencies of APPA, ICCA and PJI, to gather information on current efforts among community corrections agencies to address PREA, existing

gaps in the development of policies, procedures and practices related to PREA, and needs for training on this issue.

APPA convened a working group comprising a variety of community corrections professionals as well as national experts on sexual assault issues and prison rape, including representatives of probation and parole agencies, pretrial services, residential community corrections facilities, the Moss Group, and the Washington College of Law at American University. The working group met May 7 – 8<sup>th</sup>, 2007, in Alexandria, Virginia, to identify existing challenges for community corrections professionals in addressing sexual assault issues and strategies for improving sexual assault prevention and response efforts in community corrections settings. Aided by the working group, APPA has identified the following sections of the guidebook:

- Overview of PREA & Sexual Assault in Corrections
- Sexual Harassment & Violence in the Workplace
- The Red Flags: Identifying the Signs of Sexual Abuse
- Interviewing Skills for Sexual Assault Cases
- Reporting Sexual Assault
- Sexual Assault Investigations
- Information Sharing: Considerations for Sexual Assault Cases in Corrections
- Supervising Strategies for Victims & Perpetrators of Sexual Assault
- Preventing Sexual Assault in Community Corrections

APPA is currently in the process of drafting the guidebook and anticipates its completion and release in June 2008. In the meantime, we are working to disseminate critical information to the field. In collaboration with the National Institute of Corrections, the Moss Group, and the Washington College of Law, we are planning a workshop at the upcoming APPA Winter Training Institute, February 10<sup>th</sup> – 13<sup>th</sup>, in Phoenix, Arizona. This workshop will identify types of sexual abuse that occur in correctional settings, and relevant state and federal laws; discuss the key policy issues for community corrections agencies related to sexual assault; and, identify strategies for translating policy into practice to enhance sexual assault prevention and response efforts.

Undoubtedly, there are many challenges that lie ahead in properly addressing sexual assault issues in community corrections. As previously mentioned, community corrections agencies and staff need guidance and training to effectively develop the policies and procedures, and implement appropriate practices, that will assist in identifying, reporting, investigating, treating and, most importantly, preventing incidents of sexual assault in community corrections settings. Despite these challenges, however, APPA recognizes that the community corrections field is in a

unique position to support and enhance broader initiatives to address sexual assault in corrections. Given its fundamentally multidimensional and collaborative structure, as well as its commitment to achieve behavior change among offenders, the field of community corrections field has the ability to respond to sexual assault cases that have occurred in institutional and community settings, alike, while also striving for the prevention of such cases in the future. APPA is pleased to be a part of efforts to address this issue through the development of guidance for community corrections professionals, and the opportunity to testify before the Commission.

**I DECLARE UNDER PENALTY OF PERJURY THAT THE FOREGOING IS TRUE AND CORRECT.  
EXECUTED ON THIS 16<sup>TH</sup> DAY OF NOVEMBER, 2007.**

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Carrie E. Abner

## A GLOSSARY OF COMMUNITY CORRECTIONS TERMINOLOGY<sup>3</sup>

**Community-based correctional option:** Penalty served in the location where the offender resides such as home confinement, community service work or day reporting programs.

**Community detention centers:** Short term, locally-based incarceration facility in the location where the offender resides.

**Community sentencing circles and sentencing boards:** Method of resolving a dispute or a criminal case using appointed community representatives and involving mediation, restitution or other conditions.

**Community service work:** Performance of labor without pay for the benefit of a community, non-profit organization or government agency as required by a sentence or condition or supervised pretrial release for a specified period of time. In some jurisdictions, offenders can work off fines or jail time by performing such volunteer service.

**Day reporting:** Nonresidential treatment facility where offenders are required to attend meetings, submit to drug testing, participate in educational programs and comply with other community requirements.

**Diversionsary programs:** Interventions that remove a defendant's case from further steps in case processing provided that the defendant participates in specific activities and conditions.

**Drug courts:** Specialized courts dedicated to processing drug abuse cases and engaging offenders in treatment while under criminal justice supervision.

**Electronic Monitoring:** Program designed to monitor the movements of offenders who wear electronic radio transmitting bracelets, or through video, telephone, satellite or other technologies designed to monitor an offender's movements.

**Employment readiness and work programs:** Employment readiness and job skills, apprenticeship, on-the-job training and employment placement activities used to increase offender stability and ability to pay support, fines and fees.

**Halfway house:** Structured residential or group living with restrictions on movement during all or part of any day.

**Home confinement:** Punitive measure restricting offenders to their residences for a specified period.

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<sup>3</sup> Excerpt from, "An Elected Official's Guide to Community Correctional Options." 1997. Lexington, KY: The Council of State Governments.

**Intensive supervision probation:** Community supervision of an offender that requires daily or frequent reporting to a probation caseworker along with participation in other programs and adherence to other monitoring requirements. This probation involves more intensive supervision in the community than regular probation.

**Intermittent confinement:** Sentence to a jail or other residential facility that is limited in time, duration or frequency.

**Parole or supervised release:** Supervision status of any person who has been convicted and released from a prison facility. Parole and supervised release may require offenders released under parole or supervised release custody or supervision to participate in programs administered by parole agencies. Generally, parole conditions are set by a parole board or correctional authorities. Parole may be revoked, when conditions are violated.

**Probation:** Penalty ordered by the court that permits the offender to remain in the community under supervision of a probation officer. Probation may include serving time in a jail, payment of fines or other alternative sanctions. Unsupervised probation is the least restrictive community supervision penalty. Supervised probation requires predetermined reporting and ongoing proof of meeting other requirements.

**Residential drug treatment:** Any number of treatment facilities where offenders are required to reside for a period of time.

**Substance abuse education and treatment:** Interventions that provide prevention education, medical, psychological and other types of assistance to combat substance abuse and prevent relapse.

**Supervised release:** The process of monitoring released offenders who have been in custody, served time and have been placed on probation or parole.

**Work Release:** A program where offenders in secure or non-secure residential facilities are permitted to be employed, look for employment or participate in other educational programs.