

Written Testimony
National Prison Rape Elimination Commission
December 5, 2007

I appreciate the opportunity to provide written testimony to the National Prison Rape Elimination Commission concerning the Prison Rape Elimination Act and its impact on corrections practice. Both on the national and state level, the impact of the PREA are clearly being felt. At a recent meeting of a national group of victims professionals in corrections, a workshop was held exploring the collaborative work statewide victim's coalitions are doing to train first responders, support community partnerships and develop victim response protocols to address the issue of inmate sexual exploitation. As we look back at the evolution of correctional practice, such meetings clearly represent a sea change and will have a significant impact on community corrections operations and culture.

As the Field Services Executive for the Vermont Department of Corrections, I am responsible for the management of the state's probation, parole, furlough and intermediate sanctions programs. Throughout my career, I have had first hand experience dealing with the aftermath of both inmate-on-inmate sexual exploitation and staff sexual misconduct. When I began my career with the Department of Corrections in 1974, we lacked the statutory support, policy and procedural guidance, training, and even the language to address sexual exploitation of offenders. In the 1980s, criminal justice practitioners developed strategies to address the physical, emotional and psychological impacts of crime on victims. For many, the plight of offenders as victims was not yet on the radar. More recently, jurisdictions have begun to embrace practice changes and statutory mandates with regard to the reporting, investigation, prosecution and prevention of sexual exploitation in the community at large, and within settings involving vulnerable corrections populations. By its establishment of a zero tolerance policy for sexual assault, within the confines of residential correctional settings, the passage of the Prison Rape Elimination Act sets a higher bar for all corrections systems.

My written testimony concerning the relationship between sexual violence in correctional facilities and community based corrections is based on my experience as a probation and parole officer, staff trainer, regional director, responsible for operations in two of Vermont's correctional facilities, and state director of probation and parole. As a member of Vermont's PREA Implementation Team, I have been involved in strategic planning efforts to address the issue of inmate rape. In addition, during the past year, as a participant in the NIC sponsored Executives of Statewide Probation and Parole Network, I worked with colleagues from other jurisdictions around the country to explore the implications of PREA, on non-residential community corrections.

As standards are being developed to assist jurisdictions around the nation to focus on identifying, reporting, investigating and responding to allegations of sexual exploitation of inmates and residents of community based half-way houses, community corrections practitioners, schooled in the explicit requirements of PREA, are having conversations about its less direct implications on non-residential corrections programs. At the May, 2006 meeting of Executives of Statewide Probation and Parole Network, a group brought together and supported by the National Institute of Corrections (NIC), state directors questioned what the role of probation and parole is, and should be, in supporting safety for incarcerated offenders. Recognizing that persons on parole and probation represent a cohort of offenders who have been previously detained, incarcerated, or may face future incarceration, state directors supported further discussion of their roles. A result of this discussion was a unanimous request that NIC convene a work group, which included two state directors of probation, as well as several state directors of probation and parole, to draft a model “policy, direction and supporting tools.” This work resulted in considerable dialogue and a written document, setting a desired direction for non-residential community corrections.

This document emphasized the use of evidenced based practice and a systemic approach to correctional management in support of PREA. A systemic approach challenges leaders to develop multi-faceted, inter-related approaches to manage correctional environments. In the context of keeping offenders safe, a systemic approach should emphasize leadership’s commitment to zero tolerance of offender exploitation; policies, protocols and statutory requirements that are clear, consistent and support offender and staff safety; an ongoing review of operational practices; comprehensive staff, volunteer, contractor and offender training; objective and efficient investigative processes; and supports to assist offenders in addressing victimization. Addressing agency culture is a key, but often elusive strategy. In addition to emphasizing the importance of integrating a menu of strategies, discussions by state directors of probation and parole centered on preferred operational considerations for non-residential community corrections agents. These included strength and evidence based case work practices, the need to develop supportive relationships with offenders and the need for victim centered first responder services. The written report emphasized training as the foundation of an effective response to PREA.

The report highlighted the need for agencies to develop procedural guidelines to map allegation reporting paths. Because probation and parole may be organizationally and geographically removed from prison, jail and other corrections residential settings, reporting allegations of prior institutional abuse often proves challenging. Therefore, the development of clear, understandable procedures is key. Such procedures enhance the likelihood that allegations reported by community based offenders of previous facility abuse are reported internally and to law enforcement in accordance with policy and state law. In addition, investigation protocols are needed to assure that *all* allegations are investigated. Once again, role clarity is crucial to assure that investigations occur in a timely manner, are thorough, and objective. Consistency is enhanced by clear procedures and memos of agreement between facility, community corrections leaders, state’s attorneys and law enforcement to assure that there is no role confusion.

Probation and parole staffs have an opportunity to participate in the prevention of sexual exploitation of community corrections offenders. Most staff is already trained in offender risk and treatment needs assessment. Some are also trained in assessing potential vulnerability (review age, gender, history of previous abuse, sexual orientation, affect when incarcerated) and/or risk (history of being a sexual predator) that offenders present prior to being incarcerated or re-incarcerated. Formal linkages between community corrections and facility classification staff at jails, prisons and other residential settings can assist in prevention efforts. In addition, staffs have an opportunity to educate offenders under community supervision regarding their right to remain safe and right to report abuse.

On a national level, state directors of probation and parole continue to explore the implications of the Prison Rape Elimination Act, linking them to evidence based practice and a systemic approach. On a state level, Vermont is attempting to incorporate similar practices in its approach. The Vermont Department of Corrections, a recipient of a BJA grants in 2004 and 2007, is a small, integrated system. As such, it is well positioned to develop a continuum of strategies. After designating full-time PREA staff, Vermont began to develop aspects of its systemic approach. While confronting issues through inmate and staff training and education, Vermont chose to promote a positive prison culture as one of its prime grant strategies.

Foundational to its approach was training of all facility staff on the implications of PREA. All new uniformed staff now receives pre-service training in the impact of inmate sexual exploitation, staff sexual misconduct, addressing the "code of silence" and "courageous leadership." A curriculum for facility first responders now prepares staff to better respond to incidents and allegations of sexual assault and exploitation of offenders in facilities. This training addresses the role of facility nurses and medical staff, as well, laying the foundation for better criminal investigations

In Vermont, conducting objective, credible, and timely investigations was a prime objective. An investigations unit, separate from the Department, is now responsible for investigating all ongoing offender sexual exploitation allegations. In addition, training of first line investigations staff has included crime scene and evidence preservation. Throughout the first year of the grant, the department developed and activated several investigation teams at facilities around the state. Finally, a 24 hour, confidential offender hotline was installed. The training curriculum now includes a component to help demystify the investigation process to staff and introduce them to the newly developed investigations tracking system.

In 2005, Vermont remained the only state without a law criminalizing staff sexual misconduct. A key grant activity was to pass legislation that affected staff behavior in facilities and in the community. With Federal law supporting the work of the Department's PREA Coordinator and other Department and Agency staff, such legislation passed, effective July 1, 2006. It criminalized staff sexual misconduct in correctional facilities. This law also criminalized sexual misconduct of probation and parole staff who is involved in an offender supervisory role.

Because the Department believes that sexual abuse and violence in correctional settings must be understood in the context of agency culture, it requested and received a technical assistance grant from NIC to conduct formal staff cultural assessment. This assessment occurred in two of its facilities and in the Department's Central Office. The goal of this effort is to promote a common mission, clear professional boundaries, and an environment in which staff and offenders can communicate openly. Cultural assessment work established a baseline. Staff at all levels reported where they believe the culture is and where they would like it to be. Implementation of action plans are in place to assist in moving the culture closer to agreed upon goals. In addition, trainer capacity was built through a "train the trainer" model in all in-state facilities. Vermont is now beginning to assess the result of this initiative, looking at measures such as reduction of staff turnover, increase requests for staff training, a stronger, more consistent chain of command, and inmate and staff grievances.

Strategies during the second grant period will enhance these efforts. Consistent with recommendations by the Executives of Probation and Parole Network, Vermont's training plan for probation and parole staff will address their important role in responding, reporting and preventing sexual exploitation of offenders. It will highlight Vermont's commitment to zero tolerance of offender exploitation. It will also emphasize strength-based, supportive case planning activities which are aimed at supporting statute and policy.

It is clear that community corrections practitioners have a significant role to play in the reduction of offender sexual exploitation within incarcerative settings. An approach that includes an understanding and development of law, policy, training, reporting and investigation procedures, victim sensitivity and communication agreements with jails prisons and other residential correctional settings is key to creating this integrated systemic approach.

Thank you for allowing me to provide testimony concerning aspects of the community corrections opportunities to address this issue.

I DECLARE UNDER PENALTY OF PERJURY THAT THE FOREGOING IS TRUE AND CORRECT. EXECUTED ON THIS 13th DAY OF NOVEMBER, 2007.

Jacqueline Kotkin