

BJS's National Prison Rape Statistics Program: Findings From the 2018 National Survey of Youth in Custody

MICHAEL FIELD: Hello, and welcome to this webinar on the National Survey of Youth in Custody. My name is Michael Field, and I'm going to be walking you through things, here.

Before we dive into it, let me show you what's in store. First, I'll provide some background on prison rape, particularly the history around the Prison Rape Elimination Act, or PREA, and the role of BJS in PREA. Then I'll go into more detail on the National Survey of Youth in Custody, in particular some findings and updates from the latest iteration of the survey. Then I'll close us off with some next steps for that survey.

I'll start us off with some general background on prison rape, what it is and isn't, and walk you through BJS's role in measuring prison rape.

So first, let's talk about what prison rape is. And it's almost easier to talk about what prison rape isn't. Even though it's right there in the name, prison rape, it isn't just prisons. Prison rape includes prisons, jails, juvenile facilities, military and Indian country facilities, and U.S. Immigration and Customs Enforcement, or ICE, facilities. Prison rape also includes a range of acts. It includes sexual acts you might think of when thinking about rape, such as penetrative sex, but it also includes sexual harassment and other sexual activity, such as kissing, looking at private body parts, being shown something sexual, such as pictures or a movie, and engaging in some other sexual act that does not involve touching. And also, prison rape isn't just inmate-on-inmate. While many commonly think of forced or otherwise nonconsensual activity between inmates, it also includes any sort of sexual acts or activity between staff and inmates, as there is no way for staff and inmate relations to be consensual.

Most of all, prison rape is rape. Sometimes in our culture, prison rape hasn't always been treated as seriously as it deserves (with jokes about not dropping the soap). But prison rape is rape. PREA notes that it leaves lasting trauma amongst victims, can lead to the spread of infectious diseases in facilities, violates inmates' Eighth Amendment rights regarding cruel and unusual punishment, and can increase preexisting tensions in facilities.

So in response, Congress passed the Prison Rape Elimination Act, or PREA, in 2003, unanimously. You can see some of the text of PREA here on the screen, but the overall goal of PREA is to end prisoner rape in all types of correctional facilities across the country.

PREA itself includes roles for multiple different stakeholders. The Bureau of Justice Assistance, or BJA, and the National Institute of Corrections, NIC, are tasked with providing training, technical assistance, and grant funding to prevent and prosecute prison rape. This includes training federal, state, and local authorities on their responsibilities in preventing prison rape, how to investigate, and the appropriate

punishments. Grant funding may be used to fund personnel, training, technical assistance, data collection, and equipment. The National Prison Rape Reduction Commission, commonly referred to as the PREA Commission, carried out a comprehensive legal and factual study of the penological, physical, mental, medical, social, and economic impacts of prison rape. They published their recommendations in 2009, and these standards, known as the PREA Standards, were put into effect in 2012. Lastly here, the Review Panel on Prison Rape, often referred to as the PREA Panel, carries out public hearings with high- and low-rate facilities to aid in the identification of common characteristics of victims and perpetrators of prison rape, prisons and prison systems with high incidence rates, and prisons and prison systems that appear to have been successful in deterring prison rape.

So after all of that, what's BJS's role in PREA? PREA mandates that BJS carry out, every calendar year, a comprehensive statistical review and analysis of the incidence and effects of prison rape. The three main aspects of this, you can see here on the screen: generating annual statistics on the incidence of prison rape, identifying facilities with high and low incidence rates, and identifying common characteristics of victims, perpetrators, and facilities.

Now, prior to PREA, researchers generated very different estimates on how often prison rape occurs. You can see here a figure from a 2004 National Institute of Justice meta-analysis, authored by Gerald Gaes and Andrew Goldberg, showing the sexual assault victimization prevalence rates and 95% confidence intervals for various studies. And these studies, ranging from 1968 to 2003, show very little agreement on how often prison rape occurs.

With that context in mind, BJS designed our National Prison Rape Statistics Program to very deliberately address the shortcomings of past research. Where older studies had small, unrepresentative samples, our collections are designed to contain large samples representative of facilities and the nation as a whole. Older studies often had ambiguously or poorly worded questions and did not use consistent definitions of concepts, but BJS developed questions with feedback from experts in the field and using cognitive testing. And lastly, older studies used data collection modes that assumed respondent literacy and had potential threats to respondent confidentiality.

BJS's inmate surveys use touch-screen ACASI, that is, Audio Computer-Assisted Self-Interviewing instruments in both English and Spanish. With this method, inmates have the option of reading the questions themselves or having the computer read the questions and answers aloud to them. Additionally, the ACASI format means that, while we do use on-site interviewers to confirm respondent identity and administer consent protocols, no one but the respondent knows what questions they are answering at any given time or how they are answering them.

BJS currently administers three data collections that measure prison rape. These collections cover three buckets of facility types—prisons, jails, and youth facilities—and gather information through inmate and youth interviews and also through administrative

records. The National Inmate Survey collects inmate interview data in prisons and jails, but also some administrative records from the facilities themselves. The National Survey of Youth in Custody does the same with juvenile facilities. These two collections look mainly at victim-level data, so when we report data from them we generally talk about percent of victims or percent of youth. The Survey of Sexual Victimization collects administrative records from all types of facilities and looks mainly at incident-level data, so we tend to talk about percent of incidents. The SSV and NIS/NSYC split is very similar to how the Uniform Crime Reporting program and National Crime Victimization Survey (the UCR and NCVS) are set up. Where UCR measures only crime recorded by police and the NCVS measures crime reported and not reported to police, similarly SSV measures only sexual victimization reported to the facility, while NIS and NSYC measure sexual victimization reported and not reported to the facility. We collect these different types of data using different methods, as the complementary information they produce together provides a more comprehensive understanding of the issue than any of them could produce alone.

BJS has been collecting PREA data annually since 2004, right after the passage of PREA. You can see SSV has been conducted every year since then. NIS has been conducted three times, and the dotted line here represents that we were planning on launching the fourth iteration in 2020. That has been delayed, however, due to COVID, and we are now anticipating to launch the survey in 2023. And then NSYC, you see here, has been conducted three times, most recently in 2018. This 2018 NSYC is the first time we've collected youth interview data since the PREA Standards were implemented back in 2012, and these are the data I'll be diving into next.

So, let's take a more detailed look into what we found in this latest iteration of NSYC.

First some background. NSYC fulfills the requirements of PREA in juvenile facilities, specifically to identify facilities with high and low rates of sexual victimization and identify common characteristics of victims, perpetrators, and facilities. It does this by sampling at least 10% of all juvenile facilities and at least one from each state. It's important to note that as a sample, these numbers are estimates. While I've presented numbers here, be sure to look back to the report to see how statistically significant some differences are. Sampling naturally has some error associated with it. The NSYC uses the ACASI instrumentation I briefly mentioned earlier, to collect data directly from youth in a private setting. These self-administered procedures help ensure the confidentiality of the youth and encourage fuller reporting of victimization. As mentioned prior, BJS has conducted NSYC three times, and the data I'll be presenting are from the most recent iteration, known as NSYC-3, conducted from March to December 2018.

NSYC-3 was conducted in 327 facilities that housed juveniles, including 217 state-owned or -operated facilities and 110 locally or privately operated facilities that held state-placed youth under contract. Only those facilities that housed youth for at least 90 days, had a juvenile residential population of more than 25% adjudicated youth, and held at least 10 adjudicated youth were eligible for NSYC-3. An additional five sampled facilities were excluded because data on sexual victimization were not collected or

could not be used. Across these 327 facilities, the sexual victimization questionnaire was completed by just over 6,000 youth. I refer to the sexual victimization questionnaire here because the youth actually had a random chance of being presented with one of two questionnaires. Ninety-five percent of youth were administered the sexual victimization questionnaire, while 5% were administered an alternative questionnaire on topics such as living conditions in the facility, mental health, drug and alcohol use, and education. This effort offers a layer of protection to the respondents, as facility staff, other youth, and even interviewers don't know which questionnaire the respondent received. The sexual victimization questionnaire also contained a two-level setup in which all respondents were asked about sexual victimization in the facility in the 12 months prior to the survey. Those respondents who indicated a sexual victimization were then asked additional follow-up questions about what we call "most serious incidents". These were determined by ranking incidents reported by youth into one of four categories, and the youth was asked about the most recent incident from the highest-ranked category.

So, I'll start us off with data from all three waves of NSYC that show the trends over time of sexual victimization reported by youth in these juvenile facilities.

This shows the overall sexual victimization rates reported by youth in juvenile facilities, as well as the staff sexual victimization rates and youth-on-youth victimization rates. And the main takeaway here, as you can see, is a steady decrease in youth reporting sexual victimization over time, and all three rates show a statistically significant decline from 2012 to 2018. (Significance testing wasn't done between the '08-'09 and 2012 data.) You can see here that the bulk of sexual victimization in juvenile facilities is staff sexual misconduct, the middle line. In 2018, 5.8% of youth reported staff sexual misconduct, while 1.9% reported youth-on-youth victimization, the line at the bottom. And those numbers don't add up to any sexual victimization, the line at the top, because some youth reported more than one type of victimization. The staff sexual misconduct number can further be broken down by use of force or coercion. In 2018, 2.1% of youth reported staff sexual misconduct with force or coercion and 3.9% reported it with no report of force or coercion. And again, those numbers don't add to the overall staff sexual misconduct number as some youth reported both types.

The next set of slides I'm going to talk about cover some of the demographic and characteristics of youth who reported having been sexually victimized in the 12 months prior to the survey and provide a picture of what victimization in these facilities looks like.

The first characteristic we'll look at is sex of the youth. You can see in the first set of bars that a slightly higher portion of male than female youth reported sexual victimization, but that difference isn't statistically significant. When we look at youth-on-youth victimization and staff sexual misconduct separately, however, is when we really see a picture start to take shape. Female youth were more likely to report youth-on-youth victimization than male youth, but male youth were more likely to report staff sexual misconduct than female youth. Now, it is worth noting that, due to the make-up

of youth in these facilities, far more male youth than female youth completed the survey, but even so, the picture still holds that male and female youth in these facilities are having different experiences as it relates to sexual victimization.

We also see some interesting differences when it comes to sexual orientation of the youth. A higher percentage of youth who identified as lesbian, gay, bisexual, or something else reported sexual victimization than heterosexual youth. This difference is almost entirely driven by youth-on-youth victimization, where LGB+ youth were between seven and eight times more likely to report victimization than heterosexual youth. The nominal difference here in staff sexual misconduct wasn't shown to be statistically significant. Youth also had the option to respond "not sure" when asked about their sexual orientation. Those youth also reported a higher rate of youth-on-youth victimization than heterosexual youth but similar rates of staff sexual misconduct.

A similar story plays out when looking at the gender identity of the youth, just to an even larger degree. Youth who identify as transgender or as something other than their sex assigned at birth were nearly three times as likely as cisgender youth to report any sexual victimization and nearly nine times as likely to report youth-on-youth sexual victimization. And, similar to the previous slide on sexual orientation, the numbers for staff sexual misconduct here do not show a statistically significant difference. Again, the youth could also respond "not sure" when asking about their identity. Those youth reported even higher rates of sexual victimization and youth-on-youth victimization, but similar levels of staff sexual misconduct.

Youth were also able to report whether they had any of a variety of disabilities or mental health conditions. Youth who reported a disability also reported higher rates of youth-on-youth sexual victimization and staff sexual misconduct than those without. Youth who reported a mental health condition also reported higher rates of staff sexual misconduct than those without, but the difference for youth-on-youth sexual victimization was not statistically significant.

One really telling indicator for risk of sexual victimization was prior sexual victimization, particularly in another facility. Youth who report being sexually victimized in another facility also report much higher levels of victimization in their current facility. You can see here about half of youth who reported prior victimization in another facility report sexual victimization in their current facility, and this holds true for staff sexual misconduct, youth-on-youth victimization, and overall sexual victimization. You also see here youth who reported prior sexual victimization but not in another facility, and those youth are more likely to report any sexual victimization and youth-on-youth victimization than youth without a history of victimization, but not a statistically significant difference in staff sexual misconduct. This slide really shows that knowledge about a youth's history of sexual victimization is key information for facility staff as they try to reduce to the risk for victimization within their own facilities.

Next, I'll talk a little about the relation between sexual victimization and time in facilities.

This slide shows the relationship between sexual victimization and how long the youth has been in their current facility. It shows that, generally, the longer a youth has been in their facility, the more likely they are to report having been sexually victimized in that facility. And that makes sense, the longer their exposure time, that is, the greater the time in which they could be sexual victimized, the more likely they are to have been sexually victimized. The same pattern holds across any sexual victimization, youth-on-youth sexual victimization, and staff sexual misconduct.

Despite that finding—that the longer a youth is in a facility the more likely they are to be sexually victimized in that facility—victimizations do tend to occur early in a stay. We asked youth when they were first sexually victimized in their current facility, providing some different timing options seen here, and while the largest portion indicated the last category here, after the first two months, about half of youth, for both youth-on-youth sexual victimization and staff sexual misconduct, indicated that they were first victimized in their first month in the facility. This tells us that, while victimization can and does start over time, youth are at highest risk at the very beginning of their stay.

Finally, I'm going to go into a bit more detail on staff sexual misconduct. The specifics of staff sexual misconduct are unique and look very different from how many people tend to think about sexual victimization.

And to start us off with, I'm going to revisit this slide on sex of youth and victimization. And what you saw here was that female youth reported higher rates of youth-on-youth victimization, but that male youth were about twice as likely as female youth to report staff sexual misconduct. And what this largely comes down to is male youth and female staff.

We asked youth who reported sexual victimization about the sex of the perpetrator, or perpetrators, and the use of force or coercion in the most serious incidents of staff sexual misconduct. In the majority of these incidents, just over 60% of incidents, the staff perpetrator was female and the youth did not report force or coercion. Altogether, female staff were the perpetrator in almost 95% of these most serious incidents of staff sexual misconduct. Now we're able to start putting together a picture of staff sexual misconduct. That it is largely male youth and female staff, and that it largely doesn't include force or coercion.

What we instead see a lot of among victims of staff sexual misconduct, are what we refer to as grooming behaviors by staff members. We identified several grooming behaviors staff members might use and asked youth reporting staff sexual misconduct if the staff perpetrator did carry any of them out. These behaviors range from talking or joking about sex, to telling the youth they felt emotionally close to them, to giving the youth pictures or writing them letters. This graph shows the frankly staggering amount of grooming occurring in instances of staff sexual misconduct. About 50% or more of youth victims of staff sexual misconduct report each of the behaviors except the last two, and even then, the behavior about prohibited items is close.

Now, even among these most serious incidents of staff sexual misconduct where youth did report force or coercion, staff most often used nonphysical pressure, such as plying the youth with alcohol or drugs, rather than physically hurting or restraining the youth. It's important to note that these numbers don't add to 100% as some youth reported more than one type of pressure or force was used during the incident.

And this results, overall, in a very small number of youth suffering injuries in incidents of staff sexual misconduct. Nearly 97% of youth reporting staff sexual misconduct reported no physical injuries, while just over two-thirds, or 68%, of those reporting youth-on-youth sexual victimization said the same. To flip these numbers, only about 3% of youth reporting staff sexual misconduct reported physical injuries, while 32%, about ten times as many, of those youth reporting youth-on-youth sexual victimization reported suffering physical injuries.

And with that I'll wrap things up and go over our next steps for NSYC.

The National Survey of Youth in Custody, and BJS's PREA surveys in general, meet the objective in PREA of increasing the available data and information on the incidence of prison rape, consequently improving the management and administration of correctional facilities. These data have been included in trainings for correctional staff, used by states in special investigations, and helped the PREA Commission draft the PREA Standards. And throughout all of this, youth reported victimization has continued to trend in a downward manner, showing that we are getting closer to PREA's goal of ending prisoner rape in all types of correctional facilities in the country.

BJS is currently at work on two additional products that will provide some more findings from NSYC. First up is a report on facility characteristics of sexual victimization in youth facilities. This uses NSYC-3 data and examines victimization rates by selected facility-level characteristics as reported by the facility administrators and by youth in facilities. That will be followed up by a report that actually uses data from all three iterations of NSYC and focuses on the specific details of youth drug and alcohol use patterns during the 12-month period before their custody.

Lastly, we have already published three reports based on NSYC-3 data, the data I detailed today. The first report listed here presents estimates of youth-on-youth sexual victimization and staff sexual misconduct in juvenile facilities, as reported by the youth. The supplemental tables present estimates on the types of sexual victimization in facilities defined as high rate. And the statistical tables describe victim, perpetrator, and incident characteristics of sexual victimization of youth in juvenile facilities. Please visit these on the BJS website for more details on NSYC.

I'll end here with my contact information (Michael B. Field, Statistician, Institutional Research and Special Projects Unit, michael.field@usdoj.gov). Please reach out if you have any questions and thank you for watching this webinar.