

# Advocates' Guide To the Prison Rape Elimination Act



Sexual assault behind bars is a widespread human rights issue that impacts incarcerated Vermonters and their families. In 2003 Congress unanimously passed the Prison Rape Elimination Act and President Bush signed the act into law. In May of 2012 the Department of Justice released final, binding national standards to prevent, detect, and respond to prison rape. PREA is the first federal legislation to address sexual assault of incarcerated victims. The purpose of PREA is to support the prevention, reduction and elimination of sexual assault and rape within all corrections systems. PREA mandates that correctional systems establish zero tolerance for sexual assaults of any kind.

As a result, the Vermont Network Against Domestic and Sexual Violence and the Vermont Department of Corrections (DOC) are working in partnership to put PREA's protections into practice. This document will focus on how advocates can support survivors in DOC prisons and local jails.

This document is **not** intended to cover the entirety of PREA, an expansive law. This document intends to prepare advocates for the implementation of PREA by Vermont DOC. Please seek additional resources to understand the full impact of PREA in your community—see page 5 for a list of resources.

PREA requires that the prevention and end of sexual assault and rape in prisons and other jails become a priority for corrections officials. Advocates have long known that sexual assaults, including those in correctional institutions, exist and are underreported. PREA requires corrections officials to move forward in their own work to end this violence. Simultaneously, as the Vermont DOC facilities change their everyday practices, a great deal of responsibility also will fall to local community-based nonprofit organizations for advocacy services for incarcerated victims of sexual violence.

For some Network programs, working within a correctional facility is new territory. Some of the rules and regulations being created by DOC to comply with PREA are new. The ability of inmates to report sexual assaults—and be afforded increased protections—is new. In short, this is a new process for everyone.

The Network continues to meet and coordinate with Vermont’s PREA Director and PREA Compliance and Audit Coordinator. The Network will keep member programs informed of updates, tools and training opportunities as they are created.

### **How PREA affects your program**

The U.S. Department of Justice’s (DOJ) PREA national standards require federal and state facilities to inform victims of their rights under PREA. These rights include access to a community-based advocate. The law recommends that facilities “attempt to make available to the victim a victim advocate from a rape crisis center [...] or qualified community-based organization staff member to accompany and support them through the forensic exam” (National Standards to Prevent, Detect, and Respond to Prison Rape, 2012).

Section 115.12 of the standards “requires agencies to enter into new contracts (or renewals) only with facilities that are compliant with the standards... [DOC facilities] that are not compliant with PREA may face loss of their contracts with the state or other PREA-compliant agencies... [It also means that] private litigants may cite noncompliance as evidence that the facility is constitutionally deficient” (The Moss Group, 2011).

While at this time VOCA (Victim of Crime Act) funding cannot be used to serve “incarcerated individuals”, other funding sources such as VAWA, FVPSA and SASP do not contain this limitation.

### **Tips for individual advocacy with sexual assault survivors in Vermont prisons**

**Work with your local facility.** Staff from your local facility will contact your program when an inmate victim is being transported to the hospital for a sexual assault exam. Advocates will then follow their program protocols for responding. It’s helpful for your program to determine who feels comfortable and equipped to respond to these calls. If you have had telephone or mail contact with an inmate victim or you’re planning to provide in-person follow-up after providing advocacy at a SANE exam, you are welcome to contact the Legal Projects Coordinator at the Vermont Network for support and

assistance. The Legal Projects Coordinator can work with the DOC PREA Director to facilitate access to the facility so that you can meet with the inmate victim. It's helpful to meet with the staff from the local facility ahead of time and talk to them about where you will meet the inmate victim, what you're allowed to bring to the facility and other general expectations and safety guidelines.

The balance of personal safety for the advocate and the integrity of security of the facility will be taken very seriously by facility staff. You will want to know what kind of security exists for advocates who go to the facility to meet with the victim in person. Will there be a glass that separates the two? Will the inmate be shackled? Is the meeting room observed? Is there private space to meet? Remember, private is not the same as confidential. True confidentiality for inmates is rare and may not be possible.

**Prepare staff and volunteers to accept calls and letters from prisoners.** Many programs have a process for accepting calls from survivors. Calls from inmates can be so infrequent that newer staff/volunteers may not be aware of the organization's practice. Advocates around the country and in Vermont's DIVAS program have found working with incarcerated survivors well worth the extra effort.

Make sure that taking calls from incarcerated survivors is included in the Program's standard operating procedures and in the hotline training. While all staff and volunteer advocates should be prepared to respond to calls from inmate survivors, it's a good idea to have one or two advocates who have special interest and expertise in following up with these calls, including responding to inmate survivors at your hospital Emergency Department. Remember, confidentiality may look different when working with inmate survivors. While advocates are still beholden to state and federal confidentiality laws, inmates' communication is typically closely monitored by Corrections staff.

**Discuss with staff their feelings about working with inmates who are victims.** For some advocates this could be a population they are concerned about or will find difficult to work with because of their own backgrounds and histories, particularly when inmate victims have also been offenders of sexual or domestic violence. Advocates should draw clear boundaries and not discuss issues of perpetration with inmate victims. If an inmate victim wants to talk about their own offending behavior, they should be referred to mental health services or sex offender treatment. It can be helpful to remind inmate victims who have also committed such offenses and may want to talk about their own perpetration that your expertise as an advocate is in supporting survivors around their own victimization. Ultimately, the Network recommends that advocates self-select who will provide this particular kind of advocacy. Discuss how this work fits in your agency's

mission. Have a plan for how this work will be discussed when talking with your community.

**Discuss personal safety considerations with advocates.** Providing advocacy to victimized inmates when working within the confines of a facility and its rules, compared to working with a non-inmate victim, doesn't always mesh neatly. The situation is not ideal. When communicating in person or in writing with an inmate, consider the following guidelines:

- Focus on the victimization, not the crime that brought the person into prison or jail.
- Clarify your role and purpose from the beginning of your interactions.
- Don't use your full name.
- Don't sign your correspondence with your legal signature.
- Don't become overly personal with the inmate.
- Don't do favors for the inmate.
- Don't give an inmate money.
- Always maintain clear boundaries.
- Always show respect for the inmate survivor.

**Establish what you really need to know about the person to whom you are providing advocacy service.** Curiosity regarding an inmate's conviction and reason for incarceration is natural. However, would you consider making background inquiries and record checks on other survivors? Assuming the facility, the Network and your program have worked out the details of security in advance, how much information do you really need to be an advocate for an inmate who reports being sexually assaulted? Advocates already know how to work with victims of trauma and the multiple issues they may have. This population will not be very different in that regard. It is best to let the inmate survivor disclose their reason for incarceration in their own time and as they choose.

**Understand that not all survivors will report a recent sexual assault.**

A requirement of PREA is that anyone incarcerated and disclosing sexual abuse, whether the assault took place while incarcerated or not, is entitled to community-based advocacy services. Therefore, adult survivors of child sexual assault could seek services from you or your colleagues. As advocates already know, a survivor can benefit from a program's services regardless of when the assault occurred.

**Maintain clear lines regarding the roles and responsibilities of your organization.**

Some facilities or institutions in other states suggest that advocates become a volunteer of DOC. The Vermont Network and the VT DOC are working together so that advocates can support incarcerated survivors without becoming DOC volunteers, though some programs may find it beneficial to do so. Advocates should seek comprehensive supervision when working with inmate victims, particularly when the advocacy is on-going. The Legal Projects Coordinator at the Vermont Network is also available for support and technical assistance.

### **Understand confidentiality.**

Be clear with staff, volunteers and your local facility that your agency is bound by strict confidentiality laws. Discuss with facility management when you will report inappropriate behaviors by the inmate and how you will address threats to harm themselves or to others. Remember that in many respects serving survivors who are incarcerated is no different than serving survivors who are living in our communities. All survivors have a right to the privacy and confidentiality that Vermont's Evidentiary Privilege statute and federal VAWA guidelines provide.

**When working with a victim, recognize that** his or her ability to disclose safely is limited.

Disclosure that one has survived a sexual assault in a facility can be extremely risky. Although you will want to keep a survivor's communications with you confidential, in many ways confidentiality and privacy—the ability to be alone and escape from one's fear and abuser—can be non-existent for inmates.

## **Lessons Learned**

Advocates throughout the country and in certain areas of Vermont have been working to support incarcerated survivors for some time. Here is some of what they've learned:

Survivors might try to pass advocates letters that were not approved for release from the facility. Advocates need to refuse these letters.

In some cases inmates' behavior will challenge advocates to set very clear boundaries.

Some survivors are very open about their experiences and want to tell their stories. Again, advocates need to maintain focus on the survivor's victimization and its impacts and refer those who want to talk about their own perpetration to a qualified mental health practitioner.

Supporting survivors who are particularly isolated due to incarceration is rewarding work.

## **Who to Contact When You Need Support**

Wendy Yoder is the Interim PREA Director for the Department of Corrections in Vermont. If you encounter difficulties or inconsistencies with protocol or DOC staff following the Directive, you can contact Wendy. Her email is [Wendy.yoder@state.vt.us](mailto:Wendy.yoder@state.vt.us) or to reach her after business hours (as in the case of a sexual assault exam) call 802-734-1823.

Zoe Gascon is the Legal Projects Coordinator and the person at the Vermont Network responsible for providing support and technical assistance to advocates relative to PREA. Her email is [zoe@vtnetwork.org](mailto:zoe@vtnetwork.org) and her cell phone number is 802-535-7475.

## **KEY STATISTICS AND DEADLINES RELATED TO PREA IMPLEMENTATION IN VERMONT**

DOC has observed regular increases in the number of reports of sexual abuse in our institutions. According to data provided by the DOC PREA Director, there were 38 reports of sexual abuse occurring during calendar year 2011; another 51 reports were made from January to December 2012.

DOC is required to be in compliance with federal PREA standards by August 18, 2013. By summer 2013 VT Governor Peter Shumlin will need to certify with DOJ that Vermont is in compliance with PREA. Non-compliance can result in a 5 percent loss of funding for federal grants. The DOJ grants subject to potential loss have yet to be specifically identified. In addition, Vermont would be listed as non-compliant in a list published by DOJ.

## **ADDITIONAL RESOURCES**

The following resources provide more information regarding PREA and sexual assault and rape in detention:

- Just Detention International (JDI) ([www.justdetention.org/en/FPREA.aspx](http://www.justdetention.org/en/FPREA.aspx)). JDI offers publications on the dynamics of victimization in detention. JDI also offers webinars on service issues. You can find links to those webinars at the National Sexual Violence Resource Center at [www.nsvrc.org/elearning](http://www.nsvrc.org/elearning).
- National PREA Resource Center: <http://www.prearesourcecenter.org/>
- Vermont DOC Facility Visitation Rules. These rules are helpful in understanding what to expect when you visit an inmate survivor, including dress code expectations and items that are prohibited: <http://doc.vermont.gov/information-for-inmate-families-and-friends/state-wide-rules-for-visitation/view>

Thanks to the Missouri Coalition Against Domestic and Sexual Violence for sharing their Advocate Guide to PREA as a template for Vermont.

This publication is available in alternative formats upon request PO Box 405 Montpelier, VT 05601 802.223.1302 [www.vtnetwork.org](http://www.vtnetwork.org)