The Role of the Victim Advocate in PREA
Robert Dumond, Just Detention International
Gretchen Hunt, Kentucky Association of Sexual Assault Programs
Bryan Henson, KY DOC

The National Perspective
Robert W. Dumond, LCMHC, CCMHC, Diplomate CFC
Senior Program Director
Just Detention International

Session Goals
- To understand PREA, including what led up to the development of the law, and its current implementation nationally.
- To examine the current standards – what they hope to accomplish, and how they will assist in managing sexual abuse in jails, prisons, and juvenile facilities nationally.
- Examine the key standards related to victim services and victim advocacy.
- Understand the correctional environment and challenges which exist.
Prisoner Sexual Violence Has Been Known in US Since 1826

- Rev. Louis Dwight, President of the Boston Discipline Society decried the “dreadful degradation” of boys being “prostituted to the lust of old convicts.” (1826)
- Joseph Fishman (1923/1934), Inspector of Federal Prisons, reported a large number of boys “made homosexual, temporarily or permanently” & that many prison staff “turned a blind eye to sexual abuses”

Court Cases & Reports Raised The Alarm

- Number of court cases identified issues of concern about prison sexual violence, staff sexual misconduct and responsibility of correctional managers (1980s-1990s)
  - Human Rights Watch, Amnesty International & Government Accounting Office highlighted scandal of staff sexual misconduct (mid 90s)
  - Studies of Nebraska and 4 Mid-Western prisons by Struckman-Johnson et al. (1996, 2000)

Where have we been with sexual assault in jails and prisons?

Rodney Hulin, Jr.’s Story

- In 1995, 16-year-old Rodney Hulin pled guilty to arson with property damage less than $500 and was sentenced to 8 years in a Texas prison.
- Within 3 days of his transfer to Clemens Unit, Rodney was raped and beaten. It went on for over 2½ months.
- The TDCJ did not respond effectively.
- The results were catastrophic.

Rodney Hulin, Jr.’s Story (March 2, 1978 - May 9, 1996)
No Escape: The Rodney Hulin Story

Video

Increased Awareness Led to Development of New Federal Law

- A unique, bi-partisan coalition of national legislators, social scientists, religious, professional & human rights organizations pressed for remedy
- All political persuasions joined forces as a human rights issue.
- The debate led to creation of a federal law w. multiple parts to assist corrections in responding

Agencies must:

- Offer survivors forensic exams and emergency and ongoing care (§115.321; §115.382; §115.383)
- Attempt to make a victim advocate from a rape crisis center available (§115.321; §115.353)

Standards Highlights

Members of JDI’s Survivor Council at the Department of Justice
Responding to the Victim’s Physical and Emotional State – Access to Advocacy Services - §115.21

• Offer services of a victim advocate from a resource such as a rape crisis center; §115.21.

• Inform your patient that a victim advocate can be present during the exam and any interviews and can provide counseling and referrals; §115.21.

• Advocate shall accompany and support the victim through the forensic medical examination process and investigatory interviews and shall provide emotional support, crisis intervention, information, and referrals.

Inmate Access to Outside Confidential Support Services §115.53

Facilities shall provide inmates, detainees, and residents access to outside victim advocates for emotional support services

. Identify advocacy groups
. Post contact information for patients/victims
. Provide safe environment
. Consider these agencies as treatment support resources

Key Issues for Victim Services

. Establishing a rapport is essential
. Survivors should be interviewed, not interrogated
. Investigation and prosecution take a long time – be sure to be “in it for the long haul” and keep them informed
. Survivors experience long-term medical & mental health issues
. Work collaboratively with corrections staff – administrators, investigators, medical and mental health to assist survivors
. Always keep the survivor’s safety in mind
‘Best Practice’ Role for Victim Services Professionals

- Negotiate/provide/assist in survivor support and crisis intervention
- Answer any questions the survivor may have at outset & throughout process
- Inform the survivor of the process for the interview and examination
- Share information about healing from sexual assault
- Provide resources and referrals
- Provide follow-up counseling and support

Collaboration Requires Respect, Communication, Trust

For Corrections and Victim Advocates to Work Effectively Together:

- Recognize the different roles of corrections professionals and victim advocates
- Each has RESPECT for each others’ roles and for the DIGNITY of the survivor;
- Work together to COMMUNICATE effectively around sensitive issues and when roles are in conflict;
- TRUST each member of the team to fulfill their role.

What About Corrections?

- All correctional agencies operate on the principle of SAFETY and SECURITY
- The mission of every correctional agency is “care, custody, control, safety, security & rehabilitation when possible”
- Security trumps everything, always!
- Rules, procedures and protocols ensure that detainees, prisoners, juveniles receive the legal treatment to which they are entitled by law.
- Staff are correctional officers NOT guards – Corrections is a profession!
Security Procedures Vary
Because correctional facilities may be operated by different authorities, security procedures may vary.
Most facilities require following for all persons entering facility (staff & visitors):
- All persons must sign in, show valid photo identification, and be processed.
- All persons may be subject to undergo search of belongings, person, pass thru metal detection device/screening by hand-held wand, or both.
- If necessary, a person could be required undergo pat search and/or full body search.

Please Do NOT Personalize
- Correctional institutional security procedures may seem invasive, degrading and uncomfortable.
- Please remember, there for EVERYONE’s safety.
- Staff are only doing what is necessary!
- Be prepared to wait, and wait patiently.
- Take as few things in as possible - generally - “nothing in, nothing out”
- Always follow instructions that are posted & directions from staff, immediately if necessary.
- Even if you have an appointment, you may be denied entry due to security issues.

Where Will I Meet My Client?
- Every correctional agency will have their own protocol and procedure - May meet your client in community hospital ER, or if at facility, in hospital/mental health office or lawyer’s room.
- The circumstances will define whether or not an officer is present with you with victim.
- In ER, most prisoners will be handcuffed w. leg-irons, & accompanied by 2 officers.
- Officers (COs) generally respect clinical process.
- At institution, could see victim in office, w. CO posted in hall or on unit.
Will I Be Safe?
- Work in correctional settings is generally very safe if you respect the rules & procedures & take reasonable precautions
- Can I be at risk? Of course, but serving victims in the community can be difficult.
- You will not be required to work beyond your comfort level, & you may not want to serve this population, which is okay!
- Remember, a victim is in crisis & is looking to you for support & help at difficult time

How Is Working With Offenders Different?
- Unlike the community, offenders will have much more limited choices
- Focus on “empowerment” may not be the same due to being in correctional setting.
- Encouraging victim, unconditional positive regard, genuine care and concern are always palliative!
- Supporting victim to look at options they may have, and to work w. institutional staff, can be helpful.

Some Do’s and Don’ts
- Never promise something you cannot deliver
- If you don’t know, say so, but also try to get information if you can
- Prisoners KNOW the rules - they may TEST you to see if you will violate them - simply reaffirm what can/cannot do.
- Work with correctional agency liaison to resolve on-going issues of concern.
If On-Going Concerns Exist, Contact Correctional Agency

- If concerns exist re. suicide/mental health/other issues, refer to agency
- Concerns about housing/placement should also be referred to correctional agency
- Correctional agencies have staff who will evaluate on-going safety needs and attempt to address them
- Depending upon setting, victims may return to community and may seek services from your agency – make sure agency has appropriate follow-up protocol

Will I Know Why An Offender Is Incarcerated?

- NO!
- Criminal offender information is protected
- Crisis intervention is meeting the needs of a victim during a crisis – knowing why someone is incarcerated has nothing to do with crisis management.
- On-going clinicians may learn of offender’s history, but this has no bearing on services to which they are entitled.

What Can My Agency Do?

- Establish clear protocols/procedures about working w. incarcerated victims
- Engage in constructive dialogue & MOU with correctional agencies whom you will serve, and learn their policies/procedures
- Establish clear lines of communication/referral w. institutional healthcare/other staff to assist victims upon return to facility
- Carefully select advocates who WANT to serve this population and are comfortable.
Resources
PREA Resource Center
www.prearesoucecenter.org
Especially:
• Tool kit http://static.nicic.gov/Library/026881.pdf
• Webinars http://www.prearesourcecenter.org/training-and-
technical-assistance/archived-webinars
BJ S PREA reports
http://www.bjs.gov/index.cfm?ty=tp&tid=20
Just Detention International      The Moss Group, Inc.
www.justdetention.org      www.mossgroup.us

VICTIM ADVOCACY IN KENTUCKY
Gretchen Hunt, JD
KASAP

Shared Goals of Rape Crisis Advocates and Correctional Staff
• Create an environment free from sexual harassment and sexual violence for both inmates and staff
• Compliance with PREA
• Building Strong relationships between DOC and RCCs through respectful and open dialogue and ongoing problem-solving
Kentucky Association of Sexual Assault Programs (KASAP)

- Coalition of Kentucky’s 13 Regional Rape Crisis Centers
- **Mission:** “To speak with a unified voice against sexual victimization.”
- Provides technical assistance to member programs and other professionals
- Advocates for improvements in public policy
- Fosters coalition building
- Promotes prevention and public awareness of sexual violence

[www.kasap.org](http://www.kasap.org)

---

MOU between DOC and KASAP

- Hospital Advocacy during SAFE exams
- Free, confidential hotline
- Up to three crisis counseling sessions by rape crisis counselor (may be onsite or by phone)
- Referral (after 3 crisis counseling sessions) to mental health counselor
  (See attached flyer for services)

---

Kentucky Regional Rape Crisis Centers

![Kentucky Regional Rape Crisis Centers Map](image)
Rape Crisis Advocate

- Role is to believe, empower and heal
- Must maintain confidentiality of communications with victim (920 KAR 2:010 Section 3(3))
- May only break confidentiality to:
  - Make reports mandated by law
  - Release information that victim wants to be shared (e.g., To make report or communicate with case manager or mental health counselor)

Importance of Privacy to Victims

- Personal information
- Fear of blame or shame
- Natural instincts

Privacy concerns often determine whether victim will report and/or cooperate

Importance of Privacy in US: Federal Law

- U.S. Constitution – 4th Amendment
  - Right to be free from unreasonable search & seizure
- HIPAA - Patient’s right to privacy & control
  - Do not release information without authorization
- Violence Against Women Act (VAWA)
  - Victims right to have SAFE Exam without reporting to law enforcement
Confidentiality of Rape Crisis Services

- Professionals must protect client's privileged confidential communications, unless given specific authorization to disclose information
- Rape Crisis Centers – 920 KAR 2:010 Section 3(3)

Exploring Mandatory Reporting

- No law requires reporting all rapes to police
- Mandatory reporting laws are very narrow and specific
  - Details are critical!
- Release to police without patient's authorization = HIPAA violation in most cases

Mandatory Reporting in Kentucky: Protections for Vulnerable Populations

Abuse or neglect of:

- Child (under 18)
- Specific adults
  - Vulnerable adult
    - (an individual with a disability that is unable to manage without assistance & may need protection)
  - "Spouse"
‘Abused or neglected child’ means a child whose health or welfare is harmed or threatened when:
(a) His or her parent, guardian, person in a position of authority or special trust, as defined in KRS 532.045, or other person exercising custodial control or supervision…"
Inflicts, commits, creates a risk of, or allows physical, emotional injury, or sexual abuse, sexual exploitation, or prostitution… OR
Fails or refuses to provide essential parental care, protection, adequate care, supervision, food, clothing, shelter, education, or medical care …OR

(b) A person twenty-one (21) years of age or older commits or allows to be committed an act of sexual abuse, sexual exploitation, or prostitution upon a child less than sixteen (16) years of age;

(Mandatory Reporting of Human Trafficking)
- KRS 620.030(3) Any person who knows or has reasonable cause to believe that a child is a victim of human trafficking as defined in Section 7 of this Act shall immediately cause an oral or written report to be made to a local law enforcement agency or the Department of Kentucky State Police; or the cabinet or its designated representative; or the Commonwealth’s attorney or the county attorney; by telephone or otherwise. This subsection shall apply regardless of whether the person believed to have caused the human trafficking of the child is a parent, guardian, or person exercising custodial control or supervision.
Adult with Disabilities (KRS 209)

“Adult” means a person 18 or older who,
- because of mental or physical dysfunction,
- is unable to manage own resources, carry out the activity of daily living, or protect himself from neglect, exploitation, or a hazardous or abusive situation without assistance, and
- who may be in need of protective services

Note: There is no age defining “elder” abuse, instead related to independence

Spouse Abuse Reporting

KRS 209A.020 (4) (Spouse)

“Adult” means a person without regard to age who is the victim of abuse or neglect inflicted by a spouse

Note: different than “domestic violence” as defined in protection order statutes

Reports must be made to proper authority

<table>
<thead>
<tr>
<th>Child</th>
<th>Adult with Disabilities</th>
<th>Spouse</th>
</tr>
</thead>
<tbody>
<tr>
<td>CHFS, Local or State Law Enforcement, Prosecuting Attorney</td>
<td>CHFS</td>
<td>CHFS</td>
</tr>
</tbody>
</table>

Any mandatory report can be made to Cabinet for Health & Family Services (Social Services)
SAFE EXAMS in Hospital

- KY law requires hospital to call advocate ASAP (Pre-forensic Exam Procedure, 502 KAR12:010)
  - Call first, then offer advocacy service to V

- HIPA permits, since required by law
  - Release Minimum Necessary Information

- RCC advocate = dedicated support person

MOU Application Concerns

Next Steps