The Role of the Victim Advocate in PREA

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Role of the Victim Advocate in Juvenile Facilities: National Perspective

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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.

(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

Who Are Youth Behind Bars?

- **Demographic breakdown**
  - Race, ethnicity, identity, sex
  - Average age and age range
- **Breakdown of offenses committed**
  - Status offenses vs. violent crimes
  - Girls vs. boys
- **Mental health and past trauma**
  - High percentage of youth have mental health needs
  - More prevalent among girls
Entrance to the Juvenile System

- **Social and Economic Factors**
  - Poverty, homelessness, child welfare system

- **Targeting by police**
  - Overincarceration of youth of color and LGBT youth

- **Trauma often plays a role**
  - Physical/sexual abuse at home, bullying at school, family rejection, sex-work, and exploitation

Experiences & Needs of Youth Behind Bars

- Detention’s impact on youth and families:
  - Loss of relationships and support
  - Loss of individual identity, loss of childhood

- High level of abuse and mistreatment:
  - Physical, sexual, and emotional
  - Denial of rights

- High recidivism rates

- Real need for youth advocates

PREA Standards

- Released by the Department of Justice on May 17, 2012
- Apply to all corrections facilities
- Comprehensive set of guidelines related to all aspects of custodial sexual abuse
- Effective date of regulations was August 20, 2013
**PREA Standards**

- Improved classification and screening
- Training for custody staff, medical, and mental health staff
- Resident education
- Multiple avenues for reporting

![Photo: AP Images](5staff-member-with-chloe-1a sexes-share-in-a-youth-facility)

**Youth facilities must:**

- Offer survivors emergency care, a forensic exam, and ongoing treatment
- Follow a coordinated response to incidents
- Attempt to enter into working agreements with community service providers

![Photo: Richard Ross](5dolls-used-for-counseling-kids-who-have-been-sexually-abused)

**Standards and Service Providers**

**Youth facilities must:**

- Allow survivors access to advocates in as confidential a manner as possible
- Provide treatment that is consistent with the community standard of care
Opportunities for Service Providers

Advocates may partner with corrections to:
- Provide in-person counseling to survivors
- Join institutional SARTs
- Train institution staff on the dynamics of sexual abuse as required by the PREA standards
- Apply for Federal grants together to implement the PREA standards

Bureau of Justice Statistics Research Highlights

1 in 10 youth in juvenile facilities reported being sexually abused while in detention


Bureau of Justice Statistics Research Highlights

81% of survivors reported more than one incident of sexual abuse

Many Youth In Custody Have Experienced….

- Sexual abuse or rape
- Survival sex
- Unprotected sex with casual partners
- Sex under the influence of drugs
- Exposure to sexually transmitted infections or HIV
- Sexual trafficking
- Other abuse and trauma

Youth in Juvenile Corrections

- Have often been victims of emotional, physical & sexual abuse by trusted persons
- Victimization creates confusion & serious questions about themselves and sexuality
- Their behavior may be a way to cope with their sexual trauma

Consequences of Sexual Abuse

- Anxiety
- Depression
- Suicidal feelings
- Desire to self-harm
- Post-Traumatic Stress Disorder (PTSD)
- Dissociative disorders
- Exacerbation of preexisting psychiatric disorders
- Rape Trauma Syndrome

Juveniles Face Crisis of Identity

(Erikson, 1968, 1950; Waterman, 1985)

- Sexuality is a powerful force in developing teens
- Younger males victims, there may also be considerable confusion regarding their sexual identity following sexual victimization
- Common strategy - get victim to ejaculate

Juvenile Sexual Abuse Victims May Also Become Confused (Dumond, 2006)

- Sexual arousal can be precipitated by a variety of emotions, including pain, anger, and fear
- Victims may experience orgasm or ejaculation during a sexual assault
- Some juvenile victims subsequently have great confusion/questioning about their sexual orientation
- Many victims feel shame & guilt

Impact of Sexual Abuse on Youth

- A youth who is sexually abused may:
  - Experience fear, shame, anger, and/or denial of incident
  - Have the urge to retaliate
  - Experience withdrawal and isolation
  - Experience changes in understanding of sex and sexuality
  - Question what it means to be a woman/man/LGBTQI person
  - Act out to gain mastery
  - Avoid sex and sexuality
Implications for Youth in Custody: Boys

- May not recognize sexual advances by females as “abusive”
- May imitate their aggressors or believe that the best defense is a good offense
- Are acutely aware of ‘code’ and ranking
- May have fears about their sexual identity and sexual orientation
- Fear that if they come forward they will be seen as homosexual (if male perpetrator)
- Avoid showing feelings to mask vulnerability

Implications for Youth in Custody: Girls

- At risk for unhealthy relationships with authority figures, based on perceptions of their power to harm or to help, belief it isn’t safe to refuse
- May imitate their aggressors
- Difficulty adjusting to coercive, invasive, restrictive environments
- Lack of right to privacy, room searches, bodily searches may replicate past abuse; be triggers
- Concern w. how reporting may interrupt relationships
- May become pregnant as a result (Human Rights Watch, 2001; Oglin, 2000; Walker, 1989, 1984, 1979; Wolf Harlow, 1999)

Key Principles Which Should Guide Any Intervention

- The differing responses to traumatic events and crises are normal responses to abnormal circumstances. (Wainrib, & Bloch, 1998)
- Staff can maximize healing/coping by validating victim’s feelings/normalizing the situation. (Kupers, 2003; Ochberg, 1991; Wainrib, & Bloch, 1998)
- Treatment and care for the survivor must be undertaken as soon as possible
- Fundamental principle is “do no harm”
**Aspects of Effective Treatment**

Treatment provided should be
- trauma-informed,
- trauma specific,
- gender specific,
- culturally sensitive and
- of sufficient duration to ensure adequate impact upon victims.

**Characteristics of Effective Treatment**

Sex (Gender) Specific - recognizes the impact of different social & cultural experiences between men and women, GLBTQ, and which promotes positive sexual identity development.

Trauma Informed - sensitive to & informed about trauma related issues in victims/survivors

**Characteristics of Effective Treatment (continued)**

Trauma Sensitive - treatment specifically to treat trauma of physical & sexual abuse

Culturally Sensitive - understanding of racial, ethnic, cultural diversity issues (development, attitudes, beliefs, appropriate language, etc.)
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.
Resources
PREA Resource Center
www.prearesourcecenter.org
Especially:
• Tool kit http://static.nicic.gov/Library/026881.pdf
• Webinars http://www.prearesourcecenter.org/training-and-technical-assistance/archived-webinars
BJS PREA reports
http://www.bjs.gov/index.cfm?ty=tp&tid=20
Just Detention International
www.justdetention.org
The Moss Group, Inc.
www.mossgroup.us

VICTIM ADVOCACY IN KENTUCKY

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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 DJJ 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

Kentucky Regional Rape Crisis Centers

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

Minors Consent for SAFE Exam

- Minor can consent for or refuse exam
  - Parent approval not required
- Issues to consider & discuss
  - Purpose & limits of exam
  - not effective to evaluate voluntary sexual activity
  - Physical & emotional trauma to patient
  - Coercion of victim by a perpetrator
  - Other appropriate referrals
  - Does mandatory reporting of abuse law apply?
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
- HIPAA permits, since required by law
  - Release Minimum Necessary Information
- RCC advocate = dedicated support person

Confidentiality of Rape Crisis Services

- Professionals must protect client's privileged confidential communications, unless are 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”

Defining Child Abuse & Neglect

‘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

Definition Child Abuse & Neglect, continued

... 
(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:

(italicized & underlined portions added by the 2012 Ky. General Assembly)
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.

Reports must be made to proper authority

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<tr>
<th>Child</th>
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<th>Spouse</th>
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<td>CHFS, Local or State Law Enforcement,</td>
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Any mandatory report can be made to Cabinet for Health & Family Services (Social Services)