

## SUPPORTING STATEMENT

### A. Justification

#### 1. Necessity of Information

The currently approved National Inmate Survey (NIS), OMB number 1121-0311, expires January 31, 2010. A new OMB approval package will be submitted prior to this date. In the interim, BJS would like to use the downtime between national collections to conduct a small pilot study in 5 facilities with up to 750 interviews to test alternative questions in an effort to improve the available information on sexual assault within correctional facilities.

The Prison Rape Elimination Act of 2003 (PREA or the Act) was signed by President George W. Bush (Public Law 108-79) in September 2003. The Act requires the Bureau of Justice Statistics (BJS) to “carry out, for each calendar year, a comprehensive statistical review and analysis of the incidence and effects of prison rape.” The Act further instructs BJS to collect survey data, “...the Bureau shall...use surveys and other statistical studies of current and former inmates...”

The NIS, a substantial part the BJS response to this mandate, is currently in the second year of national implementation. The National Inmate Survey (NIS) is the first national study to collect allegations of sexual assault directly from prison and jail inmates using Audio Computer-Assisted Self-Interview methodology, which involves inmates responding to a computer questionnaire using a touch-screen, following audio instructions delivered via headphones.

Due to the sensitive nature of the topic, the NIS has several precautions to maximize confidentiality. First, there are two possible questionnaires the respondent could receive. About ten percent of respondents currently receive a questionnaire about drug and alcohol use and treatment prior to their admission. The remaining respondents receive the questionnaire on sexual violence. This effort offers a layer of protection to the respondents, as correctional staff, other inmates, and field staff will not know which questionnaire the respondent received.

Second, all respondents spend about the same amount of time completing the survey, regardless of which questionnaire they are assigned. Those respondents experiencing no victimization may complete the sexual violence questionnaire more quickly. The remainder of the survey is currently padded out using the drug and alcohol questions. In the first year of collection respondents took 26 minutes on average to complete the survey, whether they were victims or not, and whether they received the sexual assault questionnaire, the drug and alcohol questionnaire, or some combination thereof.

BJS successfully completed the first year of the NIS collection and released two reports detailing the results: *Sexual Victimization in State and Federal Prisons Reported by*

*Inmates, 2007* (NCJ 219414) and *Sexual Victimization in Local Jails Reported by Inmates, 2007*(NCJ 221946). Findings include:

- An estimated 60,500 inmates in State and Federal prison (4.5%) alleged an incident of sexual victimization in the 12 month period preceding the interview, or since their arrival, if shorter than 12 months.
- 2.1% of prison inmates reported sexual victimization by another inmate; 2.9% reported victimization or inappropriate contact with prison staff.
- An estimated 24,700 inmates in local jail facilities (3.2%) alleged an incident of sexual victimization in the 6 month period preceding the interview, or since arrival, if shorter than 6 months.
- 1.6% of jail inmates reported sexual victimization by another inmate; 2.0% reported victimization or inappropriate contact with jail staff.

BJS returned to the Office of Management and Budget for modifications to the Year 2 collection of the NIS, including refinement of the front-end section from Computer Assisted Personal Interview (CAPI) to ACASI, permission to offer a token snack (upon facility approval) to participants to improve response rates, the addition of questions related to pat downs and strip searches and pinpointing the first and most recent occurrences of sexual victimization in order to address questions of risk by length of stay. Year 2 of the NIS has been successfully fielded in about 452 sampled facilities with 79,742 inmates at the time of this submission, with collection wrapping up in August 2009. A report listing the prevalence of sexual assault by facility will be release in October 2009 for prison facilities and March 2010 for jail facilities.

For Year 3 BJS continues to strive to fully meet the spirit and letter of the Act, with specific attention to the suspected vulnerability of persons with mental health and medical challenges, of persons under 18 years of age held in adult facilities, the general inmate perception of facility management, and facility-level factors that may mitigate or aggravate rates of sexual assault within facilities.

To address these gaps in the current collection, BJS would like to test questions about facility climate, gather additional information about facility characteristics, expand the collection to include persons under the age of 18 held in prisons and jails facilities willing to grant *in loco parentis*, and use the alternative questionnaire to determine the vulnerability of sexual assault among those with mental health challenges.

BJS requests approval for the testing of the revised data collection instruments to be implemented in the 2010 NIS collection. It is anticipated that these activities will span a 3-month period from October to December of 2009, assuming approval of a nonsubstantive change to the collection. BJS will then submit a full clearance package with the proposed changes having been tested and obtain complete OMB review and approval for the next iteration of the collection in 2010, which under the Act must occur annually.

Data collection for the NIS project is authorized under the Prison Rape Elimination Act of 2003 (Public Law 108-79), a copy of which is attached. The Omnibus Crime Control and Safe Street Act of 1968 (see attachment) as amended (42 U.S.C. 3732), authorizes BJS to collect and disseminate statistical data on all aspects of criminal justice, including criminal victimization, occurring in the United States.

## 2. Needs and Uses

The additional information gathered by the proposed changes will enhance what we know about sexual assault in correctional facilities. The objectives for pilot testing these changes are threefold – (1) to gather feedback from inmates and administrators on question comprehension and clarity in the questionnaire instruments and facility survey; (2) to time the main instrument and alternative modules to ensure comparable administration length in the national implementation; (3) to test protocols for accessing and interviewing persons under 18 years of age held in adult facilities.

Testing the proposed changes for national implementation in 2010 will meet several objectives. First, by gathering data on social climate perceptions from inmates and updated facility information from administrators, BJS will be filling gaps in the collection regarding the factors that may explain differing rates of sexual assault among correctional facilities. Second, BJS will be able to determine if interviewing persons between 16 and 17 years of age held in adult facilities, a population that is reported as being at particular risk in the Act, is practical.<sup>1</sup> Third, we propose to introduce some questions on mental health into the main instrument as well, to see whether persons with such issues are at greater risk to sexual assault while incarcerated. Fourth, using mental health and medical problems and treatment in the alternative questionnaire allows BJS to update the prevalence of such conditions within prisons and jails (the last available data is from our Survey of Inmates in State and Federal Correctional Facilities and Survey of Inmates in Local Jails back in 2003 and 2004, respectively), which is of great concern to Congress, researchers, practitioners, and the public.

Users of the NIS data include the following:

U.S. Congress – Each year Congress will receive a report on data collected under the Act. In addition to the required report listing the prevalence of sexual assault at each facility in the sample, the enhancements proposed will provide additional information at a national level regarding the relationship between rates of sexual assault and the characteristics of facilities and victims.

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<sup>1</sup> The survey will only be administered to persons 16 and 17 years of age in facilities which provide *in loco parentis* (that is, consenting participation on behalf of parents or guardians). This is particularly necessary in jail facilities, where average lengths of stay are too short to allow for parental notification and consent. Like the adult respondents, all youth will also be asked to consent to participate in the survey after being fully informed of the purpose of the study and applicable confidentiality statutes. Mandatory reporting of child abuse and neglect laws will be followed according to the requirements in each state and individual consent procedures will be modified to disclose such reporting as needed. BJS had substantial experience with these laws and the necessary changes to consent from its' work in the National Survey of Youth in Custody (OMB number 1121-0319).

U.S. Department of Justice – The Review Panel on Prison Rape will solicit testimony from correctional administrators in facilities with the highest and lowest rates of sexual violence as identified in the June 30 annual reports.

National Prison Rape Elimination Commission – fulfilled the mandate to “carry out a comprehensive legal and factual study of the penological, physical, mental, social, and economic impacts of prison rape in the United States...” by releasing report containing recommendations for national standards on June 23, 2009. These recommendations are under review by the Attorney General for the next 12 months.

National Institute of Corrections (NIC) – is responsible for establishing a “national clearinghouse for the provision of information and assistance to Federal, State, and local authorities responsible for the prevention, investigation, and punishment of instances of prison rape.” NIC will also develop periodic training and educational programs for “... authorities responsible for the prevention, investigation, and punishment of instances of prison rape.”

National Institute of Justice and the Bureau of Justice Assistance – are responsible for studying characteristics of victims and perpetrators and identifying trends in sexual violence within correctional settings. Findings from the NIS activities disclosed in the Congressional reports may be used to inform research proposals for grant funding opportunities provided in the Act.

The Office of Juvenile Justice and Delinquency Prevention – provides national leadership, coordination, and resources to prevent and respond to juvenile delinquency and victimization.

Civil Rights Division, U.S. Department of Justice – may use data from the Congressional reports to understand the magnitude and scope of sexual violence within correctional facilities as they relate to the violation of inmate civil rights.

Federal, State, and local corrections and juvenile officials and administrators – will use data from the Congressional reports to assess and compare trends in inmate-on-inmate, youth-on-youth, staff-on-inmate, and staff-on-youth sexual violence. The additional information gathered on facilities and vulnerable populations could aid in the prevention, detection, reporting, and prosecution of sexual assault within facilities.

### 3. Use of Technology

Using the latest technology in survey methodology, RTI interviewers conduct interviews using laptop computers. Due to the sensitivity of the questions, inmates enter the answers themselves using audio computer-assisted self-interview (ACASI) technology, which allows them to hear the question being read over headphones as it appears on the screen. In addition, the ACASI methodology allows even respondents with low literacy levels to

participate because the audio component provides clear instruction for how to enter answers and is highlighted as the question and corresponding answers are read.

4. Federal Register Publication and Outside Consultation

This request is being submitted as a nonsubstantive change for the purposes of testing under the current approval for 1121-0311, which expires January 31, 2010. A full review and clearance is needed prior to implementation of Year 3 of the NIS, and OMB will review the pilot outcome and final proposed changes to the collection at that time.<sup>2</sup>

In developing the facility survey, the social climate questions, and the mental health and medical issues instrument, BJS consulted with a number of experts:

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<sup>2</sup> It is unknown at this time if ACASI is an appropriate mode for use with medical and mental health questions. A constant challenge in measuring the prevalence of mental and medical health conditions is the limitations in approach due to the intensive time needed to make a reliable diagnosis, laws protecting individual official records (HIPPA), and agreement on terms and definitions. The proposed pilot study attempts to overcome these challenges by using technological advances in skip patterns, definitions, and protecting confidentiality that is afforded by ACASI.

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10. Assurance of Confidentiality

BJS and RTI hold in confidence any information that could identify an individual according to Title 42, United States Code, Sections 3735 and 3789g. All respondents as well as correctional facility administrators who participate will be given written assurance that the identity of all participants, victims, and perpetrators will be protected as required under Title 42.

All interviews will be conducted in a private room, and names and other personal identifiers will not be linked to the questionnaire data, such that if someone were to somehow obtain the survey data, they could not associate any data with a particular individual. As required under Title 42 USC, section 3879g, BJS and its data collection agents will take all necessary steps to mask the identity of survey respondents.

Further, BJS has masked and padded the survey to ensure that no correctional official, inmate, or the field representative will know which questionnaire is administered, or make assumptions based on the time taking the survey (see Section 1).

The proposed changes are undergoing review by the Institutional Review Boards (IRB) to ensure that the data collection procedures are in compliance with human subject protection protocols and confidentiality regulations. Testing will not occur without the requisite approval from the IRB for the pilot instruments and protocols.

12. Estimate of Hour Burden

BJS is currently approved for 45,763 burden hours and 90,900 individual respondents. Below is the burden estimate for Years 1 and 2 of the survey. While we increased the number of facilities and number of interviews for the second year, we expect to have a residual of about 3,800 burden hours left under the Year 2 burden. We seek to complete up to 750 interviews in up to 5 facilities for the pilot testing, a total of 385 burden hours and well under the estimated 3,500 hours left under the approval. Interviewers will stay no longer than 4 days in each facility and complete no more than 150 interviews per facility in order to further minimize facility burden.

<u>NIS Respondent Burden Estimate for Years 1 and 2</u>		
	Year 1	Year 2 Estimate
Provide/ verify roster time	428 facilities x 2 hrs = 856 hrs	474 facilities x 2 hrs = 948 hrs
Inmate interviews*	70,200 interviews x .5 hr = 35,100 hrs	82,029 interviews x .5 hr = 41,015 hrs
Used burden	35,956 hrs (9,807 under approved hrs)	41,963 hrs (3,800 under approved hrs)
<p>*Includes all inmates interviewed, not just those who receive the sexual assault survey. About 1% of inmates receive the paper-and-pencil instrument (PAPI), which takes an estimated .25 hrs to complete; however the calculations assume all interviews took .5 hrs.</p>		



## **B. Collection of Information Employing Statistical Methods**

### 1. Universe and Respondents Selection

BJS seeks to the pilot test the proposed changes to the NIS in two prisons (one male and one female), and up to three local jail facilities (one with a population of detained persons under 18). The facilities will be selected based on size, population parameters, and convenience of availability and location. Facilities participating in the pilot will not be sampled for the Year 3 national implementation. Within one week prior to data collection at a facility, the facility will provide a roster of all inmates 18 and older who are currently incarcerated there (16 and older if *in loco parentis* is granted). A random sample of inmates will be drawn from the roster, with no more than 150 completed interviews per facility.

### 2. Procedures for Information Collection

Data collection procedures will follow previously approved methods and protocols, with added logistics to obtain *in loco parentis* from facilities holding persons under 18, establishment of jurisdiction-tailored protocols to abide by state mandatory reporting of abuse and neglect, and modification of consent to explain exceptions to confidentiality (as stated previously, BJS has substantial experience in this area from the National Survey of Youth in Custody). Specific protocols and consent form modifications cannot be provided at this time - if accommodations are made, each jurisdiction will have different requirements. BJS can provide OMB with the negotiated materials upon request.

### 3. Consultation Information

The Corrections Statistics Unit at BJS takes responsibility for the overall design and management of the activities described in this submission. BJS contacts include:

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