

## SUPPORTING STATEMENT

### A. Justification

#### 1. Necessity of Information Collection

On September 4, 2003, the Prison Rape Elimination Act of 2003 (PREA or the Act) was signed into law (Public Law 108-79, see Attachment 1). 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 law was passed in part to overcome a shortage of available data on the incidence and prevalence of sexual violence within correctional facilities.

To implement the Act, BJS developed the National Prison Rape Statistics Program (NPRSP), which includes five separate data collection efforts: the Survey of Sexual Violence (SSV), the National Inmate Survey (NIS), the National Survey of Youth in Custody (NSYC), the Former Prisoner Survey (FPS), and the Clinical Indicators of Sexual Victimization in Custody (CISVC). Each of these collections is independent and, while not directly comparable, provides various measures of the prevalence and characteristics of sexual assault in correctional facilities. The NIS (OMB No. 1121-0311), in its 3<sup>rd</sup> round of data collection, gathers allegations of sexual assault self-reported from inmates in correctional facilities. The NSYC (OMB No. 1121-0319), in its 2<sup>nd</sup> round of data collection, collects allegations of sexual assault self-reported by youth in juvenile facilities. The FPS (OMB No. 1121-0316), a one-time collection, measured allegations of sexual assault experienced during their last incarceration as reported by former inmates on active supervision. The CISVC (OMB No. 1121-0324), currently in feasibility testing, is a medical surveillance study using medical indicators and medical surveillance methodologies to measure the incidence and prevalence of sexual assault in correctional facilities.

The SSV series (OMB No. 1121-0292), in its 6<sup>th</sup> year, collects data concerning alleged incidents of sexual violence reported to and substantiated by correctional authorities. Part of the NPRSP, SSV is an administrative records collection from all federal and state prison systems, all state-operated juvenile systems, all military facilities, and a representative sample of local jails, locally and privately-operated juvenile facilities, facilities in Indian country, and facilities operated by the Bureau of Immigration and Customs Enforcement (ICE). The SSV is the only data collection based on administrative records that reports on the incidence and prevalence of sexual violence. This collection provides system-level and facility-level estimates of sexual assault for the 12-month period ending December 31 of each year. It fulfills part of the Act and allows BJS to report statistics to Congress each year, as required by the Act.

The survey received OMB approval in 2004 and in 2008. BJS requests approval to extend the currently approved SSV collection for 3 years (April 1, 2011 – March 31, 2014).

The SSV summary forms (i.e., SSV-1, SSV-2, SSV-3, SSV-4, SSV-5, SSV-6, see Attachment 2) are used to collect aggregate count information on allegations of inmate-on-inmate (or youth-on-youth) and staff-on-inmate (or staff-on-youth) sexual violence, including how many were substantiated, unsubstantiated, unfounded and pending investigation.

An incident form (i.e., SSV-IA, SSV-IJ, see Attachment 2) is completed for each substantiated incident of sexual violence that gathers incident-level information, including the characteristics of the victim(s) and perpetrator(s), where the incident took place, and any sanctions that were imposed on perpetrator(s). Aggregate counts of these data elements are collected at the system level for prisons and state-operated juvenile facilities and at the facility level for jails and local and private juvenile facilities.

The U.S. Census Bureau serves as the data collection agent for the SSV on behalf of BJS.

## 2. Needs and Uses of the Data

The SSV provides data on the incidence and prevalence of sexual violence within correctional facilities as well as how those facilities record and respond to such incidents. The purposes of the Act include “*to develop and implement national standards for the detection, prevention, reduction, and punishment of prison rape,*” and “*increase the available data and information on the incidence of prison rape, consequently improving the management and administration of correctional facilities.*” The SSV helps BJS meet both goals, as it is the only national administrative data collection on sexual victimization in custody that uses standardized definitions. BJS publishes national-level and facility-level data based on the SSV results.

Data from the SSV have been published for the 2004-2008 collection years, and survey operations are nearly complete for the 2009 collection year (awaiting 30 responses from local/private operated juvenile facilities). The most recent report is entitled *Sexual Victimization Reported by Adult Correctional Authorities, 2007-2008* (NCJ 231172, January 2011).

Based on the 2008 SSV collection, there were an estimated 7,444 allegations of sexual violence in correctional facilities holding state and federal prisoners, local jail inmates, and persons under the jurisdiction of Indian county, military, and ICE facilities. The rate of sexual victimization in these facilities was 3.18 allegations per 1,000 inmates in 2008, up from 2.83 in 2005. The allegations were nearly evenly split between allegations of inmate-on-inmate and staff-on-inmate sexual violence, with roughly 3,700 incidents of each. About 13% of allegations filed in 2008 were substantiated (931).

The SSV provides a unique contribution to understanding sexual victimization. Unlike other PREA collections that rely on victim self-reports, the SSV provides detail on incidents that have been substantiated upon investigation. These data provide detail on the circumstances surrounding the victimization, extent and nature of injury,

characteristics of perpetrators, sanctions imposed on perpetrators, nature of facility responses, and impact on victims. Such detail is not fully available from victims.

While reported incidents in the annual SSV collections are substantially fewer in number than those alleged by inmates in the NIS and NSYC collections, the SSV provides a basis for comparison with inmate self-reports in the aggregate. Such comparisons reveal similar patterns in victimization, particularly incidents involving other inmates or youth. They also reveal the selective reporting of staff misconduct to correctional administrators (i.e., incidents involving “no coercion” and which appear “voluntary” between male inmates and female staff members are significantly under-reported in the SSV data).

SSV data collections also provide important guidance to correctional authorities – in providing uniform definitions and reporting rules. Since the initial implementation of SSV in 2004, an increasing number of state departments of corrections have developed the capacity to distinguish nonconsensual sexual victimization (the most serious types of incidents involving penetration) from abusive sexual contacts (less serious, but unwanted, contacts involving touching, grabbing groping and other contacts). In addition, correctional administrators have increasingly adapted their information systems to track incidents of staff sexual misconduct separately from staff sexual harassment. Compliance with BJS reporting standards has improved over time, and as a result, collection of SSV data elements have become part of the *National Standards to Prevent, Detect, and Respond to Prison Rape*, currently in the Federal Register, as U.S. Department of Justice, *PREA Notice of Proposed Rulemaking*. (See Sec. 115.87 Data Collection.)

Data collected by the SSV and other NPRSP surveys are be used by the U.S. Department of Justice, the Congress, state legislatures, researchers, and special interest groups. As the longest-running NPRSP survey, the SSV data serve as the basis for historical trend analyses. Since research efforts in sexual violence within correctional facilities prior to the passage of PREA were limited to only a few facilities, the SSV collection has served as an invaluable resource to understand what incidents are reported to correctional administrators and the results of investigations. With the completion of the NIS and NSYC surveys, the SSV incident-level data also help add context to inmate self-reports since it is the only survey that collects information about substantiated incidents of sexual violence (the NIS and NSYC collect information about allegations).

Users of these data include the following:

U.S. Congress – The Congress has received multiple reports on data collected under the SSV. Future reports will continue to provide a listing of systems and facilities and the number of allegations and substantiated incidents by type of incident.

U.S. Department of Justice Review Panel on Prison Rape (Panel) – solicits testimony from correctional administrators in facilities with the highest and lowest rates of sexual violence as determined by data collected in the NIS and NSYC. The SSV provides context to the findings. For example, the NSYC found that 92% of all youth reporting

staff sexual misconduct were males having sexual contact with female. Due to methodological constraints, however, no more than simple demographics were collected about the staff offenders. BJS used SSV data in its testimony to the Panel and was able to characterize female staff offenders as younger and newly hired staff.

National Prison Rape Reduction Commission (NPREC) – which was created under PREA was given a 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...” Duties performed by the Commission included a review of the procedures for reporting incidents of prison rape, an assessment of correctional staff training, and an evaluation of the safety and security of correctional facilities. The Commission considered SSV and other PREA data in the creation of their draft *Standards for the Prevention, Detection, Response, and Monitoring of Sexual Abuse in Adult Prisons and Jails*, issued in June 2009.

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.” BJS has presented SSV data at numerous NIC-sponsored conferences, including conferences on staff sexual misconduct, developing risk assessments for sexual victimization, and the victimization of women and girls in prison and jails.

National Institute of Justice (NIJ) and the Bureau of Justice Assistance (BJA) – are responsible for studying characteristics of victims and perpetrators and identifying trends in sexual violence within correctional settings. Data from the SSV informs research proposals for grant funding opportunities provided in the Act.

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

Federal, State, local corrections, and juvenile officials and administrators –use data from the SSV to assess and compare trends in inmate-on-inmate, youth-on-youth, staff-on-inmate, and staff-on-youth sexual violence. The SSV collections are especially important to administrators because of the common set of concepts, standard definitions, and counting rules that administrators need as a baseline for comparison.

Advocacy groups, including Just Detention International (JDI, formerly known as Stop Prisoner Rape), have used the SSV results to identify critical deficiencies in the treatment of victims and sanctioning of staff perpetrators.

### 3. Efforts to Minimize Burden

The SSV data collection includes definitions and counting rules for four types of sexual violence. BJS has learned that these definitions have not only brought jurisdictions closer together in their data comparability, but they have also been very useful in aiding jurisdictions in shaping their own data collections for the incidence and prevalence of sexual violence within their facilities.

The Census Bureau and BJS provide respondents with technical assistance as needed to minimize respondents' efforts in data collection and to improve data quality control.

The SSV collection paper form is sent by mail, but respondents also receive an ID and password for which to complete the survey(s) on the Web. For the 2008 collection, about 389 respondents (36%) submitted their data on the Web. BJS has found that a mixed mode of collection is vital, since many jail administrators (in particularly small jail jurisdictions and jurisdictions infrequently sampled each year in SSV) do not yet utilize the Web.

4. Efforts to Identify Duplication

The SSV is not duplicated by any other program or government agency. No other program employs uniform criteria and comparable definitions when collecting administrative sexual violence data from Federal and State prisons, local jails, and juvenile residential placement facilities. BJS is the only government agency that collects national data on the incidence and prevalence of sexual violence within correctional settings.

5. Use of Available Information

The SSV is the only national-level administrative collection that gathers the number of completed and attempted sexual assaults within correctional facilities, characteristics of the victims and perpetrators, circumstances surrounding the incidents, and how incidents are reported, tracked, and adjudicated. It is also the only collection that gathers data on the characteristics and circumstances of *substantiated* incidents of sexual assault in correctional facilities at the national level.

The information collected by the SSV is not available from any other source.

6. Methods to Minimize the Burden on Small Business

Not applicable. The SSV data collection does not involve small businesses. The respondents are the Federal Bureau of Prisons, state Departments of Correction, local and private jails, and public and private juvenile residential placement facilities.

7. Consequences of Less Frequent Data Collection

The Bureau of Justice Statistics is required by law (P.L. 108-79, see Attachment 1) to collect data annually. SSV data collections are the only PREA collections at BJS that meet this annual requirement. A less frequent collection would therefore not meet the requirements of the Act.

8. Reasons for Inconsistencies with 5 CFR 1320.6

Not applicable. The SSV collection is consistent with the guidelines in 5 CFR 1320.6. The 60 and 30-day notices for public commentary will be published in the Federal Register.

9. Consultation Outside the Agency

In developing the SSV, BJS consulted with Federal, State, and local corrections and juvenile administrators as well as representatives from their professional organizations, prisoner rights advocates, former inmates, specialists in prison rape research, practitioners, and survey methodologists. These individuals provided valuable input regarding the development of the SSV questionnaire, definitions and counting rules, anticipated data analysis, and data presentation.

In designing the questionnaires, BJS convened two panels of experts: 1) a panel for adult prisons and jails in December 2003, and 2) a panel of for juvenile corrections in February 2004. Experts were given an opportunity to review draft questionnaires and to provide input into the methodologies under development. The following experts were consulted in 2003:

Jeffrey Beard  
Secretary  
Pennsylvania Department of  
Corrections  
2520 Lisburn Road  
P.O. Box 568  
Camp Hill, PA 17001-0598

George Camp  
Executive Director  
Association of State Correctional  
Administrators  
213 Court Street, 6<sup>th</sup> Floor  
Middletown, CT 06457

Kim English  
Research Director  
Colorado Division of Criminal

Justice  
Colorado Department of Public  
Safety  
700 Kipling Street, Suite 3000  
Denver, CO 80215

James Gondles  
Executive Director  
American Correctional Association  
4380 Forbes Boulevard  
Lanham, MD 20706

Cal Henderson, Sheriff  
Hillsborough County Sheriff's Office  
P.O. Box 3371  
Tampa, FL 33601

Michael Hennessey, Sheriff

San Francisco County Sheriff's Dept.  
1 Dr. Carlton B. Goodlet Pl Rm.  
456, City Hall-400  
San Francisco, CA 94102

Martin Horn  
Commissioner  
Department of Correction  
60 Hudson Street, 6<sup>th</sup> Floor  
New York, NY 10013

Kenneth C. Jenne, II, Sheriff  
Broward County Sheriff's  
Department  
P.O. Box 9507  
Fort Lauderdale, FL 33301

Gary Johnson  
Executive Director  
Department of Criminal Justice  
P.O. Box 99  
Huntsville, TX 77342-0099

Charles J. Kehoe  
Vice President, Securicor New  
Century  
9609 Gayton Road, Suite 100  
Richmond, VA 23233

Joseph Lehman, Secretary  
Department of Corrections  
P.O. Box 41101  
Olympia, WA 98504-1101

Edward Loughran  
Executive Director  
Council of Juvenile Correctional

In the course of implementing the SSV since 2004, the Census Bureau has consulted extensively with data providers. Based on this interaction, Census staff learned about item-specific measurement concerns (see table 4 for item-level nonresponse rates). Incident-level non-response generally occurs due to the absence of information in investigative records resulting from the extended period of time that can elapse between the incident and its report to correctional authorities.

Administrators  
170 Forbes Road, Suite 106  
Braintree, MA 02184

Ronald Malone  
Superintendent  
Milwaukee County House of  
Correction  
8885 South 68<sup>th</sup> Street  
Franklin, WI 53132

Michael F. Sheahan, Sheriff  
Cook County Sheriff's Department  
704 Daley Center  
Chicago, IL 60602

Richard Stalder  
Secretary  
Louisiana Department of Public  
Safety and Corrections  
P.O. Box 94304  
Capitol Station  
Baton Rouge, LA 70804

A.T. Wall  
Director  
Department of Corrections  
40 Howard Avenue  
Cranston, RI 02920

Art Wallenstein  
Director  
Montgomery County Dept. of  
Correction and Rehabilitation  
51 Monroe Street  
Rockville, MD 20850

10. Payments of Gifts to Respondents

There will be no payment or gifts made for responding to the survey to staff in state or federal systems, local jail jurisdictions, facilities operated by the U.S. military or Immigration and Customs Enforcement, Indian country facilities, private facilities or juvenile facilities.

11. Assurance of Confidentiality

BJS and the Census Bureau hold in confidence any information that could identify an individual according to Title 42, United States Code, Sections 3735 and 3789g (see Attachment 4). The Prison Rape Elimination Act requires that facility-level and system-level counts and rates be reported to Congress and used by the Prison Rape Review Panel.

12. Justification for Sensitive Questions

The Act requires BJS to collect highly sensitive information. However, the collection is based on administrative records, and most counts are aggregated to the facility-level or system-level. The substantiated incident form, which requires details of a specific incident, will not collect names of inmates, and characteristics of inmates and incidents are reported in the aggregate rather than by facility.

13. Estimate of Hour Burden

BJS anticipates sending out 1,281 forms during report year 2010. There are six versions of the SSV, one each for the Federal Bureau of Prisons (SSV-1), state prison systems (SSV-2), local jail jurisdictions (SSV-3), multi-jurisdictional or private adult correctional facilities (SSV-4), state juvenile systems (SSV-5), and locally or privately-operated juvenile facilities (SSV-6). Table 1 below contains a breakdown of forms by respondent type.

Based on prior administrations, the estimated average amount of time to complete the SSV-1, SSV-2, and SSV-5 (system-level summary forms) is one hour. The estimated average amount of time to complete the SSV-3, SSV-4, and SSV-6 (facility-level summary forms) is 30 minutes given nearly half of facilities reported no allegations of sexual victimization in 2008.

The SSV-IA and SSV-IJ forms are each estimated to take about 15 minutes to complete, with one form for each substantiated incident of sexual violence. Estimates include supplying the information requested and documenting or explaining the data. Combining the completion of the summary and incident forms, the estimated total burden for respondents is 992 hours (see table 1 below).

**Table 1.** Total estimated burden hours necessary to complete the SSV

Total annual responses	Estimated	Total estimated respondent
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Reporting task		burden per response	burden (person hours)
SSV-1	1	1	1
SSV-2	50	1	50
SSV-3	700	.5	350
SSV-4	130	.5	65
SSV-5	51	1	51
SSV-6	349	.5	175
SSV-IA	900	.25	225
SSV-IJ	300	.25	75
Total	1,281 respondents (plus 1,200 IA/IJ forms)		992

14. Estimate of Cost Burden to Respondents

At an average of \$28.76 per hour,<sup>1</sup> the total annual cost for 992 hours of labor is \$28,530, or roughly \$23 per participating respondent.

15. Cost for the Federal Government

The estimated costs for collection, processing, and dissemination of the 2010 SSV data in calendar year 2011 is \$602,111 including:

\$555,000 -- Census Bureau  
 \$327,000 for data collection and program management  
 \$200,000 for questionnaire production, computer programming, data editing, and furnishing tables  
 \$28,000 in miscellaneous charges -- costs related to postage, telephone calls, printing, etc.

\$47,111 -- Bureau of Justice Statistics  
 20% GS-13, Statistician (\$19,259)  
 5% SL, Senior Statistical Advisor (\$7,500)  
 Benefits (@ 20% - \$5,352)  
 Other administrative costs (\$15,000)

BJS estimates a 4% increase in costs each year, per agreements in the 2009 and 2010 Interagency Agreements (IAAs) with the U.S. Census Bureau. BJS costs are expected to remain stable, subject to Cost of Living Adjustments (COLA).

16. Adjustments in Reported Respondent Burden

<sup>1</sup>Average salary for first-line supervisors/managers of correctional officers. Source: *May 2009 National Occupational Employment and Wage Estimates*, Bureau of Labor Statistics.

The current respondent burden is listed as 1,150 hours. We are requesting a reduction to 992 hours to account for the fact that about 66% of jails reported zero incidents of inmate-on-inmate victimizations in 2008 (n=369), and 69% reported zero incidents of staff-on-inmate victimization in 2008. Private prisons and jails followed the same trend, with 63% reporting zero incidents of inmate-on-inmate victimizations in 2008 (n=54), and 60% reporting zero incidents of staff-on-inmate victimization in 2008. Because the summary form takes much less time to complete when the facility reports zero incidents of sexual victimization, we weighted the estimated burden to complete the summary form downward for local jails and other facilities, from one hour to 30 minutes. This decrease in estimated time to complete the summary forms more than offsets the increase in the number of jails and private facilities we are requesting, leading to an overall reduction in the number of burden hours requested.

17. Project and Publication Schedule

BJS plans to send the 2010 collection year forms to respondents beginning in May 2011. Respondents will be asked to return the forms by July 2011.

The Bureau of Justice Statistics (BJS) is responsible for the entire project and contracts the U.S. Census Bureau to collect the data. BJS will analyze the raw and tabular data prior to publication in any form. The Act requires BJS to submit an annual report to Congress regarding data collection activities related to the study of prison rape.

18. Request to Not Display Expiration Date

The OMB Control Number and the expiration date will be published on the SSV forms.

19. Exceptions to the Certification

Not applicable. The Collection is consistent with the guidelines in 5 CFR 1320.9.