

SUPPORTING STATEMENT

A. Justification

1. Necessity of Information

On September 4, 2003, the Prison Rape Elimination Act of 2003 (PREA or the Act) was signed by President George W. Bush (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 Act further instructs BJS to collect survey data: “...the Bureau shall...use surveys and other statistical studies of current and former inmates...” The law was passed in part to overcome a shortage of available research on the incidence and prevalence of sexual violence within correctional facilities.

To implement the Act, BJS has developed the National Prison Rape Statistics Program (NPRS), which includes five separate data collection efforts: the Survey on 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 Violence in Custody (CISVC)

Each of these collections is independent and, while not directly comparable, they provide various measures of the prevalence and characteristics of sexual assault in correctional facilities. The SSV series collects information about incidents of sexual violence reported to and investigated by adult and juvenile correctional authorities, as well as characteristics of substantiated incidents. The NIS collects allegations of sexual assault self-reported by adult and juvenile inmates in correctional facilities. NSYC gathers self-reported sexual assault data from juveniles in juvenile correctional facilities. The FPS measures allegations of sexual assault experienced during ones last incarceration, as reported by former inmates on active supervision. Finally, the CISVC is a **passive surveillance system designed to detect clinical (medical, dental, and mental health) indicators of sexual violence through visits to correctional medical units.**

Between June 2008 and April 2009, BJS completed the first NSYC (NSYC-1) of 166 state-owned or operated facilities and 29 locally or privately operated facilities. The survey, conducted by Westat, included at least one facility in all 50 states and the District of Columbia. Youth completed the interview using an audio computer-assisted self-interview (ACASI), whereby they heard questions and instructions via headphones and responded via a touch-screen. From a sample representing 26,551 adjudicated youth held nationwide, a total of 10,263 youth participated in the survey.

BJS published survey findings in January 2010, including the following:

- An estimated 12 percent of youth in state juvenile facilities and privately operated facilities (representing 3,220 youth nationwide) reported one or more incidents

of sexual victimization by another youth or facility staff in the past 12 months or since admission, if less than 12 months.

- About 2.6 percent of youth (700) reported an incident involving another youth, and 10.3 percent (2,730) reported an incident involving facility staff.
- Approximately 4.3 percent of youth (1,150) reported having sex or other sexual contact with facility staff as a result of force, threate, or other explicit form of coercion; 6.4 percent of youth (1,710) reported sexual contact with facility staff without any type of force.

This submission is to seek clearance for the second NSYC (NSYC-2). BJS has a cooperative agreement with Westat to collect data for NSYC-2. As in NSYC-1, BJS has undertaken several precautions to maximize confidentiality due to the sensitive nature of the topic. First, respondents could receive one of two different questionnaires: the National Survey of Youth in Custody (NSYC-2) survey (Attachment 2-VIII) or the National Survey of Youth in Custody-Alternate (NSYC-2A) survey (Attachment 2-IX).¹ About ten percent of respondents will receive the NSYC-2A survey, asking questions about drug and alcohol use and treatment prior to their admission. The remainder of respondents will receive the NSYC-2 survey, asking questions on sexual violence. This effort offers a layer of protection to the respondents, as facility staff, other youth residents, and even the interviewer will not know which questionnaire the respondent received.²

Second, all respondents will 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, since the questionnaire is designed to gather information about inmate victimizations. To ensure the length of time in the room does not represent to facility staff how the respondent answered the survey (i.e., a short completion time could be indicative of no reported victimization), all NSYC-2 surveys will be padded using the NSYC-2A drug and alcohol questions so that the total time answering questions lasts about 30 minutes. This method was also employed successfully during NSYC-1.³

Based on the NSYC-1 experience, most respondents who receive the sexual assault survey will report no victimization and go on to receive some drug and alcohol questions to pad out the survey. Of those finishing the sexual assault questionnaire (NSYC), 77 percent completed the alcohol use module, 66 percent completed both the alcohol and drug use modules, and 39 percent completed both use modules and the treatment module.

The NSYC-2 and NSYC-2A surveys will provide a significant sample of youth who report on alcohol and drug use prior to admission to a juvenile correctional facilities. The data will be assessed as a whole and adjusted for selection bias in order to utilize all

¹There are two versions of the NSYC survey. One designed for youth aged 14 or younger and another for youth aged 15 or older. Both versions are contained in [Attachment 2-VIII](#).

² Attachment 2 contains all NSYC-2 data collection materials, including youth rosters, facility questionnaires, and youth surveys.

³ See <http://www.bjs.gov/content/pub/pdf/svjfry09.pdf> for a copy of the NSYC-1 release report.

responses. The results will be analyzed and released in a BJS report. BJS will coordinate with the Office of National Drug Control Policy to disseminate findings from this portion of the study.

The NSYC-2 and NSYC-2A surveys will be administered using ACASI methodology. Both survey questionnaires will be available in English and Spanish. The ACASI instrument will randomly assign each respondent to either survey.

A significant portion of the survey population will include youth who have not reached the age at which they can self-consent (i.e., minors). In some cases, a state may provide consent *in loco parentis* (ILP) for the minors in their custody. However, in most cases, permission by a parent/guardian (PGC) will be required. In all cases, youth invited to participate in the survey will have the choice to refuse or comply with the request.⁴ The parent/ guardian contact letter and consent package (Attachment 3) and the youth assent materials (Attachment 4) are attached.

A new component of NSYC-2 is the collection of information about the facility. Based on comments from state agencies, facility administrators, and other experts in the field after the release of findings from NSYC-1, data on facility staffing and sexual abuse prevention training, use of electronic means to monitor areas throughout the facility, and other characteristics of the facility environment will enhance the usefulness of the study data. In preparation for NSYC-2, BJS and Westat developed the Facility Questionnaire and Living Unit Characteristics Form. These are combined for facilities that have one living unit (Attachment 2-IV) or separated in facilities with more than one living unit (see Attachment 2-V for an example of a two unit facility); development activities included consultation with a small number of volunteer state and facility representatives. The following representatives were consulted in the creation of the facility questionnaire:

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⁴ Throughout this document, we refer to youth “assent” to include both assent by minors and consent by youth who have reached the age of majority.

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NSYC-2 will provide updated statistics on the prevalence and correlates of sexual assault in juvenile facilities. With the additional data collected on the Facility Questionnaire the Living Unit Characteristics Worksheet, NSYC-2 will offer a unique picture of characteristics of youth that are associated with assault as well as characteristics of the facilities in which victims reside. Specifically, the data provided by these additional forms will allow BJS to assess the relative contribution of unit- and facility-level characteristics when accounting for variations in sexual assault.

BJS requests approval for all data collection activities related to NSYC-2. As required by PREA, BJS will produce national and facility-level estimates (for large facilities) of sexual assault within correctional facilities. In addition, BJS will produce state/regional-level estimates. All estimates will be reported to Congress as required under the Act.

The NSYC-2 study design and procedures have been reviewed by the Westat IRB. The IRB determined that the study involved minimal risks to research subjects given the safeguards built into the study procedures. A copy of the approval notice is attached (Attachment 5).

Data collection for NSYC project is authorized under the PREA (Public Law 108-79), a copy of which is attached (Attachment 1). The Omnibus Crime Control and Safe Street Act of 1968 as amended (42 U.S.C. 3732; Attachment 6), authorizes BJS to collect and disseminate statistical data on all aspects of criminal justice, including criminal victimization, occurring in the U.S.

2. Needs and Uses

This clearance request is to obtain approval to conduct national data collection required under the Act. Data collection is necessary to measure the incidence and prevalence of sexual assault within juvenile correctional institutions, at a facility-level, as required under the Act.

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 data that are collected will be used to develop national, state/regional-level, and facility-level (for large facilities) estimates of sexual assault. Data from the survey will be included in a report from the Attorney General, which will be submitted to Congress and the Secretary of Health and Human Services as specified in the Act. The Act also

establishes a Review Panel on Prison Rape, which will use data collected in the this survey.

The report to Congress will detail results from NSYC-2, including rankings and summary findings from the second iteration.

Users of these data include the following:

U.S. Congress – Congress will receive a report on data collected under the Act. The report will include information about the prevalence of sexual assault in each state/region and at each large facility in the sample.

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 report.

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 NSYC activities disclosed in the Congressional report may be used to inform research proposals for grant funding opportunities provided in the Act.

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

Federal, State, and local corrections and juvenile officials and administrators – will use data from the Congressional report to assess and compare trends in youth-on-youth and staff-on-youth sexual violence. The NYSC questionnaires will provide a common set of concepts, standard definitions, and counting rules that administrators will be able to use as a baseline for comparisons.

3. Use of Technology

Westat interviewers will conduct interviews using laptop computers. Being mindful of the sensitivity of the sexual assault questions, youth will enter the answers themselves using ACASI technology. This will allow them to hear each question through headphones as it appears on the screen. In addition, the ACASI methodology allows respondents with low literacy levels to participate because the audio component provides

clear instruction for how to indicate answers and the text is highlighted as the question and corresponding answers are read.

ACASI technology improves the flow of the interview through built-in skip patterns and filled-in reference periods that tailor specific questions to individual youth. This allows for the instrument to be tailored by gender and age of respondent, and length of stay (“during the past 12 months” or “since you got here”). This technology also produces more accurate data through built in edit checks.

Furthermore, research with ACASI suggests respondents provide more honest reporting of sensitive behaviors when the questions are administered via ACASI as opposed to traditional interviewer-assisted methods.

Finally, use of the computer allows for random assignment of youth to one of two questionnaires, as described earlier, and pads out response time with additional questions when necessary to assure a consistent amount time spent taking the survey across respondents, which averaged about 30 minutes in NSYC-1.

4. Efforts to Identify Duplication

This research does not duplicate any other work being done by BJS or any other Federal agency. BJS will be the only government agency that collects national data on the incidence and prevalence of sexual violence within juvenile correctional settings.

5. Impact on Small Businesses

The youth interview activities do not involve small businesses or other small entities. The respondents are youth held in juvenile facilities.

A portion of the non-state owned or operated facilities may consist of small businesses. Efforts to minimize the burden on such facilities include offering them staffing assistance for collecting PGC consent (e.g., assigning the task to Westat) and offering financial reimbursement for specific survey support services (i.e., staff time for collecting PGC consent, costs for obtaining external counseling services). In addition, facilities will have a choice of submitting the Facility Questionnaire using an electronic version of the form or via a paper form.

6. Consequences of Less Frequent Collection

BJS is required under the Prison Rape Elimination Act of 2003 (P.L. 108-179) to collect these data.

7. Special Circumstances Influencing Collection

These data will be collected in a manner consistent with the guidelines in 5 CFR 1320.6.

8. Federal Register Publication and Outside Consultation

The research under this clearance 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.

In developing the NSYC-2 study design, BJS has consulted with federal, state, and local corrections 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 have and will continue to provide valuable input regarding the development of the questionnaires, definitions and counting rules, anticipated data analysis, and data presentation.

In designing the questionnaires and collection procedures, BJS convened a panel of experts to attend a national workshop in Washington, DC on October 20, 2010. Participants were given an opportunity to review the draft NSYC questionnaires and to provide input into the methodologies under development. The following experts have been consulted:

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Prior to the October 20th meeting, BJS met with representatives from 13 state juvenile justice agencies to discuss the status of data collection, measures of prevalence, and measurement issues associated with ranking. BJS staff have also presented the results of NSYC-1 at the national meetings of the American Correctional Association, the Council of Juvenile Correctional Administrators, and Association of State Correctional Administrators.

9. Payment or Gift to Respondents

No payments or gifts will be offered to respondents.

10. Assurance of Confidentiality

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, United States Code, Section 3732 (Attachment 6-I). BJS and Westat hold in confidence any information that could identify an individual according to Title 42, United States Code, Sections 3735 and 3789g (Attachment 6-II and 6-III). Rates of sexual violence at the state/regional-level and facility level (for large facilities) will be published, as required under the Act.

All interviews will be conducted in a private area. 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, including suppression of demographic characteristics and other potentially identifying information, especially in situations in which cell sizes are small.

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).

Although it will be impossible for survey data provided through the ACASI system to be linked individual respondents, if a respondent verbally reports any incident (or threat) of abuse or harm, study personnel will abide by state and local mandatory reporting regulations. Youth will be informed of this procedure during the assent process. Provision for such reports is authorized by amendment to the PREA (Attachment 1-II):

BJS and Westat will have received the requisite approvals from the appropriate state- and facility-level IRBs to ensure that the data collection procedures are in compliance with human subjects' protection protocols and confidentiality regulations.

11. Justification for Sensitive Questions

The Act requires BJS to collect highly sensitive information. See Section 4 of Public Law 108-79 (Attachment 1). According to extant research, it is beneficial to begin broadly and narrow down when asking questions about sensitive topics. BJS has employed this approach by first asking a series of screening questions to identify youth who have had any type of sexual contact (e.g., manual, oral, penetrative, and "other" contact). These questions ask about contact in general, without regard to characteristics of the other person (e.g., gender) or the use of force. Youth who respond affirmatively to any of these screening questions are asked followup questions to determine the nature of the contact.

This serves two main purposes. First, it avoids problems associated with asking a global binary (yes/no) question which would leave the instrument with limited ability to define what is meant by sex and sexual assault and leave interpretation largely in the hands of the respondent. Further, if the response is negative, the interview would essentially be over. Second, the literature in this area notes that sexual assault, particularly in correctional facilities, occurs on a continuum from no coercion at all to serious physical violence. The lesser kinds of coercion may be easily overlooked as consensual unless the general (i.e., sexual contact) to specific (i.e., coerced, pressured, or forced sexual activity) approach is utilized.

BJS has implemented several safeguards to protect youth against undue trauma or distress. A legal guardian of the youth first has to approve the youth's participation in the survey. If the guardian feels the study is inappropriate and/or otherwise might upset the youth, permission for the youth to participate can be denied. If this occurs, the youth will not be asked to participate in NSYC-2. All respondents are told in the assent process that they will receive a questionnaire that might include questions about either their sexual experiences in the facility or their drug and alcohol use before arrival. They will also be told that they can request counseling services from facility-based or outside providers should they request them. This information will be conveyed both during the assent process and at the conclusion of the ACASI interview. Interviewers are trained to monitor for youth who become noticeably upset or agitated while taking the interview. When this occurs, they will ask the youth if they would like to talk to a facility or outside counselor.

12. Estimate of Hour Burden

We request a total of 14,285 hours (facility staff 7,643 + youth 6,642). The total respondent burden, including both facility staff and youth, is summarized in Table 1 below. This estimate is based on our experience with NSYC-1. We anticipate that facility staff might be engaged in the following activities: arranging for the data collection visit; completing the facility questionnaire; providing, updating, and verifying the roster; providing administrative information for each sampled youth; mailing information packets to parents, in cases where Westat is not permitted to do so directly; contacting parents by phone; and escorting youth to and from interviews. The total estimated staff burden for these activities is 7,643 hours. Expected burden placed on youth for this data collection averages 30 minutes per respondent. While 14,342 will be approached to participate, we estimate that 13,284 will consent. This results in a total estimated youth burden of 6,642 hours.

Table 1. Annual Respondent Burden for the NSYC Interviews

<u>Description of Service</u>		<u>Burden hrs per response</u>	<u>Number of responses</u>	<u>Total expected burden hours</u>
Facility	Provide facility information and initial logistics	0.33	360	119
	Complete Facility Questionnaire and Living Unit Characteristics Worksheet(s)	1.00	360	360
	Provide initial roster	1.25	360	450
	Update roster	2.00	360	720
	Verify roster	2.00	360	720
	Mail parent/guardian consent packets	7.00	106	742
	Telephone parent/guardians	13.33	71	946
	Escort youth to/from interview	0.25	14,342	3,586
Youth	Youth, Interview time -- ACASI	0.50	13,284	6,642
TOTAL BURDEN				14,285

13. Estimate of Respondent Cost Burden

There are no costs to youth other than those associated with the time used to complete the survey.

The total respondent cost to the facilities includes the staff time needed to complete the tasks described in Section 12. At an estimate of \$28.76 per hour⁵ for 7,643 hours, the estimated respondent cost burden for the entire national survey is \$219,813.

14. Estimated Cost to Federal Government

The total estimated cost to the government for survey development and implementation is \$10,034,018. This consists of two components:

⁵ May 2009 national occupational employment and wage estimate for first-line supervisors/managers of correctional officers (Source: <http://www.bls.gov/oes/2009/may/oes331011.htm>)

- Costs associated with the cooperative agreement between BJS and Westat

Survey and instrument planning, development, management, processing, equipment, and supplies	\$ 1,842,900
Training, travel, and data collection	\$ 8,132,928
Total costs	\$ 9,975,828

- Costs associated with BJS contract oversight and study activities are estimated to be \$58,190.

30 percent of GS-13, Statistician (\$28,491)
 5 percent of SL, Senior Statistical Advisor (\$7,500)
 Benefits (@20% - \$7,199)
 Other administrative costs (\$15,000)

BJS costs are expected to remain stable, subject to Cost of Living Adjustments (COLA) resuming in 2013.

15. Reasons for Change in Burden

Relative to NSYC-1, two changes affects burden: the addition of the Facility Questionnaire and Living Unit Characteristics Worksheet and the reduction of estimated youth interviews. As shown in Table 1, the addition of the Facility Questionnaire and Living Unit Characteristics Worksheet of the study adds 360 hours of burden on facilities overall, or 1 hour per facility. Table 1 also reflects a reduction in the number of estimated youth interviewed from 16,594 in NSYC-1 to 13,284 in NSYC-2. NSYC-2 will discontinue use of the Administrative Records Form and add two items from this form (Race and Most Serious Offense) to the roster. This change eliminates 1 hour of facility burden to complete the Administrative Record Form and adds 15 minutes to the roster burden for a net decrease in facility burden of 45 minutes. The overall number of burden hours requested has declined from 19,418 (NSYC-1) to 14,285 (NSYC-2).

16. Plans for Publication

Findings from NSYC-2 will be published in March 2013.

17. Expiration Date Approval

The OMB Control Number and the expiration date will be published on all forms given to respondents.

18. Exceptions to the Certification Statement

There are no exceptions to the Certification Statement. The collection is consistent with the guidelines in 5 CFR 1320.9.