

National Inmate Survey (NIS-4) English Cognitive Test

ATTACHMENTS

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Public Law 108-79
108th Congress

An Act

Sept. 4, 2003
[So 1435]

Prison Rape
Elimination Act
of 2003.
45 USE
15601 note.

To provide for the analysis of the incidence and effects of prison rape in Federal, State, and local institutions and to provide information, resources, recommendations, and funding to protect individuals from prison rape.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.-This Act may be cited as the "Prison Rape Elimination Act of 2003".

(b) TABLE OF CONTENTS.-The table of contents of this Act is as follows:

Sec. 1. Short title; table of contents.

Sec. 2. Findings.

Sec. 3. Purposes.

Sec. 4. National prison rape statistics, data, and research. Sec. 5. Prison rape prevention and prosecution.

Sec. 6. Grants to protect inmates and safeguard communities. Sec.

7. National Prison Rape Reduction Commission.

Sec. 8. Adoption and effect of national standards.

Sec. 9. Requirement that accreditation organizations adopt accreditation standards. Sec. 10. Definitions.

42 use 15601.

SEC. 2. FINDINGS.

Congress makes the following findings:

(1) 2,100,146 persons were incarcerated in the United States at the end of 2001: 1,324,465 in Federal and State prisons and 631,240 in county and local jails. In 1999, there were more than 10,000,000 separate admissions to and discharges from prisons and jails.

(2) Insufficient research has been conducted and insufficient data reported on the extent of prison rape. However, experts have conservatively estimated that at least 13 percent of the inmates in the United States have been sexually assaulted in prison. Many inmates have suffered repeated assaults. Under this estimate, nearly 200,000 inmates now incarcerated have been or will be the victims of prison rape. The total number of inmates who have been sexually assaulted in the past 20 years likely exceeds 1,000,000.

(3) Inmates with mental illness are at increased risk of sexual victimization. America's jails and prisons house more mentally ill individuals than all of the Nation's psychiatric hospitals combined. As many as 16 percent of inmates in State prisons and jails, and 7 percent of Federal inmates, suffer from mental illness.

(4) Young first-time offenders are at increased risk of sexual victimization. Juveniles are 5 times more likely to be sexually

assaulted in adult rather than juvenile facilities -often within the first 48 hours of incarceration.

(5) Most prison staff are not adequately trained or prepared to prevent, report, or treat inmate sexual assaults.

(6) Prison rape often goes unreported and inmate victims often receive inadequate treatment for the severe physical and psychological effects of sexual assault -if they receive treatment at all.

(7) HIV and AIDS are major public health problems within America's correctional facilities. In 2000, 25,088 inmates in Federal and State prisons were known to be infected with HIV/AIDS. In 2000, HIV/AIDS accounted for more than 6 percent of all deaths in Federal and State prisons. Infection rates for other sexually transmitted diseases, tuberculosis, and hepatitis Band C are also far greater for prisoners than for the American population as a whole. Prison rape undermines the public health by contributing to the spread of these diseases, and often giving a potential death sentence to its victims.

(8) Prison rape endangers the public safety by making brutalized inmates more likely to commit crimes when they are released -as 600,000 inmates are each year.

(9) The frequently interracial character of prison sexual assaults significantly exacerbates interracial tensions, both within prison and, upon release of perpetrators and victims from prison, in the community at large.

(10) Prison rape increases the level of homicides and other violence against inmates and staff, and the risk of insurrections and riots.

(11) Victims of prison rape suffer severe physical and psychological effects that hinder their ability to integrate into the community and maintain stable employment upon their release from prison. They are thus more likely to become home less and/or require government assistance.

(12) Members of the public and government officials are largely unaware of the epidemic character of prison rape and the day-to-day horror experienced by victimized inmates.

(13) The high incidence of sexual assault within prisons involves actual and potential violations of the United States Constitution. In *Farmer v. Brennan*, 511 U.S. 825 (1994), the Supreme Court ruled that deliberate indifference to the substantial risk of sexual assault violates prisoner's rights under the Cruel and Unusual Punishments Clause of the Eighth Amendment. The Eighth Amendment rights of State and local prisoners are protected through the Due Process Clause of the Fourteenth Amendment. Pursuant to the power of Congress under Section Five of the Fourteenth Amendment, Congress may take action to enforce those rights in States where officials have demonstrated such indifference. States that do not take basic steps to abate prison rape by adopting standards that do not generate significant additional expenditures demonstrate such indifference. Therefore, such States are not entitled to the same level of Federal benefits as other States.

(14) The high incidence of prison rape undermines the effectiveness and efficiency of United States Government expenditures through grant programs such as those dealing with health care; mental health care; disease prevention; crime prevention, investigation, and prosecution; prison construction,

maintenance, and operation; race relations; poverty; unemployment and homelessness. The effectiveness and efficiency of these federally funded grant programs are compromised by the failure of State officials to adopt policies and procedures that reduce the incidence of prison rape in that the high incidence of prison rape: -

(A) increases the costs incurred by Federal, State, and local jurisdictions to administer their prison systems;

(B) increases the levels of violence, directed at inmates and at staff, within prisons;

(C) increases health care expenditures, both inside and outside of prison systems, and reduces the effectiveness of disease prevention programs by substantially increasing the incidence and spread of *HIV*, AIDS, tuberculosis, hepatitis Band C, and other diseases;

(D) increases mental health care expenditures, both inside and outside of prison systems, by substantially increasing the rate of post-traumatic stress disorder, depression, suicide, and the exacerbation of existing mental illnesses among current and former inmates;

(E) increases the risks of recidivism, civil strife, and violent crime by individuals who have been brutalized by prison rape; and

(F) increases the level of interracial tensions and strife within prisons and, upon release of perpetrators and victims, in the community at large.

(15) The high incidence of prison rape has a significant effect on interstate commerce because it increases substantially -

(A) the costs incurred by Federal, State, and local jurisdictions to administer their prison systems;

(B) the incidence and spread of HIV, AIDS, tuberculosis, hepatitis Band C, and other diseases, contributing to increased health and medical expenditures throughout the Nation;

(C) the rate of post-traumatic stress disorder, depression, suicide, and the exacerbation of existing mental illnesses among current and former inmates, contributing to increased health and medical expenditures throughout the Nation; and

(D) the risk of recidivism, civil strife, and violent crime by individuals who have been brutalized by prison rape.

SEC. 3. PURPOSES.

The purposes of this Act are to -

(1) establish a zero-tolerance standard for the incidence of prison rape in prisons in the United States;

(2) make the prevention of prison rape a top priority in each prison system;

(3) develop and implement national standards for the detection, prevention, reduction, and punishment of prison rape; (4) increase the available data and information on the incidence of prison rape, consequently improving the management and administration of correctional facilities;

(5) standardize the definitions used for collecting data on the incidence of prison rape;

(6) increase the accountability of prison officials who fail to detect, prevent, reduce, and punish prison rape;

(7) protect the Eighth Amendment rights of Federal, State, and local prisoners;

(8) increase the efficiency and effectiveness of Federal expenditures through grant programs such as those dealing with health care; mental health care; disease prevention; crime prevention, investigation, and prosecution; prison construction, maintenance, and operation; race relations; poverty; unemployment; and homelessness; and .

(9) reduce the costs that prison rape imposes on interstate commerce.

SEC. 4. NATIONAL PRISON RAPE STATISTICS, DATA AND RESEARCH. 42 USC 15603. (a)

ANNUAL COMPREHENSIVE STATISTICAL REVIEW.

(1) IN GENERAL.—The Bureau of Justice Statistics of the Department of Justice (in this section referred to as the "Bureau") shall carry out, for each calendar year, a comprehensive statistical review and analysis of the incidence and effects of prison rape. The statistical review and analysis shall include, but not be limited to the identification of the common characteristics of —

(A) both victims and perpetrators of prison rape; and (B) prisons and prison systems with a high incidence of prison rape ...

(2) CONSIDERATIONS . . .—In carrying out paragraph (1), the Bureau shall consider —

(A) how rape should be defined for the purposes of the statistical review and analysis; .

(B) how the Bureau should collect information about staff-on-inmate sexual assault;

(C) how the Bureau should collect information beyond inmate self-reports of prison rape;

(D) how the Bureau should adjust the data in order to account for differences among prisons as required by subsection (c)(3);

(E) the categorization of prisons as required by subsection (c)(4); and

(F) whether a preliminary study of prison rape should be conducted to inform the methodology of the comprehensive statistical review.

(3) SOLICITATION OF VIEWS.—The Bureau of Justice Statistics shall solicit views from representatives of the following: State departments of correction; county and municipal jails; juvenile correctional facilities; former inmates; victim advocates; researchers; and other experts in the area of sexual assault.

(4) SAMPLING TECHNIQUES.—The review and analysis under paragraph (1) shall be based on a random sample, or other scientifically appropriate sample, of not less than 10 percent of all Federal, State, and county prisons, and a representative sample of municipal prisons. The selection shall include at least one prison from each State. The selection of facilities for sampling shall be made at the latest practicable date prior to conducting the surveys and shall not be disclosed to any facility or prison system official prior to the time period studied in the survey. Selection of a facility for sampling during any

year shall not preclude its selection for sampling in any subsequent year.

Confidentiality.

(5) SURVEYS.-In carrying out the review and analysis under paragraph (1), the Bureau shall, in addition to such other methods as the Bureau considers appropriate, use surveys and other statistical studies of current and former inmates from a sample of Federal, State, county, and municipal prisons. The Bureau shall ensure the confidentiality of each survey participant.

(6) PARTICIPATION IN SURVEY.-Federal, State, or local officials or facility administrators that receive a request from the Bureau under subsection (a)(4) or (5) will be required to participate in the national survey and provide access to any inmates under their legal custody.

(b) REVIEW PANEL ON PRISON RAPE.-

(O) ESTABLISHMENT.-To assist the Bureau in carrying out the review and analysis under subsection (a), there is established, within the Department of Justice, the Review Panel on Prison Rape (in this section referred to as the "Panel").

(2) MEMBERSHIP.-

(A) COMPOSITION.-The Panel shall be composed of 3 members, each of whom shall be appointed by the Attorney General, in consultation with the Secretary of Health and Human Services.

(B) QUALIFICATIONS.-Members of the Panel shall be selected from among individuals with knowledge or expertise in matters to be studied by the Panel.

(3) PUBLIC HEARINGS.-

(A) IN GENERAL.--The duty of the Panel shall be to carry out, for each calendar year, public hearings concerning the operation of the three prisons with the highest incidence of prison rape and the two prisons with the lowest incidence of prison rape in each category of facilities identified under subsection (c)(4). The Panel shall hold a separate hearing regarding the three Federal or State prisons with the highest incidence of prison rape. The purpose of these hearings shall be to collect evidence to aid in the identification of common characteristics of both victims and perpetrators of prison rape, and the identification of common characteristics of prisons and prison systems with a high incidence of prison rape, and the identification of common characteristics of prisons and prison systems that appear to have been successful in deterring prison rape.

(B) TESTIMONY AT HEARINGS.-

(i) PUBLIC OFFICIALS.-In carrying out the hearings required under subparagraph (A), the Panel shall request the public testimony of Federal, State, and local officials (and organizations that represent such officials), including the warden or director of each prison, who bears responsibility for the prevention, detection, and punishment of prison rape at each entity, and the head of the prison system encompassing such prison.

(ii) VICTIMS.-The Panel may request the testimony of prison rape victims, organizations representing

such victims, and other appropriate individuals and organizations.

(C) SUBPOENAS-

(i) ISSUANCE-The Panel may issue subpoenas for the attendance of witnesses and the production of writ ten or other matter.

(ii) ENFORCEMENT.-In the case of contumacy or refusal to obey a subpoena, the Attorney General may in a Federal court of appropriate jurisdiction obtain an appropriate order to enforce the subpoena.

(c) REPORTS-

(1) IN GENERAL-Not later than June 30 of each year, Deadline. the Attorney General shall submit a report on the activities of the Bureau and the Review Panel, with respect to prison rape, for the preceding calendar year to -

(A) Congress; and

(B) the Secretary of Health and Human Services.

(2). CONTENTS-The report required under paragraph (1) shall include -

(A) with respect to the effects of prison rape, statistical, sociological, and psychological data;

(B) with respect to the incidence of prison rape -

(i) statistical data aggregated at the Federal, State, prison system, and prison levels;

(ii) a listing of those institutions in the representative sample, separated into each category identified under subsection (c)(4) and ranked according to the incidence of prison rape in each institution; and

(iii) an identification of those institutions in the representative sample that appear to have been successful in deterring prison rape; and

(C) a listing of any prisons in the representative sample that did not cooperate with the survey conducted pursuant to section 4.

(3) DATA ADJUSTMENTS-In preparing the information specified in paragraph (2), the Attorney General shall use established statistical methods to adjust the data as necessary to . account for differences among institutions in the representative sample, which are not related to the detection, prevention, reduction and punishment of prison rape, or which are outside the control of the State, prison, or prison system, in order to provide an accurate comparison among prisons. Such differences may include the mission, security level, size, and jurisdiction under which the prison operates. For each such adjustment made, the Attorney General shall identify and explain such adjustment in the report.

(4) CATEGORIZATION OF PRISONSThe report shall divide the prisons surveyed into three categories. One category shall be composed of all Federal and State prisons. The other two categories shall be defined by the Attorney General in order to compare similar institutions.

(d) CONTRACTS AND GRANTS.-In carrying out its duties under is section, the Attorney General may -

(1) provide grants for research through the National Institute of Justice; and

(2) contract with or provide grants to any other entity the Attorney General deems appropriate.

(e) AUTHORIZATION OF APPROPRIATIONS.-There are authorized to be appropriated \$15,000,000 for each of fiscal years 2004 through 2010 to carry out this section.

42 USE 15604.

Establishment.

SEC. 5. PRISON RAPE PREVENTION AND PROSECUTION. (a) INFORMATION AND ASSISTANCE.-

(1) NATIONAL CLEARINGHOUSE.-There is established within the National Institute of Corrections 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.

(2) TRAINING AND EDUCATION.-The National Institute of Corrections shall conduct periodic training and education programs for Federal, State, and local authorities responsible for the prevention, investigation, and punishment of instances of prison rape.

Deadline.

(b) REPORTS.-

(1) IN GENERAL.-Not later than September 30 of each year, the National Institute of Corrections shall submit a report to Congress and the Secretary of Health and Human Services. This report shall be available to the Director of the Bureau of Justice Statistics.

(2) CONTENTS.-The report required under paragraph (1) shall summarize the activities of the Department of Justice regarding prison rape abatement for the preceding calendar year ..

(c) AUTHORIZATION OF APPROPRIATIONS.-There are authorized to be appropriated \$5,000,000 for each of fiscal years 2004 through 2010 to carry out this section ..

42 USE 15605.

SEC. 6. GRANTS TO PROTECT INMATES AND SAFEGUARD COMMUNITIES.

(a) GRANTS AUTHORIZED.-From amounts made available for grants under this section, the Attorney General shall make grants to States to assist those States in ensuring that budgetary circumstances (such as reduced State and local spending on prisons) do not compromise efforts to protect inmates (particularly from prison rape) and to safeguard the communities to which inmates return. The purpose of grants under this section shall be to provide funds for personnel, training, technical assistance, data collection, and equipment to prevent and prosecute prisoner rape.

(b) USE OF GRANT AMOUNTS.-Amounts received by a grantee under this section may be used by the grantee, directly or through subgrants, only for one or more of the following activities:

(1) PROTECTING INMATES.-Protecting inmates by-

(A) undertaking efforts to more effectively prevent prison rape;

(B) investigating incidents of prison rape; or

(C) prosecuting incidents of prison rape.

(2) SAFEGUARDING COMMUNITIES.-Safeguarding communities by-

(A) making available, to officials of State and local governments who are considering reductions to prison budgets, training and technical assistance in successful methods for moderating the growth of prison populations without compromising public safety, including successful methods used by other jurisdictions;

(B) developing and utilizing analyses of prison populations and risk assessment instruments that will improve State and local governments' understanding of risks to the community regarding release of inmates in the prison population;

(C) preparing maps demonstrating the concentration, on a community-by-community basis, of inmates who have been released, to facilitate the efficient and effective -

(i) deployment of law enforcement resources (including probation and parole resources); and

(ii) delivery of services (such as job training and substance abuse treatment) to those released inmates; (D) promoting collaborative efforts, among officials of State and local governments and leaders of appropriate communities, to understand and address the effects on a community of the presence of a disproportionate number of released inmates in that community; or

(E) developing policies and programs that reduce spending on prisons by effectively reducing rates of parole and probation revocation without compromising public safety.

(c) GRANT REQUIREMENTS-

(1) PERIOD-A grant under this section shall be made for a period of not more than 2 years

(2) MAXIMUM. - The amount of a grant under this section may not exceed \$1,000,000.

(3) MATCHING.-The Federal share of a grant under this section may not exceed 50 percent of the total costs of the project described in the application submitted under subsection (d) for the fiscal year for which the grant was made under this section.

(d) APPLICATIONS.

(1) IN GENERAL-To request a grant under this section, the chief executive of a State shall submit an application to the Attorney General at such time, in such manner, and accompanied by such information as the Attorney General may require.

(2) CONTENTS-Each application required by paragraph

(1) shall-

(A) include the certification of the chief executive that the State receiving such grant -

(i) has adopted all national prison rape standards that, as of the date on which the application was submitted, have been promulgated under this Act; and

(ij) will consider adopting all national prison rape standards that are promulgated under this Act after such date; .. (B) specify with particularity the preventative, prosecu -

torial, or administrative activities to be undertaken by the State with the amounts received under the grant; and (C) in the case of an application for a grant for one or more activities specified in paragraph (2) of subsection (b) -

(1) review the extent of the budgetary circumstances affecting the State generally and describe how those circumstances relate to the State's prisons;

(ii) describe the rate of growth of the State's prison population over the preceding 10 years and explain why the State may have difficulty sustaining that rate of growth; and

(iii) explain the extent to which officials (including law enforcement officials) of State and local governments and victims of crime will be consulted regarding decisions whether, or how, to moderate the growth of the State's prison population.

(e) REPORTS BY GRANTEE.-

Deadline.

(1) IN GENERAL.-The Attorney General shall require each grantee to submit, not later than 90 days after the end of the period for which the grant was made under this section, a report on the activities carried out under the grant. The report shall identify and describe those activities and shall contain an evaluation of the effect of those activities on-

(A) the number of incidents of prison rape, and the grantee's response to such incidents; and

(B) the safety of the prisons, and the safety of the communities in which released inmates are present.

(2) DISSEMINATION.-The Attorney General shall ensure that each report submitted under paragraph (1) is made available under the national clearinghouse established under section 5.

(f) STATE DEFINED.-In this section, the term "State" includes the District of Columbia, the Commonwealth of Puerto Rico, and any other territory or possession of the United States.

(g) AUTHORIZATION OF APPROPRIATIONS.-

(1) IN GENERAL.-There are authorized to be appropriated for grants under this section \$40,000,000 for each of fiscal years 2004 through 2010.

(2) LIMITATION.-Of amounts made available for grants under this section, not less than 50 percent shall be available only for activities specified in paragraph (1) of subsection (b).

SEC. 7. NATIONAL PRISON RAPE REDUCTION COMMISSION.

42 USE 15606.

(a) ESTABLISHMENT.-There is established a commission to be known as the National Prison Rape Reduction Commission (in this section referred to as the "Commission").

(b) MEMBERS.-

(1) IN GENERAL.-The Commission shall be composed of 9 members, of whom-

(A) 3 shall be appointed by the President;

President.

(B) 2 shall be appointed by the Speaker of the House of Representatives, unless the Speaker is of the same party as the President, in which case 1 shall be appointed by the Speaker of the House of Representatives and 1 shall be appointed by the minority leader of the House of Representatives;

(C) 1 shall be appointed by the minority leader of the House of Representatives (in addition to any appointment made under subparagraph (B));

(D) 2 shall be appointed by the majority leader of the Senate, unless the majority leader is of the same party as the President, in which case 1 shall be appointed by the majority leader of the Senate and 1 shall be appointed by the minority leader of the Senate; and

(E) 1 member appointed by the minority leader of the Senate (in addition to any appointment made under subparagraph (D)).

(2) PERSONS ELIGIBLE.—Each member of the Commission shall be an individual who has knowledge or expertise in matters to be studied by the Commission.

(3) CONSULTATION REQUIRED.—The President, the Speaker and minority leader of the House of Representatives, and the majority leader and minority leader of the Senate shall consult with one another prior to the appointment of the members of the Commission to achieve, to the maximum extent possible, fair and equitable representation of various points of view with respect to the matters to be studied by the Commission.

(4) TERM.—Each member shall be appointed for the life of the Commission.

(5) TIME FOR INITIAL APPOINTMENT.—The appointment of Deadline. the members shall be made not later than 60 days after the date of enactment of this Act.

(6) VACANCIES.—A vacancy in the Commission shall be Deadline. filled in the manner in which the original appointment was made, and shall be made not later than 60 days after the date on which the vacancy occurred.

(c) OPERATION:

(1) CHAIRPERSON.—Not later than 15 days after appoint- Deadline. ments of all the members are made, the Pr. sident shall appoint President. a chairperson for the Commission from among its members.

(2) MEETINGS.—The Commission shall meet at the call of the chairperson. The initial meeting of the Cl; > mmission shall Deadline. take place not later than 30 days after the initial appointment of the members is completed.

(3) QUORUM.—A majority of the members of the Commis ion shall constitute a quorum to conduct business, but the Commission may establish a lesser quorum for conducting hearings schedule d by the Commission.

(4) RULES.—The Commission may establish by majority vote any other rules for the conduct of Commission business, if such rules are not inconsistent with this Act or other applicable law.

(d) COMPREHENSIVE STUDY OF THE IMPACTS OF PRISON RAPE.—

(1) IN GENERAL.—The Commission shall carry out a com - prehensive legal and factual study of the penalogical, physical, mental, medical, social, and economic impacts of prison rape in the United States on—

(A) Federal, State, and local governments; and

(B) communities and social institutions generally, including individuals, families, and businesses within such communities and social institutions

(2) MATTERS INCLUDED.—The study under paragraph (1) shall include—

(A) a review of existing Federal, State, and local government policies and practices with respect to the prevention, detection, and punishment of prison rape;

(B) an assessment of the relationship between prison rape and prison conditions, and of existing monitoring, regulatory, and enforcement practices that are intended to address any such relationship;

(C) an assessment of pathological or social causes of prison rape;

(D) an assessment of the extent to which the incidence of prison rape contributes to the spread of sexually transmitted diseases and to the transmission of HI V;

(E) an assessment of the characteristics of inmates most likely to commit prison rape and the effectiveness of various types of treatment or programs to reduce such likelihood;

(F) an assessment of the characteristics of inmates most likely to be victims of prison rape and the effectiveness of various types of treatment or programs to reduce such likelihood;

(G) an assessment of the impacts of prison rape on individuals, families, social institutions and the economy generally, including an assessment of the extent to which the incidence of prison rape contributes to recidivism and to increased incidence of sexual assault;

(H) an examination of the feasibility and cost of conducting surveillance, undercover activities, or both, to reduce the incidence of prison rape;

(I) an assessment of the safety and security of prison facilities and the relationship of prison facility construction and design to the incidence of prison rape;

(J) an assessment of the feasibility and cost of any particular proposals for prison reform;

(K) an identification of the need for additional scientific and social science research on the prevalence of prison rape in Federal, State, and local prisons;

(L) an assessment of the general relationship between prison rape and prison violence;

(M) an assessment of the relationship between prison rape and levels of training, supervision, and discipline of prison staff; and

(N) an assessment of existing Federal and State systems for reporting incidents of prison rape, including an assessment of whether existing systems provide an adequate assurance of confidentiality, impartiality and the absence of reprisal.

(3) REPORT.-

(A) DISTRIBUTION.-Not later than 2 years after the date of the initial meeting of the Commission, the Commission shall submit a report on the study carried out under this subsection to-

- (i) the President;
- (ii) the Congress;
- (iii) the Attorney General;
- (iv) the Secretary of Health and Human Services;
- (v) the Director of the Federal Bureau of Prisons;
- (vi) the chief executive of each State; and
- (vii) the head of the department of corrections of each State.

(B) CONTENTS.-The report under subparagraph (A) shall include-

- (i) the findings and conclusions of the Commission;
- (ii) recommended national standards for reducing prison rape;

Deadline.

(iii) recommended protocols for preserving evidence and treating victims of prison rape; and

(iv) a summary of the materials relied on by the Commission in the preparation of the report.

(e) RECOMMENDATIONS.-

(1) IN GENERAL: In conjunction with the report submitted under subsection (d)(3), the Commission shall provide the Attorney General and the Secretary of Health and Human Services with recommended national standards for enhancing the detection, prevention, reduction, and punishment of prison rape.

(2) MATTERS INCLUDED: The information provided under paragraph (1) shall include recommended national standards relating to --

(A) the classification and assignment of prisoners, using proven standardized instruments and protocols, in a manner that limits the occurrence of prison rape;

(B) the investigation and resolution of rape complaints by responsible prison authorities, local and State police, and Federal and State prosecution authorities;

(C) the preservation of physical and testimonial evidence for use in an investigation of the circumstances relating to the rape;

(D) acute-term trauma care for rape victims, including standards relating to --

(i) the manner and extent of physical examination and treatment to be provided to any rape victim; and

(ii) the manner and extent of any psychological examination, psychiatric care, medication, and mental health counseling to be provided to any rape victim; (E) referrals for long-term continuity of care for rape victims;

(F) educational and medical testing measures for reducing the incidence of HIV transmission due to prison rape;

(G) post-rape prophylactic medical measures for reducing the incidence of transmission of sexual diseases; (H) the training of correctional staff sufficient to ensure that they understand and appreciate the significance of prison rape and the necessity of its eradication;

(I) the timely and comprehensive investigation of staff sexual misconduct involving rape or other sexual assault on inmates;

(J) ensuring the confidentiality of prison rape complaints and protecting inmates who make complaints of prison rape;

(K) creating a system for reporting incidents of prison rape that will ensure the confidentiality of prison rape complaints, protect inmates who make prison rape complaints from retaliation, and assure the impartial resolution of prison rape complaints;

(L) data collection and reporting of.

(i) prison rape;

(ii) prison staff sexual misconduct; and

(iii) the resolution of prison rape complaints by prison officials and Federal, State, and local investigation and prosecution authorities; and

(M) such other matters as may reasonably be related to the detection, prevention, reduction, and punishment of prison rape.

(3) LIMITATION-The Commission shall not propose a recommended standard that would impose substantial additional costs compared to the costs presently expended by Federal, State, and local prison authorities.

(D) CONSULTATION WITH ACCREDITATION ORGANIZATIONS.-In developing recommended national standards for enhancing the detection, prevention, reduction, and punishment of prison rape, the Commission shall consider any standards that have already been developed, or are being developed simultaneously to the deliberations of the Commission. The Commission shall consult with accreditation organizations responsible for the accreditation of Federal, State, local or private prisons, that have developed or are currently developing standards related to prison rape. The Commission will also consult with national associations representing the corrections profession that have developed or are currently developing standards related to prison rape.

(g) HEARINGS-

(1) IN GENERAL-The Commission shall hold public hearings. The Commission may hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence as the Commission considers advisable to carry out its duties under this section.

(2) WITNESS EXPENSE-Witnesses requested to appear before the Commission shall be paid the same fees as are paid to witnesses under section 1821 of title 28, United States Code. The per diem and mileage allowances for witnesses shall be paid from funds appropriated to the Commission.

(h) INFORMATION FROM FEDERAL OR STATE AGENCIES-The Commission may secure directly from any Federal department or agency such information as the Commission considers necessary to carry out its duties under this section. The Commission may request the head of any State or local department or agency to furnish such information to the Commission.

(i) PERSONNEL MATTERS.

(1) TRAVEL EXPENSES-The members of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular places of business in the performance of service for the Commission.

(2) DETAIL OF FEDERAL EMPLOYEES-With the affirmative vote of 2/3 of the Commission, any Federal Government employee, with the approval of the head of the appropriate Federal agency, may be detailed to the Commission without reimbursement, and such detail shall be without interruption or loss of civil service status, benefits, or privileges.

(3) PROCUREMENT OF TEMPORARY AND INTERMITTENT SERVICES.-Upon the request of the Commission, the Attorney General shall provide reasonable and appropriate office space, supplies, and administrative assistance.

(j) CONTRACTS FOR RESEARCH. -

(1) NATIONAL INSTITUTE OF JUSTICE-With a 0/s affirmative vote, the Commission may select nongovernmental researchers and experts to assist the Commission in carrying out its duties

under this Act. The National Institute of Justice shall contract with the researchers and experts selected by the Commission to provide funding in exchange for their services.

(2) OTHER ORGANIZATIONS.-Nothing in this subsection shall be construed to limit the ability of the Commission to enter into contracts with other entities or organizations for research necessary to carry out the duties of the Commission under this section.

(k) SUBPOENAS.-

(1) ISSUANCE.-The Commission may issue subpoenas for the attendance of witnesses and the production of written or other matter.

(2) ENFORCEMENT.-In the case of contumacy or refusal to obey a subpoena, the Attorney General may in a Federal court of appropriate jurisdiction obtain an appropriate order to enforce the subpoena.

(3) CONFIDENTIALITY OF DOCUMENTARY EVIDENCE.-Documents provided to the Commission pursuant to a subpoena issued under this subsection shall not be released publicly without the affirmative vote of 75% of the Commission.

(l) AUTHORIZATION OF APPROPRIATIONS.-There are authorized to be appropriated such sums as may be necessary to carry out this section ..

(m) TERMINATION..The Commission shall terminate on the date that is 60 days after the date on which the Commission submits the reports required by this section.'

(n) EXEMPTION.-The Commission shall be exempt from the Federal Advisory Committee Act.

SEC. 8. ADOPTION AND EFFECT OF NATIONAL

STANDARDS. (a) PUBLICATION OF PROPOSED

STANDARDS.-

(1) FINAL RULE.-Not later than 1 year after receiving the report specified in section 7(d)(3), the Attorney General shall publish a final rule adopting national standards for the detection, prevention, reduction, and punishment of prison rape.

(2) INDEPENDENT JUDGMENT.-The standards referred to in paragraph (1) shall be based upon the independent judgment of the Attorney General, after giving due consideration to the recommended national standards provided by the Commission under section 7(e), and being informed by such data, opinions, and proposals that the Attorney General determines to be appropriate to consider.

(3) LIMITATION.-The Attorney General shall not establish a national standard under this section that would impose substantial additional costs compared to the costs presently expended by Federal, State, and local prison authorities. The Attorney General may, however, provide a list of improvements for consideration by correctional facilities.

(4) TRANSMISSION TO STATES.-Within 90 days of publishing the final rule under paragraph (1), the Attorney General shall transmit the national standards adopted under such paragraph to the chief executive of each State, the head of the department of corrections of each State, and to the appropriate authorities in those units of local government who oversee operations in one or more prisons.

(b) APPLICABILITY TO FEDERAL BUREAU OF PRISONS.-The national standards referred to in subsection (a) shall apply to the

Deadlines.
42 USC
15607.

Federal Bureau of Prisons immediately upon adoption of the final rule under subsection (a)(4).

(c) ELIGIBILITY FOR FEDERAL FUNDS. (1) COVERED PROGRAMS.-

(A) IN GENERAL.-For purposes of this subsection, a grant program is covered by this subsection if, and only if -

(i) the program is carried out by or under the authority of the Attorney General; and

(ii) the program may provide amounts to States for prison purposes.

(B) LIST.-For each fiscal year, the Attorney General shall prepare a list identifying each program that meets the criteria of subparagraph (A) and provide that list to each State.

(2) ADOPTION OF NATIONAL STANDARDS.-For each fiscal year, any amount that a State would otherwise receive for prison purposes for that fiscal year under a grant program covered by this subsection shall be reduced by 5 percent, unless the chief executive of the State submits to the Attorney General-

(A) a certification that the State has adopted, and is in full compliance with, the national standards described in section 8(a); or

(B) an assurance that not less than 5 percent of such amount shall be used only for the purpose of enabling the State to adopt, and achieve full compliance with, those national standards, so as to ensure that a certification under subparagraph (A) may be submitted in future years. (3)

REPORT ON NONCOMPLIANCE.-Not later than September 30 of each year, the Attorney General shall publish a report listing each grantee that is not in compliance with the national standards adopted pursuant to section 8(a).

(4) COOPERATION WITH SURVEY.-For each fiscal year, any amount that a State receives for that fiscal year under a grant program covered by this subsection shall not be used for prison purposes (and shall be returned to the grant program if no other authorized use is available), unless the chief executive of the State submits to the Attorney General a certification that neither the State, nor any political subdivision or unit of local government within the State, is listed in a report issued by the Attorney General pursuant to section 4(c)(2)(C).

(5) REDISTRIBUTION OF AMOUNTS.-Amounts under a grant program not granted by reason of a reduction under paragraph (2), or returned by reason of the prohibition in paragraph (4), shall be granted to one or more entities not subject to such reduction or such prohibition, subject to the other laws governing that program.

(6) IMPLEMENTATION.-The Attorney General shall establish procedures to implement this subsection, including procedures for effectively applying this subsection to discretionary grant programs.

(7) EFFECTIVE DATE.-

(A) REQUIREMENT OF ADOPTION OF STANDARDS.-The first grants to which paragraph (2) applies are grants for the second fiscal year beginning after the date on which the national standards under section 8(a) are finalized.

adline.

cedures.

⊖ REQUIREMENT FOR COOPERATION.-The first grants to which paragraph (4) applies are grants for the fiscal year beginning after the date of the enactment of this Act.

SEC. 9. REQUIREMENT THAT ACCREDITATION ORGANIZATIONS 42 use 15608.
ADOPT ACCREDITATION STANDARDS.

(a) ELIGIBILITY FOR FEDERAL GRANTS.-Notwithstanding any other provision of law, an organization responsible for the accreditation of Federal, State, local, or private prisons, jails, or other penal facilities may not receive any new Federal grants during any period in which such organization fails to meet any of the requirements of subsection (b).

(b) REQUIREMENTS.-To be eligible to receive Federal grant., Deadlines. an accreditation organization referred to in subsection (a) must meet the following requirements:

(1) At all times after 90 days after the date of enactment of this Act, the organization shall have in effect, for each facility that it is responsible for accrediting, accreditation standards for' the detection, prevention, reduction, and punishment of prison rape ..

(2) At all times. after 1 year after the date of the adoption of the final rule under section 8(a)(4), the organization shall, in addition to any other such standards that it may promulgate relevant to the detection, prevention, reduction, and punishment of prison rape, adopt accreditation standards consistent with the national standards adopted pursuant to such final rule.

SEC. 10. DEFINITIONS.

42 USC 15609.

In this Act, the following definitions shall apply:

(1) CARNAL KNOWLEDGE.-The term "carnal knowledge" means contact between the penis and the vulva or the penis and the anus, including penetration of any sort, however slight .

(2) INMATE.-The term "inmate" means any person incarcerated or detained in any facility who is accused of, convicted of, sentenced for, or adjudicated delinquent for, violations of criminal law or the terms and conditions of parole, probation, pretrial release, or diversionary program.

(3) JAIL.-The term "jail" means a confinement facility of a Federal, State, or local law enforcement agency to hold-

(A) persons pending adjudication of crimiJ:!.al charges;

⊖ persons committed to confinement after adjudication of criminal

or

charges for sentences of 1 year or less. (4) HIV.-The term "HIV" means the human immunodeficiency virus.

(5) ORAL SODoMY.-The term "oral sodomy" means contact between the mouth and the penis, the mouth and the vulva, or the mouth and the anus.

(6) POLICE LOCKUP.-The term "police lockup" means a temporary holding facility of a Federal, State, or local law enforcement agency to hold-

(A) inmates pending bail or transport to jail;

⊖ inebriates until ready for release; or

(C) juveniles pending parental custody or shelter placement.

(7) PRISON.-The term "prison" means any confinement facility of a Federal, State, or local government, whether administered by such government or by a private organization on behalf of such government, and includes-

- (A) any local jailor police lockup; and
- (B) any juvenile facility used for the custody or care of juvenile inmates.

(8) PRISON RAPE.-The term "prison rape" includes the rape of an inmate in the actual or constructive control of prison officials.

(9) RAPE.-The term "rape" means-

(A) the carnal knowledge, oral sodomy, sexual assault with an object, or sexual fondling of a person, forcibly or against that person's will;

(B) the carnal knowledge, oral sodomy, sexual assault with an object, or sexual fondling of a person not forcibly or against the person's will, where the victim is incapable of giving consent because of his or her youth or his or her temporary or permanent mental or physical incapacity; or

(C) the carnal knowledge, oral sodomy, sexual assault with an object, or sexual fondling of a person achieved through the exploitation of the fear or threat of physical violence or bodily injury.

(10) SEXUAL ASSAULT WITH AN OBJECT.-The term "sexual assault with an object" means the use of any hand, finger, object, or other instrument to penetrate, however slightly, the genital or anal opening of the body of another person.

(11) SEXUAL FONDLING.-The term "sexual fondling" means the touching of the private body parts of another person (including the genitalia, anus, groin, breast, inner thigh, or buttocks) for the purpose of sexual gratification.

(12) EXCLUSIONS:-The terms and conditions described in paragraphs (9) and (10) shall not apply to--

- (A) custodial or medical personnel gathering physical evidence, or engaged in other legitimate medical treatment, in the course of investigating prison rape;
- (B) the use of a health care provider's hands or fingers or the use of medical devices in the course of appropriate medical treatment unrelated to prison rape; or

(C) the use of a health care provider's hands or fingers and the use of instruments to perform body cavity searches in order to maintain security and safety within the prison or detention facility, provided that the search is conducted in a manner consistent with constitutional requirements.

Approved September 4, 2003.

LEGISLATIVE HISTORY-S. 1435:

CONGRESSIONAL RECORD, Vol. 149 (2003):

July 21, considered and passed Senate. July 25, considered and passed House.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 39 (2003):

Sept. 4, Presidential statement.

O

National Inmate Survey (NIS-4)

Informed Consent for Cognitive Interviews

What is the purpose of this interview?

RTI International, a not-for-profit research organization located in Research Triangle Park, NC, is helping the Bureau of Justice Statistics (BJS) develop a survey that will collect data from inmates in prisons and local jails across the United States.

To develop the survey, RTI project staff will conduct a series of one-on-one interviews with individuals who have been incarcerated in prison. Information discussed during these interviews will help project staff better understand the experiences and background of inmates.

Why was I chosen?

You were invited to take part in this discussion because you were recently released from a prison or jail and your perspective will be important.

What will happen during this discussion?

The interviewer will ask you some survey questions about specific topics related to being incarcerated. The discussion will last about 60 minutes and the topics will include your experiences before you were incarcerated, your health, physical and sexual assault, and how you were housed while you were incarcerated. The interviewer will focus on whether the questions make sense to you and not on what your answers to the questions are. You can help the interviewer by describing anything you find confusing or unclear about the questions.

The interviewer would like to tape record the discussion to help accurately record what has been said.

Are there risks?

There is no expected risk to participating in this study. Any information that is learned during this discussion will not be shared with the Criminal Justice Resource Center or anyone outside the NIS project staff.

Are there benefits?

There are no expected direct benefits to you for participating in this study.

What will I get for participating?

By participating you will make an important contribution to the understanding of inmates' experiences. In addition, at the end of the discussion, you will be provided \$40 as a token of our appreciation for your time and effort.

Will this information be kept private?

The information we learn from these discussions will be combined in a summary report that will not use individual names. Everything we learn will be kept private and confidential by RTI and BJS staff. RTI and BJS will keep what you tell us in a locked file cabinet or in a secure computer file. After we complete the report, the materials and audio recordings will be destroyed.

Do I have to participate?

Your participation is voluntary. You can refuse to answer any question at any time.

Who do I call if I have questions?

If you have any questions about this research project, you can call the NIS Project Director, Rachel Caspar. Her toll-free number is 1-800-334-8571, extension 26376.

By checking the box below, you are indicating that it is your choice to be included in this research project. You are also acknowledging that we have given you a copy of this consent form. If any part of this form is not clear to you, be sure to ask about it. You are also indicating that you have read this form with the interviewer and you agree to the terms above. Check the box below only when you have received answers to all of your questions and you are ready to participate in this discussion.

Do you give your consent to participate in this discussion?

- Yes
- No

Do you give your permission to audio record this discussion?

- Yes
- No

TO BE COMPLETED BY RTI PROJECT STAFF:

I certify that the nature and purpose, the potential benefits, and possible risks associated with participating in this research have been explained to the participant and the participant has given their consent to participate in this cognitive interview.

Signature of Interviewer_____

Date_____

I certify that the participant has given their permission to be audiotaped during this interview.

Signature of Interviewer_____

Date_____

National Inmate Survey (NIS-4)

Informed Consent for Cognitive Interviews with Inmates

What is the purpose of this interview?

RTI International, a not-for-profit research organization located in Research Triangle Park, NC, is helping the Bureau of Justice Statistics (BJS) develop a survey that will collect data from inmates in prisons and local jails across the United States.

To develop the survey, RTI project staff will conduct a series of one-on-one interviews with individuals who have been incarcerated in prison. Information discussed during these interviews will help project staff better understand the experiences and background of inmates.

Why was I chosen?

You were invited to take part in this discussion because you are currently incarcerated in a jail and your opinions are important.

What will happen during this discussion?

The interviewer will ask you some survey questions about specific topics related to being incarcerated. The discussion will last about 60 minutes and the topics will include your experiences before you were incarcerated, your health, physical and sexual assault, and how you have been housed since you were incarcerated. The interviewer will focus on whether the questions make sense to you and not on what your answers to the questions are. You can help the interviewer by describing anything you find confusing or unclear about the questions.

The interviewer would like to tape record the discussion to help accurately record what has been said.

Are there risks?

There is no expected risk to participating in this study. Any information that is learned during this discussion will not be shared with anyone at this facility or anyone outside the NIS project staff.

Are there benefits?

There are no expected direct benefits to you for participating in this study. Whether you participate or not will not affect your legal status or any decisions regarding your release from this facility in any way.

What will I get for participating?

By participating you will make an important contribution to the understanding of inmates' experiences. To show our appreciation for your participation, we will give you a snack to eat while you complete the interview. You will need to eat this snack during the interview because you cannot take it back to your housing unit.

Will this information be kept private?

The information we learn from these discussions will be combined in a summary report that will not use individual names. Everything we learn will be kept private and confidential by RTI and BJS staff. RTI and BJS will keep what you tell us in a locked file cabinet or in a secure computer file. After we complete the report, the materials and audio recordings will be destroyed.

Do I have to participate?

Your participation is voluntary. You can refuse to answer any question at any time.

Who do I call if I have questions?

If you have any questions about this research project, you can write to the NIS Project Director at RTI International, P.O. Box 12194, Research Triangle Park, NC 27709-2194.

By checking the box below, you are indicating that it is your choice to be included in this research project. You are also acknowledging that we have given you a copy of this consent form. If any part of this form is not clear to you, be sure to ask about it. You are also indicating that you have read this form with the interviewer and you agree to the terms above. Check the box below only when you have received answers to all of your questions and you are ready to participate in this discussion.

Do you give your consent to participate in this discussion?

- Yes
- No

Do you give your permission to audio record this discussion?

- Yes
- No

TO BE COMPLETED BY RTI PROJECT STAFF:

I certify that the nature and purpose, the potential benefits, and possible risks associated with participating in this research have been explained to the participant and the participant has given their consent to participate in this cognitive interview.

Signature of Interviewer_____

Date_____

I certify that the participant has given their permission to be audiotaped during this interview.

Signature of Interviewer_____

Date_____

Office of Research Protection
Institutional Review Board Notice of Approval
Federalwide Assurance No. 3331

Title of Study: National Inmate Survey
RTI Project Number: 0211887 RTI Proposal Number (if no Project Number)
Project Leader: Rachel Caspar
Project Team Member Contact (if different from Project Leader):
Source of Funding for this Study: DOJ
Date Submitted to IRB: August 8, 2017
Level of Review (check one):
Full , IRB Meeting Date: September 11, 2017
Expedited , category: None
Type of Review (check one):

Preliminary review (For DHHS grants where RTI is prime, the grant application/contract proposal and protocol submitted to the IRB are in concordance (45 CFR 46.103(f)). **Do not involve human subjects or data until pretest or full study is approved.**)

Amendment, describe:

Add study site(s): _____

Pretest/Pilot Test _____

Full Implementation _____

Renewal
 Study Closure

IRB Approval of Special Conditions (check all that apply to this review):

- Waiver of Signed Informed Consent/Parental Permission
- Waiver of elements of Informed Consent or requirement for Informed Consent/Parental Permission
- Participation of Pregnant Women (**Worksheet B** submitted by project team)
- Participation of Prisoners (**Worksheet C** submitted by project team)
- Participation of Prisoners in DHHS-funded studies (OHRP acknowledgement required)
- Participation of Minors (**Worksheet D** submitted by project team)
- IRB Agreement of Nonsignificant Risk Device Study Determination
- HIPAA Waiver of Authorization

Please note the following requirements:

- If **unexpected problems** or **adverse events** occur, the project team must notify the IRB.
- If there are **changes** in study procedures or protocol or any data collection materials (brochures, letters, questionnaires, etc.) the project team must notify the IRB before they are implemented.
- The project team is required to apply for **continuing review** as long as the study is active, which includes participation of human subjects or possession of human data or specimens.

Expiration Date of IRB Approval: September 11, 2018

(No human subjects research can occur after this date without continuing review and approval.)



Signature - IRB Member or Chair


9/14/2017

Date of IRB Approval

Margaret Park, Acting Chair

Name - IRB Member or Chair (print or type)

- Copy sent to project leader on:
- Entered into MIS
- OHRP acknowledgement received for participation of prisoners in DHHS-funded studies on: _____

Date: December 12, 2017
To: Rachel Caspar
From: Juesta Caddell, IRB Director 
Subject: Human Subjects Research Determination
Re: National Inmate Survey (NIS), Year 3 (IRB ID#11610)

Thank you for providing the RTI IRB information about RTI's role in conducting small-scale cognitive testing of new modules for questionnaire development work in preparation for the NIS-4. This will involve participants who are currently incarcerated as well as those recently released from jail or prison. Per your information, this project is not designed to contribute to generalizable knowledge. The data will be provided directly to Bureau of Justice Statistics for their use and RTI will not produce any scientific publications from these data.

Based on this information, this activity does not constitute research as defined by the US Code of Federal Regulations (45 CFR 46.102). Therefore, approval of these activities by the RTI IRB is not necessary.

Please note that RTI requirements related to privacy, data security, and document management still apply even though this activity is not considered human subjects research.

Please feel free to contact me with any questions.

Thank you.

National Inmate Survey (NIS-4) Cognitive Testing Protocol

Thank you for participating in this project. In this interview, we're not interested in your actual answers but we are interested in what you think about the questions and how you understand them. We want to make sure the questions make sense and that you are familiar with all the words we use. We're also interested in whether the questions mean the same thing to each person we talk to. So, after I read you the question I might ask you additional follow-up questions, such as "tell me in your own words what this question is asking" or "how hard is it to come up with an answer?" This will help us determine if we are asking the right questions.

Even though some of our questions may make it sound like we are giving you a test, there are no right or wrong answers to these questions. Our main goal is to make sure the questions are understandable. You can help us by pointing out any questions you find confusing or unclear. That way we can fix these problems before we use these questions to interview inmates in the future. Also, if you think a question could be understood in different ways that is useful for us to know as well because we'd like everyone we interview to interpret our questions in the same way.

A lot of the questions ask about things that may have happened to you since you were admitted to a facility – either a prison or jail. This is because the people we plan to survey will still be incarcerated when we interview them. [FOR FORMER INMATES: For purposes of our interview today I'd appreciate it if you could pretend that you are still incarcerated at the last facility in which you served time. Does that make sense to you? CLARIFY AS NEEDED.]

Do you have any questions before we get started? [ANSWER QUESTIONS AS NEEDED.]

Section RH: Restrictive Housing Module

To begin, we would like to know about your experiences with disciplinary or administrative segregation, and solitary confinement at this facility.

PROBE: Are the terms "disciplinary, administrative segregation, and solitary confinement" familiar to you?

PROBE: Are there other words you use to describe this type of housing?

PROBE: IF R PROVIDED ADDITIONAL TERMS, ASK: Do you think we should add some of those terms to our introduction or do you think the words we've included will be familiar to most inmates?

RH1 DOAFILL1, have you spent any time in disciplinary or administrative segregation, or solitary confinement?

- 1 Yes
- 2 No [GO TO NEXT Q BUT EXPLAIN TO R YOU WANT TO FOCUS ON WORDING]
- DK/REF [GO TO NEXT Q BUT EXPLAIN TO R YOU WANT TO FOCUS ON WORDING]

RH2 [IF RH1 = 1] **DOAFILL1**, how many different times have you been placed in disciplinary or administrative segregation, or solitary confinement?

- 1 1 time
- 2 2 times
- 3 3 - 5 times

- 4 6 – 10 times
- 4 11 times or more
- DK/REF

PROBE FOR RH1 = YES: How did you come up with your answer? What did you count as a “time”?

PROBE FOR RH1 = NO OR DK/REF: Please tell me how you think an inmate would decide how many different *times* he/she had been in solitary. [FI NOTE: THE GOAL IS TO FIND OUT HOW THE R THINKS OF A “TIME”. IS IT A DAY, AN EPISODE, ETC.]

RH3 [IF RH2 = 1] **DOAFILL1**, how many days did you spend in disciplinary or administrative segregation, or solitary confinement?

[IF RH2 > 1] **DOAFILL1**, how many days altogether have you spent in disciplinary or administrative segregation, or solitary confinement?

- 1 1 day or less
- 2 More than 1 day but less than 7 days
- 3 At least 7 days but less than 14 days
- 4 At least 14 days but less than 30 days
- 5 30 days or more
- DK/REF

PROBE FOR Rs WHO REPORTED TIME EQUALED A DAY OR LESS IN RH3: Does this question sound like it is asking the same thing as the last question? IF NO: How is this question different?

RH4 [IF RH1 = 1] Please think about the [IF RH2 > 1, INCLUDE “most recent”] time **DOAFILL2** that you were placed in disciplinary or administrative segregation, or solitary confinement. Why do you think you were placed in disciplinary or administrative segregation, or solitary confinement? Was it...

	Yes	No
RH4a. To evaluate you when you arrived at the facility? PROBE: How is an inmate evaluated when he/she arrives at a facility?	1	2
RH4b. Because you asked to be placed there for your own protection? PROBE: Why might an inmate be placed in solitary for their own protection?	1	2
RH4c. For mental health reasons?	1	2
RH4d. For medical reasons?	1	2
RH4e. Because you were a danger to yourself? PROBE: What does it mean to be a “danger to yourself”?	1	2
RH4f. As a punishment for breaking rules?	1	2
RH4g. For some other reason? PROBE: Can you think of other reasons an inmate might be placed in solitary?	1	2

DK/REF

RH5 [IF RH4f = 1] What facility rules were you accused of breaking that led to you being assigned to disciplinary or administrative segregation, or solitary confinement [IF RH2 > 1, INCLUDE “the most recent time”]?

	Yes	No
RH5a. Fighting with another inmate	1	2
RH5b. Verbally assaulting staff	1	2
PROBE: In your own words, what does this question mean?		
RH5c. Physically assaulting staff	1	2
RH5d. Possession of contraband	1	2
PROBE: In your own words, what is this question asking?		
RH5e. Having sexual contact with staff	1	2
RH5f. Having sexual contact with another inmate	1	2
RH5g. Some other rule or rules	1	2

DK/REF

RH6 [IF RH4f = YES] Were you given a hearing after being placed in disciplinary or administrative segregation, or solitary confinement to determine if you were guilty of breaking facility rules?

- 1 Yes
- 2 No

DK/REF

RH7 [IF RH1 = 1] How long did you remain in disciplinary or administrative segregation, or solitary confinement the [IF RH2 > 1, INCLUDE “most recent”] time you were placed there?

- 1 1 day or less
- 2 More than 1 day but less than 7 days
- 3 At least 7 days but less than 14 days
- 4 At least 14 days but less than 30 days
- 5 30 days or more

DK/REF

RH8 [IF RH1 = 1] During the [IF RH2 > 1, INCLUDE “most recent”] time you were in disciplinary or administrative segregation, or solitary confinement, were you in a cell by yourself?

- 1 Yes
- 2 No

DK/REF

RH9 [IF RH8 = 2] How many other inmates were in the cell with you the [IF RH2 > 1, INCLUDE “most recent”] time you were in disciplinary or administrative segregation, or solitary confinement?

NUMBER OF INMATES: _____ [RANGE: 1 – 99]

DK/REF

RH10 [IF RH1 = 1] Were you able to leave your cell at least once every day the most recent time you were in disciplinary or administrative segregation, or solitary confinement?

- 1 Yes
- 2 No

DK/REF

RH11 [IF RH1 = 1] Were you put in shackles or handcuffs every time you left your cell the most recent time you were in disciplinary or administrative segregation, or solitary confinement?

- 1 Yes

2 No
DK/REF

RH12 [IF RH1 = 1] Did you have the same access to your lawyer or attorney as you did before you were placed in disciplinary or administrative segregation, or solitary confinement this most recent time?

1 Yes
2 No
DK/REF

RH13 [IF RH1 = 1] Were you allowed to talk to staff every day while you were in disciplinary or administrative segregation, or solitary confinement this most recent time?

1 Yes
2 No
DK/REF

PROBE TO CLARIFY WHETHER R INTERPRETED THIS QUESTION TO MEAN, “DID YOU TALK TO STAFF EVERY DAY...”

RH14 [IF RH1 = 1] Did a trained counselor or mental health professional check on you while you were in disciplinary or administrative segregation, or solitary confinement this most recent time?

1 Yes
2 No
DK/REF

PROBE: What do you think the phrase “trained counselor” means?

RH15 [IF RH14 = 1] How often did a trained counselor or mental health professional check on you while you were in disciplinary or administrative segregation, or solitary confinement this most recent time?

1 Every day
2 A few times a week
3 Once a week
4 Less than once a week
DK/REF

RH16 [IF RH1 = 1] Now please think about the [IF RH2 > 1, INCLUDE “most recent”] time when you were released from disciplinary or administrative segregation, or solitary confinement. Because you were in disciplinary or administrative segregation, or solitary confinement, did you...

	Yes	No
RH16a. Lose your job in the facility?	1	2
RH16b. Get assigned to a different job in the facility?	1	2
RH16c. Have less yard or free time than you did before?	1	2
RH16d. Lose good time or good time credits?	1	2
PROBE: Please tell me in your own words what this question is asking.		

DK/REF

PROBE FOR ANY YES RESPONSES: How do you know you [lost your job/got a different job/had less free time/lost good time] because you had been in solitary?

RH17 [IF RH1 = 1] As a result of being in disciplinary or administrative segregation, or solitary confinement, were you...

	Yes	No
RH17a. Required to participate in a program designed to help you avoid getting sent to disciplinary or administrative segregation, or solitary confinement in the future?	1	2
RH17b. Placed at a higher custody or security level?	1	2
RH17c. Moved somewhere else in the facility?	1	2

DK/REF

PROBE: Are there other things that can happen to an inmate as a result of being in solitary?

RH18 [IF RH1 = 1] After you returned from being in disciplinary or administrative segregation, or solitary confinement, were any of your personal possessions missing?

1 Yes

2 No

DK/REF

PROBE: What does the phrase “personal possessions” mean to you?

A22. Are you a U.S. citizen?

- 1 Yes
- 2 No
- DK/REF

PROBE: Do you think this is a question inmates will be comfortable answering? (Why or why not?)

D2a [IF MALE] Which of the following best represents how you think of yourself?

- 1 Gay
- 2 Straight, that is, **not** gay
- 3 Bisexual
- 4 Something else
- 5 I don't know the answer
- 6 Refused

PROBE: What does the word "gay" mean to you in this question? Are there other words you use that mean the same thing as "gay"?

PROBE: What does the word "straight" mean to you in this question? Are there other words you use that mean the same thing as "straight"?

PROBE: What does the word "bisexual" mean to you in this question? Are there other words you use that mean the same thing as "bisexual"?

D2b [IF FEMALE] Which of the following best represents how you think of yourself?

- 1 Lesbian or gay
- 2 Straight, that is, **not** lesbian or gay
- 3 Bisexual
- 4 Something else
- 5 I don't know the answer
- 6 Refused

PROBE: What does the word "gay" mean to you in this question? Are there other words you use that mean the same thing as "gay"?

PROBE: What does the word "lesbian" mean to you in this question? Are there other words you use that mean the same thing as "lesbian"?

PROBE: What does the word "straight" mean to you in this question? Are there other words you use that mean the same thing as "straight"?

PROBE: What does the word "bisexual" mean to you in this question? Are there other words you use that mean the same thing as "bisexual"?

D3a What sex were you assigned at birth, on your original birth certificate?

- 1 Male
- 2 Female
- DK/REF

PROBE: Please tell me, in your own words, what this question is asking.

[Interviewer: If R's interpretation of the question is incorrect, probe to determine how they came to their understanding. Probe their understanding of the phrases "assigned at birth" and "original birth certificate".]

D3b Do you currently think of yourself as...?

- 1 Male
- 2 Female
- 3 Transgender – Male
- 4 Transgender - Female
- 5 None of these
- DK/REF

PROBE: What does the term "Transgender – Male" mean to you?

PROBE: What does the term "Transgender – Female" mean to you?

The next set of questions are for inmates who report an incident of being sexually victimized or sexually assaulted by another inmate during their incarceration. The questions ask for specific details about the incident as well as things that may have happened just before or right after the incident took place. As I did with the last set of questions, I'll read the question and then ask you about your understanding of the question. Remember, I just want you to focus on whether the questions are clear; I'm not asking you to share any personal experiences.

IIC8 [IF IIC REPORTED] Do you think this incident happened because of your...

	Yes	No
IIC8a. Race or ethnicity?	1	2
IIC8b. Age?	1	2
IIC8c. Religion?	1	2
IIC8d. Gender Identity? PROBE: What does the term "gender identity" mean to you?	1	2
IIC8e. Sexual orientation? PROBE: What does the term "sexual orientation" mean to you?	1	2
IIC8f. Gang affiliation? PROBE: What does the phrase "gang affiliation" mean to you?	1	2

DK/REF

IIC13a [IF IIC9 = 1] About how old was this other inmate?

- 1 Under 25
- 2 25 – 34
- 3 35 – 44
- 4 45 – 54
- 5 55 or older

DK/REF

PROBE: Do you think an inmate would be able to answer this question? That is, do you think they would know how old the inmate who attacked them was?

IIC14a [IF IIC9 = 1] At the time this incident occurred was this other inmate assigned to the same housing unit, pod or dormitory as you?

- 1 Yes
- 2 No

DK/REF

PROBE: Are there other words we should use besides "housing unit, pod, or dormitory" to describe the place where an inmate is assigned to live in the facility?

IIC15a [IF IIC9 = 1] How did you know this other inmate at the time the incident occurred? Was the inmate...

FI: Please look at these answers [HAND CARD] as I read them out loud.

	Yes	No
IIC15a1a. A stranger – that is someone you had never seen before?	1	2
IIC15a1b. Someone you had seen before but had never spoken to?	1	2
IIC15a1c. An acquaintance or someone you only talk to occasionally?	1	2

IIC15a1d. Someone you have worked with or been in a class with at this facility?	1	2
IIC15a1e. A friend or ex-friend?	1	2
IIC15a1f. Someone who used to be your cellmate or roommate?	1	2
IIC15a1g. Your current cellmate or roommate?	1	2

DK/REF

PROBE: Are there other ways that an inmate might describe how they knew another inmate?

PROBE: How do inmates get to know each other in a facility?

IIC15a2 [IF IIC9 = 1] Did you know this other inmate **before** you entered this facility?

- 1 Yes
- 2 No

DK/REF

PROBE: What do you think this question is asking?

IIC16a [IF IIC9 = 1] Was this other inmate a member of a gang?

- 1 Yes
- 2 No

DK/REF

PROBE: Is it easy or hard to know whether an inmate is a member of a gang?

IIC17 [IF IIC9 = 1] **Before this incident happened** were you worried that this inmate might be planning to have sex or sexual contact with you?

- 1 Yes
- 2 No

DK/REF

PROBE: Before an incident, what kinds of things do you think might happen to an inmate to cause him or her to worry that another inmate was planning to have sex or sexual contact with him or her?

IIC18 [IF IIC9 = 1] **Before this incident happened** had you had any arguments or fights with this inmate?

- 1 Yes
- 2 No

DK/REF

IIC22 [IF IIC9 = 1] Did this inmate do any of the following things **after** the incident happened?

FI: Please look at these answers [HAND CARD] as I read them out loud.

	Yes	No
IIC22a. Gave you gifts or money so that you would keep it a secret?	1	2
IIC22b. Threatened to hurt you so that you would keep it a secret?	1	2
IIC22c. Said [he/she] would blame it on you if you told anyone?	1	2
IIC22d. Said [he/she] would stop spending time with you if you told anyone?	1	2

IIC22e. Had some type of sexual contact with you again?	1	2
IIC22f. Ignored you or stayed away from you?	1	2

DK/REF

PROBE: Can you think of any other things an inmate might do to try keep another inmate from telling others about a sexual attack?

IIC25 [IF IIC REPORTED] At the time the incident happened were any **other inmates** aware that it was happening?

1 Yes

2 No

DK/REF

PROBE: Tell me in your own words what this question is asking. [FI: Verify the R's paraphrasing highlights "at the time the incident happened".]

IIC26 [IF IIC REPORTED] At the time the incident happened were any **staff at the facility** aware that it was happening?

1 Yes

2 No

DK/REF

PROBE: Could you give me some examples of the types of people you are thinking about when I used the phrase "staff at the facility"?

IIC28a [IF IIC9 = 1 AND IIC23 = 1] Did any of the following things happen to the inmate who had sex or sexual contact with you?

FI: Please look at these answers [HAND CARD] as I read them out loud.

	Yes	No
IIC28a1. The inmate was moved to administrative segregation or some other protective housing	1	2
IIC28a2. The inmate was placed in a medical unit, ward, or hospital	1	2
IIC28a3. The inmate was confined to [his/her] own cell, room, or housing area	1	2
IIC28a4. The inmate was given a higher level of custody within the facility	1	2
IIC28a5. The inmate was transferred to another facility	1	2
IIC28a6. The inmate was written up	1	2
IIC28a7. The inmate lost privileges	1	2

DK/REF

PROBE: Are there other things that might happen to an inmate who sexually assaults another inmate?

IIC29 [IF IIC9 = 1] **Since this incident happened** has this inmate attempted any type of sexual contact with you?

1 Yes

2 No

DK/REF

FI INSTRUCTION: Now listen to the next question and tell me how you think it is different from the question I just read to you.

IIC30 [IF IIC9 = 1 AND IIC29 NE 1] **Since this incident happened** have you been worried that this inmate will try to initiate sexual contact with you again?

- 1 Yes
- 2 No
- DK/REF

PROBE: Please tell me how this question is different from the last question.

PROBE: What does the word “initiate” mean to you?

IIC31 [IF IIC REPORTED] Since this incident happened, have you done any of the following things to reduce the chance that you would be attacked again?

FI: Please look at these answers [HAND CARD] as I read them out loud.

	Yes	No
IIC31a. Joined a gang?	1	2
IIC31b. Carried a weapon?	1	2
IIC31c. Fought more?	1	2
IIC31d. Worked out in order to bulk up?	1	2
IIC31e. Avoided certain areas?	1	2
IIC31f. Kept to yourself more?	1	2
IIC31g. Stayed in your own cell or housing area more?	1	2
IIC31h. Joined a religious group?	1	2
IIC31i. Avoided certain inmates?	1	2
IIC31j. Requested protective custody?	1	2
IIC31k. Requested transfer to another facility?	1	2

DK/REF

PROBE: Are there other things an inmate might do to reduce their chance of being sexually attacked?

Section SIC: Incident Characteristics of Staff-On-Inmate Victimization

The next questions will be asked of inmates who report an incident of being sexually victimized or sexually assaulted by a staff person during their incarceration. The questions ask for specific details about the incident as well as things that may have happened just before or right after the incident took place. As I did with the last questions, I'll read the question and then ask you about your understanding of the question.

SI10 [IF SIC REPORTED] During this incident did one staff person or more than one staff person have sex or sexual contact with you?

- 1 One staff person
- 2 More than one staff person
- DK/REF

PROBE: Several of the next questions will use the term “staff person”. Which people in a facility do you think that term describes? Further PROBE: Does it include correctional officers? Volunteers? The Warden?

SI11 [IF SIC REPORTED] Do you think this incident happened because of your...

	Yes	No
SI11a. Race or ethnicity?	1	2
SI11b. Age?	1	2
SI11c. Religion?	1	2
SI11d. Gender Identity? PROBE: What does the term “gender identity” mean to you?	1	2
SI11e. Sexual orientation? PROBE: What does the term “sexual orientation” mean to you?	1	2
SI11f. Gang affiliation? PROBE: What does the phrase “gang affiliation” mean to you?	1	2

DK/REF

SI15a [IF SI10 = 1] How old was this staff person?

- 1 Under 25
- 2 25 – 34
- 3 35 – 44
- 4 45 – 54
- 5 55 or older
- DK/REF

PROBE: Do you think an inmate would be able to answer this question? That is, do you think they would know how old the staff person who attacked them was?

SI17a [IF SI10 = 1] Before the incident happened, did any of these things ever happen?

	Yes	No
SI17a1. The staff person talked to you about [his/her] personal life outside of work? PROBE: What does the phrase “personal life” mean to you?	1	2

SI17a2. The staff person gave you pictures of [himself/herself]?	1	2
SI17a3. The staff person wrote letters to you?	1	2
SI17a4. The staff person offered you things like drugs, cigarettes, alcohol, or other things you are not allowed to have in this facility?	1	2
SI17a5. The staff person offered you money?	1	2
SI17a6. The staff person did things for you to help you get out of trouble?	1	2
SI17a7. The staff person spent time alone with you and asked that you not tell anyone else about that time	1	2
SI17h. The staff person told you that [he/she] had special feelings for you or was in love with you?	1	2
SI17i. The staff person talked or joked with you about sex or shared sexual stories with you?	1	2

DK/REF

SI21 [IF SI10 = 1] Did this staff person do any of the following things **after** the incident happened?

SI21a. Gave you gifts or money so that you would keep it secret?	Yes	No
SI21b. Threatened to hurt you so that you would keep it secret?	1	2
SI21c. Said [he/she] would blame it on you if you told anyone?	1	2
SI21d. Said [he/she] would stop spending time with you if you told anyone?	1	2
SI21e. Had sexual contact with you again?	1	2
SI21f. Ignored you or stayed away from you?	1	2

DK/REF

SI27a [IF SI10 = 1 AND SI22 = 1] Did any of the following things happen to the staff person who had sex or sexual contact with you?

	Yes	No
SI27a. The staff person was fired	1	2
SI27b. The staff person was transferred to another facility	1	2
SI27c. The staff person was transferred to a different job within the same facility	1	2
SI27d. The staff person was punished or disciplined in some way other than those listed above	1	2

DK/REF

PROBE: Do you think an inmate would know what happened to the staff person?

PROBE: Are there are other sorts of punishment a staff person might receive if he or she was found to have had sex with an inmate?

SI28 [IF SI10 = 1] **Since this incident happened** has this staff person attempted any type of sexual contact with you?

FI INSTRUCTION: Now listen to the next question and tell me how you think it is different from the question I just read to you.

SI29

[IF SI10 = 1 AND SI28 NE 1] **Since this incident happened** have you been worried that this staff person will try to initiate sexual contact with you again?

- 1 Yes
- 2 No
- DK/REF

PROBE: Please tell me how this question is different from the last question.

PROBE: What does the word “initiate” mean to you?

We're just about done. The last questions I have for you are about other experiences an inmate might have had.

Q8. Did a doctor, school counselor, or other professional ever tell you that you have:

	Yes	No
Q8a. ADD or ADHD? PROBE: Do you recognize these terms? Do you know any of the symptoms of ADD or ADHD?	1	2
Q8b. Dyslexia? PROBE: Do you recognize this term? Do you know any of the symptoms of Dyslexia?	1	2
Q8c. A learning disability? PROBE: What does it mean to have a learning disability?	1	2
Q8d. Autism or Asperger's PROBE: Do you recognize these terms? Do you know any of the symptoms of Autism or Asperger's?	1	2

DK/REF

PROBE: The question used the phrase "other professional". What does that phrase mean to you?

R21 Did you ever in your life have any of the following experiences happen to you:

	Yes	No
R21a A serious fight or physical assault? PROBE: What would have to happen for a fight to be "serious"?	1	2
R21a1. A sexual assault? PROBE: How is a sexual assault different than a physical assault that I asked you about in the last question?	1	2
R21b. A life-threatening accident or injury? PROBE: What does "life-threatening" mean to you?	1	2
R21c. The murder or suicide of a loved one?	1	2
R21d. The accidental death of a loved one? PROBE: Can you tell me in your own words what an "accidental death" means?	1	2
R21e. Witnessed someone being seriously injured or killed?	1	2
R21f. Any experience that put you at risk of death? PROBE: What kinds of experiences could put a person at risk of death?	1	2

DK/REF

That's all the questions I have for you. Thank you for your participation; your feedback has been really valuable!

Have You Spent Time in Jail or Prison?

If you have ever been incarcerated in jail or prison we need your help.

RTI International, a non-profit research organization, is developing a new survey for inmates. We would really like to meet with former inmates to talk about the survey and find out how we can improve our survey questions.

The appointment will last about 1 hour.

We will pay you \$40.00 for your time.

All appointments will take place at
The Durham Criminal Justice
Resource Center.



Please call [Name] at 555-5555 to learn more about this opportunity.

**Cognitive Interviewing Participants
Receipt for Participation**

By my signature below I confirm that I have paid \$40 to a participant recruited as part of the questionnaire pretesting research conducted for project 0209778. This study is being conducted by RTI International for the Bureau of Justice Statistics.

Signature

RTI Staff Member (print): _____

Date: _____

Recruiting Script

(To be used when taking inbound calls from potential participants)

My name is _____ and I work at RTI International. We are conducting the National Inmate Survey project with the Bureau of Justice Statistics. The purpose of this study is to test questions that will be used in a national survey of inmates. We want to make sure the survey questions are clear and can be easily understood.

You will receive \$40 cash for participating in the interview, which will take no more than 1 hour.

Do you think you'd be interested in participating?

IF YES: Okay, first could you tell me when you were last incarcerated in a jail or prison? VERIFY THIS INCARCERATION WAS WITHIN THE PAST 6 MONTHS. IF NOT, THANK THE INDIVIDUAL AND TELL HIM/HER HE/SHE IS NOT ELIGIBLE TO PARTICIPATE. IF THE INDIVIDUAL IS ELIGIBLE, CONTINUE: Let me tell you a little more about what we're doing. CONTINUE WITH INFO BELOW.

IF NO: Maybe if I tell you a little bit more about the interview you'd be interested. IF R IS WILLING, CONTINUE WITH INFO BELOW. OTHERWISE, END CALL.

What's involved?

You will take part in an interview about your background and some experiences while you were incarcerated. We will also read you some questions about your health, and any disabilities you may have. We do not expect you to answer, but we will want to know if the questions make sense to you and whether you understand each of the words we use. You can help us by describing anything about the questions that you think is confusing or hard to understand. A member of the project staff will conduct the interview.

Do you have any additional questions?

If so, use Q&A below to answer.

If no, schedule appointment time and give directions to facility.

Do I have to participate?

No. You do not have to participate in this survey or respond to any questions you do not want to answer. Your decision to participate or not will not affect your legal status or any social service(s) you may be receiving or might receive in the future.

Will my information and my answers be kept private?

Yes. Any information you provide will be kept completely private, and we will not link your name or identity to any of the information you provide. There are, however, some exceptions to our promise of confidentiality. If you tell us that you are in immediate danger or that you intend to harm yourself or someone else, we may need to inform the appropriate authorities according to state and local law.

How did you get my name? / Why was I selected?

We have been working with NAME at the Criminal Justice Resource Center. He/She has helped us by posting flyers and directing individuals who might be eligible to look at the flyers. We don't have your name or know anything about you at this point. If you decide you would like to participate, I will collect some basic information from you – your name, age, race, and gender – as well as a phone number where I can reach you. This information will be stored in a secure place and will be destroyed once I have interviewed you.

What's in it for me?

There are no direct benefits to you from participating in this study. However, the results of this study may help improve the condition and well-being of inmates in correctional facilities across the nation. In addition, at the end of the interview, you will receive \$40 cash for the time you took to participate in the study.

Our interviews are scheduled Monday through Friday between 8am and 5pm. The interview will last no longer than 1 hour. Now, let me tell you what appointments times we have available....Is there a time that will work for you?