

SUPPORTING STATEMENT

A. Justification

1. Necessity of Information

Background

The Omnibus Crime Control and Safe Street Act of 1968 (Attachment A) as amended (34 U.S.C. § 10132), authorizes BJS to collect and disseminate statistical data on all aspects of criminal justice, including criminal victimization, occurring in the United States. The Prison Rape Elimination Act of 2003 (Public Law 107-79, known as PREA or 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” (Attachment B). PREA 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 developed the National Prison Rape Statistics Program, which includes separate data collection efforts: the Survey of Sexual Victimization (SSV), the National Survey of Youth in Custody (NSYC), the Former Prisoner Survey (FPS) (inactive), and the National Inmate Survey (NIS), the collection currently under review in this package. Due to the sensitive nature of sexual victimization and potential reluctance to report sexual victimization, BJS collects multiple measures on the incidence and prevalence of sexual victimization.

These collections are independent efforts and not directly comparable; however, the collections provide various measures of the prevalence and characteristics of sexual assault in correctional facilities. The SSV collects administrative data about incidents of sexual victimization reported to and investigated by adult and juvenile correctional authorities, as well as characteristics of substantiated incidents. The NSYC gathers self-reported sexual victimization data from juveniles in juvenile correctional facilities. The FPS measures allegations of sexual assault experienced during the respondent’s last incarceration, as reported by former inmates on active supervision. The NIS collects information on sexual victimization self-reported by inmates held in adult correctional facilities, both jails and prisons.

The NIS has been conducted three times: in 2007 (NIS-1), in 2008-09 (NIS-2), and in 2011-12 (NIS-3). RTI International served as the BJS data collection agent for all three rounds of the survey. Each iteration of NIS was conducted in at least one facility in all 50 states and the District of Columbia. In each iteration of the survey, inmates completed the survey using an audio computer-assisted self-interview (ACASI), whereby they heard questions and instructions via headphones and responded to the survey items via a touch-screen interface. The three

previous iterations of NIS were conducted in both prisons and jails concurrently. Aggregating across the prisons and jails samples in each year, the 2007 NIS (NIS-1) completed 63,817 interviews, the 2008-09 NIS (NIS-2) completed 81,566 interviews, and the 2011-12 NIS (NIS-3) completed 92,449 interviews.

BJS published survey findings from NIS-3 in May 2013, including the following:

- An estimated 3.2% of jail inmates reported experiencing one or more incidents of sexual victimization by another inmate or facility staff in the past 12 months or since admission to the facility, if less than 12 months.
- Among jail inmates, 1.6% (or an estimated 11,900 inmates) reported an incident [of sexual victimization] involving another inmate, 1.8% (13,200) reported an incident involving facility staff, and 0.2% (2,400) reported both an incident by another inmate and staff.
- Juveniles ages 16 to 17 held in adult prisons and jails did not have significantly higher rates of sexual victimization than adult inmates. An estimated 1.8% of juveniles ages 16 to 17 held in prisons and jails reported being victimized by another inmate, compared to 2.0% of adults in prisons and 1.6% of adults in jails. An estimated 3.2% of juveniles ages 16 to 17 held in prisons and jails reported experiencing staff sexual misconduct. Though higher, these rates were not statistically different from the 2.4% of adults in prisons and 1.8% of adults in jails.
- Jail inmates with serious mental illness reported high rates of inmate-on-inmate sexual victimization – 3.6% versus 0.7% for inmates with no indication of mental illness. Similar differences were reported by prison inmates – 6.3% versus 0.7%.
- Among those who reported their sexual orientation as gay, lesbian, bisexual, or other, 12.2% of prisoners and 8.5% of jail inmates reported being sexually victimized by another inmate; 5.4% of prisoners and 4.3% of jail inmates reported being victimized by staff.

Current survey implementation

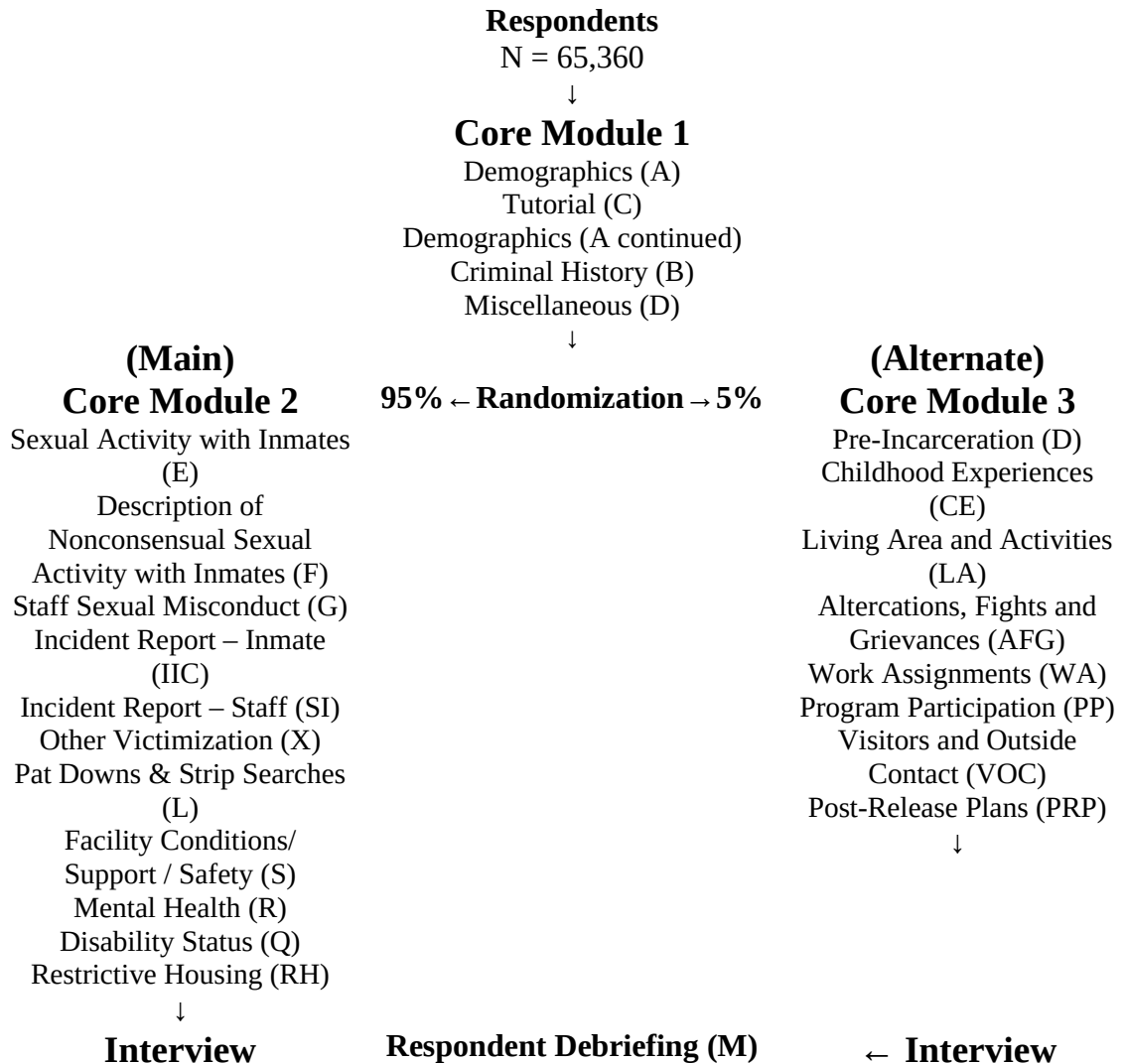
For the fourth iteration of the National Inmate Survey, BJS decided to split the NIS administration into two different awards—one for administering the survey in prisons (NIS-4P), and the other for administering the survey in jails (NIS-4J). This submission is to seek clearance for the NIS-4J. This is a self-report survey administered to inmates held in adult jail correctional facilities. BJS has a cooperative agreement with Westat to collect data for the NIS-4J.

The NIS-4J comprises two surveys: an inmate survey and a facility survey.

Inmate Survey

The first part of the inmate survey will be a traditional Computer-Assisted Personal-Interview (CAPI) wherein an interviewer will read a series of questions to an inmate and enter the answers directly into a tablet device. The questions asked in the CAPI mode will include demographic and criminal history items. All respondents will receive a brief tutorial on how to use the Audio Computer-Assisted Self-Interview (ACASI) methodology, which involves inmates responding to a computer questionnaire using a touchscreen, following audio instructions delivered via headphones. After answering some basic demographic questions, the instrument will randomly assign each respondent to either the main questionnaire about sexual victimization or the alternate questionnaire. The flow of the ACASI instrument (Attachment C) is shown in Exhibit 1.

Exhibit 1: Flow of the NIS-4 Jails ACASI Instrument



Due to the sensitive nature of the topic, the survey has several design features to maximize confidentiality.

Prior to the start of the interview, the interviewer will provide the respondent with a hard copy of the consent form and then will read the form to the respondent from their own hard copy (Attachment D). After reading the consent aloud, the interviewer will read additional scripted text to highlight the main points from the consent form, specifically that: 1) participation is voluntary; 2) nothing about the inmate's legal status will change based on whether they participate or not; 3) the inmate can stop the interview at any time; 4) the inmate can skip any questions; and 5) the inmate's answers will be kept private.

The interviewer will ask whether the inmate understands the main points of the consent form. If the inmate indicates they do not understand or if they raise any questions, the interviewer will return to the consent form and read the appropriate passage(s) and address outstanding questions. If the inmate is a juvenile aged 16 or 17, the interviewer will read additional text clarifying that any information about sexual victimization that has been recorded in the questionnaire will be kept private but that if the juvenile tells the interviewer that he or she is being victimized, the interviewer may need to report that information to an agency that investigates such abuse.

The inmate will receive a copy of the consent form to keep for future reference. At the discretion of each facility's warden, a small incentive can be provided to participants (either a small bag of cookies or a metered envelope). The provision of an incentive must be authorized by the facility and will be determined once contacts with the facility are made following receipt of clearance.

To protect the confidentiality of all participating inmates, the NIS-4J begins with core questions and then randomizes respondents to one of two survey instruments (see Exhibit 1). One survey instrument—the alternate survey instrument—is allocated to 5% of respondents and includes a second core set of questions on activities within the facility, visitors and outside contact, facility climate, and childhood experiences. The other survey instrument—the sexual victimization survey—is allocated to 95% of respondents and includes a core set of questions on sexual victimization, facility climate, parental involvement, mental health, and disability status. The consent form, provided to inmate respondents prior to survey administration, includes a description of the two surveys and indicates that only the inmate will know which survey is administered. This effort offers a layer of protection to the respondents, as correctional staff, other inmates, and field staff

will not know which questionnaire the respondent received, as that decision is randomized within the ACASI survey administration environment.

All respondents will spend about the same amount of time completing the survey, regardless of which questionnaire they are assigned. To ensure inmates who report both inmate-on-inmate victimization and staff-on-inmate victimization are not unduly burdened, these inmates will be randomized to receive the incident-specific module for only one type of victimization.

A portion of inmates may be unable to come to the interview room for medical or security reasons. It is not possible in most facilities to bring tablets into certain areas of the jail facility for safety and security reasons. To include these inmates in the survey, a representative will visit these inmates in the restricted area equipped with an abbreviated paper-and-pencil-instrument (PAPI) (Attachment E) for the inmate to complete following the consent process (Attachment F). Such interviews take about 15 minutes to complete, and BJS anticipates this will be a rare event. In prior rounds of the NIS, PAPI interviews comprised approximately 0.5% of the total number of completed interviews. However, the use of PAPI is a necessary modification to include all inmate populations at risk of sexual victimization. The PAPI instrument contains only the most critical items from the ACASI NIS instrument: those that are needed to calculate the victimization rates, demographics, and items that provide useful context for the events reported. To make the questionnaire as simple as possible for inmates to complete, there is limited use of skip routing.

Requirements regarding privacy of the interview setting are the same for PAPI interviews as for ACASI, namely the interviewer and inmate must be able to speak where they cannot be overheard and nobody can see the answers the inmate records on the questionnaire. After administering the informed consent, the interviewer passes the PAPI and a pencil to the inmate to complete. When the inmate is finished, the interviewer provides the inmate with an envelope in which to place the questionnaire and asks him/her to seal it. The sealed envelope is passed back to the interviewer who then places a piece of tamper-resistant tape over the seal. Completed PAPI questionnaires must remain in the possession of the interviewer for the remainder of the day in the facility and must be shipped via overnight delivery to Westat on the day they are completed. Interviewers may not leave completed questionnaires with facility staff to go out as part of the regular mail leaving the facility.

During interviewer debriefing sessions, interviewers reported that inmates who completed the PAPI were appreciative to be included in the study and appeared to take their task of completing the questionnaire seriously. BJS has also been fortunate that most facility administrators have worked with the data collection team to devise data management methods in their facilities that have minimized the number of inmates who need to complete the PAPI because they are unable to participate in the ACASI interview.

All allegations of sexual victimization are important to include in the estimate of sexual victimization to ensure accuracy. Thus, data from the PAPI will be included in the prevalence estimates generated for facilities. BJS will analyze and note any differences between allegations reported using PAPI and ACASI methodologies, as well as any selection bias that may occur in administering either the PAPI or ACASI to a respondent.

Minors ages 16 and 17 years held in sampled jail facilities that have granted consent on behalf of the parents (in loco parentis) will be eligible for selection. BJS is cognizant of the sensitivities associated with interviewing youth. BJS will ask facility liaisons about these populations during the logistics planning phase (prior to the data collection visit) to address special needs or concerns. The consent process includes follow-up questions to ensure the youth comprehends issues of mandatory reporting (as applicable in each state).¹ Protocols for reporting will be established as dictated by each jurisdiction. BJS and Westat have experience with interviewing youth from the NSYC, in which about 1% of youth made a statement to field staff that triggered the reporting of mandatory abuse and neglect. Approximately 1,428 youth will be sampled in the survey and based on the 0.53% mandatory reporting rate from the 2018 National Survey of Youth in Custody, it is expected that 8 youth may make a statement subject to mandatory reporting.

While not able to screen for mental competency, interviewers will receive special training to identify comprehension issues. BJS has experience interviewing persons with mental health challenges in the first three collections of the NIS. In the NIS-3, 0.8% of jail inmates selected for the sample were found to be mentally or physically unable to be interviewed.

At all times while in the facilities, interviewers will adhere to safety protocols designed to minimize the risk of transmission of COVID-19. These protocols will be developed jointly between Westat and each facility. The protocols will be informed by factors such as the CDC COVID-19 Community Levels, facility policies, and federal, state, and local laws.

Facility Survey

Information about the facilities will be collected via a web-based self-administered facility questionnaire (Attachment G). A paper version of this questionnaire will be made available to facilities unable to complete it via the web. The topics addressed in the facility questionnaire include facility characteristics such as –

- facility function
- number of beds
- number of inmates by custody level
- total number of inmates
- inmate access to special services (LGBTQ, language, SANE exams)
- corrective action/consent decree status
- staffing numbers
- staff training on PREA

¹ Although it will be impossible for survey data provided through the ACASI to be linked to individual respondents, if a juvenile respondent verbally informs the interviewer of any incident of abuse or harm, study personnel will follow state and local mandatory reporting regulations.

- inmate education on PREA
- PREA violations
- PREA-related allegations and investigations
- the impact of COVID-19 on policies and practices.

The facility questionnaire will be emailed to the facility to be completed by the Wednesday of the week prior to data collection with inmates in the facility. The questionnaire will be accessed via a link provided in an email. For convenience, facility administrators will have the option to print the questionnaire so that data elements can be compiled by different designees within the facility or agency.

In combination with the inmate self-reports, the facility questionnaire will offer a picture of characteristics of inmates that are associated with sexual assault as well as characteristics of the facilities in which victims reside. NIS-4J will provide updated statistics on the prevalence and correlates of sexual assault in jails. Specifically, the data provided by the facility questionnaire will allow BJS to assess the relative contribution of facility-level characteristics when accounting for variations in sexual assault rates.

BJS requests approval for all data collection activities related to the full implementation of the NIS-4J. As required by PREA, BJS will produce national-level and facility-level estimates of sexual victimization within jails. BJS plans to conduct a pretest of the inmate survey in the summer of 2022. This has been approved through the BJS generic clearance (1121-0339). BJS will submit the necessary documentation for resulting changes to the proposed instrument.

Westat presented plans for the NIS-4J pretest and full implementation to the IRB and received approval in March 2022 (Attachment H). Any additional IRB approvals required from sampled jurisdictions will be obtained prior to conducting any data collection under this clearance.

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 correctional institutions, at a facility level, as required under the Act. The purposes of the Act are: “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 facility-level estimates of sexual victimization. Data from these surveys will be included in a report from the Attorney General, which will be submitted to Congress and the Secretary of Health and Human Services by June 30 of each year as specified in the Act. Prison facility rankings and summary findings will be included in a report to Congress following the collection. Any

identifying information for inmates will be stripped from the data and will remain strictly confidential.

The BJS special reports *Sexual Victimization in State and Federal Prisons Reported by Inmates, 2007* (December 2007), *Sexual Victimization in Local Jails Reported by Inmates, 2007* (June 2008), *Sexual Victimization in Prisons and Jails Reported by Inmates, 2008-2009* (August 2010), and *Sexual Victimization in Prisons and Jails Reported by Inmates, 2011-12* (May 2013), based on the data collected in the first three NIS collections, received a considerable amount of national media attention. In each report, BJS provided estimates of rates of sexual victimization by inmate characteristics, as well as individual facility rankings.

The Act also established a Review Panel on Prison Rape, which will use data collected in these surveys. Several facilities listed in the reports as having “high rates” and “low rates” were selected by the Prison Rape Review Panel to send representatives to Washington, DC to participate in separate hearings for prison and jail administrators to discuss these results. Transcripts and reports from these hearings are available at <http://www.ojp.usdoj.gov/reviewpanel/reviewpanel.htm>.

Data were also cited extensively by the National Prison Rape Elimination Commission in its recommended standards. The PREA standards can be found at https://www.prearesourcecenter.org/sites/default/files/content/prisonsandjailsfinalstandards_0.pdf.

Users of these data include the following:

U.S. Congress – Each year Congress will receive a report on data collected under the Act. The report will include information about the prevalence of sexual victimization at each 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 victimization as identified in the June 30 annual reports.

National PREA Resource Center – serves as a central repository for the best research on trends, prevention, response strategies, and best practices for eliminating sexual abuse in correctional facilities. As such, results from the NIS will be included here and made available to a variety of audiences, including correctional administrators, management, line staff, and community corrections personnel.

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.” (34 USC 30304)

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

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

Just Detention International – may use the data to inform their organization’s objective to end sexual abuse in all forms of detention.

Federal, State, and local corrections officials and administrators – will use data from the Congressional reports to assess and compare trends in inmate-on-inmate, youth-on-youth, staff-on-inmate, and staff-on-youth sexual victimization. The NIS, NSYC, and SSV 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.

Academic Researchers – can apply for access to the restricted datasets at the National Archive of Criminal Justice Data to conduct their own research and analysis on sexual abuse in correctional facilities.

General Public – will use data from the Congressional reports to understand better the scale and magnitude of sexual abuse in correctional facilities.

3. Use of Technology

Using the latest technology in survey methodology, Westat interviewers will conduct interviews using tablet devices. Being mindful of the sensitivity of the sexual victimization questions, inmates will enter the answers themselves using audio computer-assisted self-interview (ACASI) technology. This will allow them to hear the question being read over headphones as it appears on the screen. No one, not even the interviewer, will know how the inmate answers the questions. In addition, the ACASI methodology allows even respondents with low literacy levels to participate because the audio component provides clear instruction on how to enter answers. All respondents will receive instruction on how to use the ACASI system from the interviewer and will complete a short tutorial to gain practice with the system before beginning to answer the actual survey questions. The survey will be offered in both English and Spanish; about 5% of jail inmate interviews in NIS-3 were conducted using the Spanish instrument.

CAPI and ACASI technology improve the flow of the interview through built-in skip patterns and filled-in reference periods that tailor specific questions to individual inmates. This allows the instrument to be tailored by gender and length of stay (“in the last 12 months” or “since you arrived at this facility”). This technology also produces more accurate data through built-in edit checks. For example, answers that are out of range can trigger a follow-up question that asks the

respondent about an inconsistent or out-of-range response. Finally, the use of the computer allows for random assignment of inmates to one of two questionnaires, as described earlier.

Furthermore, research with ACASI suggests respondents provide more honest reporting of sensitive behaviors when the questions are administered via ACASI as opposed to traditional face-to-face interviews and other methodologies.² Due to concern among stakeholders about the validity of the data reported, the questionnaire incorporates latent class modeling (LCM) to detect false positives and false negatives of sexual victimization reports among respondents. This involves using several different questions to measure the same phenomenon. Data from the first three administrations of the NIS indicate low levels of both error types.

For inmates who cannot leave their cell or living area, a representative will be taken to the inmate with a PAPI consent form and questionnaire. See pages 4-5 for additional information.

4. Efforts to Identify Duplication

This research does not duplicate any other data collection being conducted by BJS or any other Federal agencies. BJS is the only government agency that collects national data on the incidence and prevalence of sexual violence within jail settings.

5. Impact on Small Businesses

This research does not involve small businesses or other small entities. The respondents are inmates held in adult jail institutions.

6. Consequences of Less Frequent Collection

The Bureau of Justice Statistics is required by law to collect PREA data annually, which occurs with the Survey of Sexual Victimization. Self-administered data such as NIS are not required annually.

7. Special Circumstances Influencing Collection

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

2 King, Carol P., Sheehan, Carolyn, Aggarwal, Anjali, Allen, Lisa M., Spitzer, Rachel F. (September 2018). Use of Audio Computer-Assisted Self-Interviews to Gather Information on Risk Behaviors in a Population of Pregnant Adolescents. *The Journal of Pediatrics*. Vol. 203: 450-453.

Djawe, Kpandja, Brown, Emma E., Gaul, Zaneta, Sutton, Madeline. (April 2014). Community-based electronic data collections for HIV prevention research with black/African-American men in the rural, Southern USA. *AIDS Care*. Vol. 26 (10): 1309-1317.

Langhaug, Lisa F.; Sherr, Lorraine; Cowan, Frances M. (March 2010). How to improve the validity of sexual behaviour reporting: systematic review of questionnaire delivery modes in developing countries. *Tropical Medicine & International Health*, Vol. 15 (3): 362-381.

8. Federal Register Publication and Outside Consultation

The research under this clearance is consistent with the guidelines in 5 C.F.R. § 1320.6. The 60-day notice for public commentary was published in the Federal Register, Volume 87, Number 74, pages 22942-22943 on Monday, April 18, 2022. In response to the 60-day notice, BJS received 3 requests for the survey instrument or other documentation and 4 comments, discussed below. The 30-day notice for public commentary was published in the Federal Register, Volume 87, Number 138, pages 43298-43299, on Wednesday, July 20, 2022.

In developing the survey for the NIS, 1BJS staff 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.

BJS staff also consulted experts for the NIS-4 Prisons collection (OMB 1121-0311). By design, the proposed questionnaire for NIS-4J is mainly consistent with NIS-4 Prisons. However, BJS consulted with additional experts to ensure applicability to the jails environment and adhere to best practices in the field regarding measurement of sex, gender identity, and sexual orientation, including –

Julie Abbate
National Advocacy Director
Just Detention International
Reena Chakraborty
Chief of Strategic Planning and Analysis
D.C. Department of Corrections
Nancy Bates
Retired
U.S. Census Bureau

Colonel Eileen Sprinkle
Chief Deputy
Newport News Sheriff's Office
Roberto Potter
Professor of Criminal Justice
University of Central Florida

BJS received 4 public comments on the 60-day Federal Register Notice.

Comment # 1: Aaron R Clark

Mr. Clark encouraged BJS that “any burden incurred by the collection of data... be mitigated rather than eliminated. Complete, accurate and up to date data reporting is essential in proper management and transparency... As such, any changes to the way we collect and report data, should seek to be more efficient and effective without becoming less complete or accurate.”

BJS concurs with Mr. Clark's comments and strives to produce high-quality data

efficiently and effectively.

Comment # 2: Charles Sullivan, President, International Citizens United for Rehabilitation of Errants (CURE), Washington, DC

Mr. Sullivan commented that BJS should consider producing statistics on those in civil commitment.

BJS considers those with civil commitments out of scope for the NIS. These persons suffer from severe mental illness that requires hospitalization or structured living accommodations and care that they are unable or unwilling to seek on their own. In these cases, the state can issue a court order to mandate treatment in a facility or as part of the return to a community setting. Persons who have been committed and served time for sexually violent crimes and are deemed to present a danger to the public are held in the state's custody under civil commitment while they receive treatment for their psychiatric condition. The Prison Rape Elimination Act gives BJS authority to conduct the NIS in prisons, jails, and juvenile facilities. Persons serving civil commitments are outside the intended scope.

Comment # 3: Just Detention International

Just Detention International (JDI) summarized their remarks by saying, "JDI encourages BJS to continue to fulfill its statutory obligations under PREA. JDI supports BJS administering the NIS-4J, maintaining data points that are consistent with previous surveys, adding new incident-specific questions, disseminating all resulting data, and including questions that can enhance the efficacy of the National PREA Standards."

In their more detailed comments, JDI referred to the National PREA Standards for Prisons and Jails, Standard 115.41(b), which requires jails to assess inmates for risk of sexual victimization by using the following screening criteria:

- (1) Whether the inmate has a mental, physical, or developmental disability;
- (2) The age of the inmate;
- (3) The physical build of the inmate;
- (4) Whether the inmate has previously been incarcerated;
- (5) Whether the inmate's criminal history is exclusively nonviolent;
- (6) Whether the inmate has prior convictions for sex offenses against an adult or child;
- (7) Whether the inmate is or is perceived to be gay, lesbian, bisexual, transgender, intersex, or gender nonconforming;
- (8) Whether the inmate has previously experienced sexual victimization;
- (9) The inmate's own perception of vulnerability; and
- (10) Whether the inmate is detained solely for civil immigration purposes.

JDI indicated that “BJS could significantly assist corrections facilities by collecting information on the same risk factors. Facilities typically collect information on the required criteria and award certain points to each factor to quantify an inmate’s risk of victimization in the facility, which allows the facility to take steps to prevent vulnerable inmates from sexual victimization. The risk-screening tools are not required to be validated. Information from BJS would allow facilities to enhance the accuracy of their risk assessment tools and to ensure that they are focusing on the most significant risk factors, which would enable them to better protect the most vulnerable inmates.”

Regarding the encouragement to maintain consistency, BJS concurs. Thus, BJS is proposing only minor changes to the core questions on sexual victimization. Other parts of the main survey and the alternate survey have new or revised content to allow for new analyses. Regarding publication of the data, BJS is committed to fulfilling its obligations to publish the data while fulfilling its legal and ethical responsibilities to protect the confidentiality of respondents. Regarding the recommendation to include specific questions related to Standard 115.41(b), the proposed instrument does contain questions related to almost all these items.

Comment # 4: The Williams Institute

The Williams Institute commended BJS for including questions about sexual orientation and gender identity. They also provided the following recommendations, with the BJS response in italics –

- 1) “Adding questions about mental and physical health consequences of sexual victimizations to the survey... and studying the characteristics and mental health consequences of consensual sexual behavior in jails, and studying the impact of protective and punitive solitary segregation.”

The proposed instrument contains questions to allow for some of this research. The proposed instrument has several new questions on restrictive housing. However, given survey length constraints, BJS cannot add additional questions about these topics.

- 2) That “BJS design questionnaires for the NIS-4J that are appropriate for transgender men and transgender women respondents, and that transgender inmates be assigned the questionnaire that correctly and sensitively applies to them.”

New in this iteration of NIS, the proposed ACASI instrument has a third, gender-inclusive, routing. If respondents indicate that their gender identity is not the same as their sex assigned at birth, certain questions will be more inclusive.

- 3) That the “Bureau assess the performance of SOGI measures, and all other demographic items, and to make revisions as needed. Likewise, we note our concern with potential harm to respondents due to breach of confidentiality and request that the Bureau ensure that all data are collected and reported using all appropriate privacy standards. All entities responsible for NIS-4J data collection ought to ensure the confidentiality of respondents’ information.”

BJS agrees with these recommendations. As with all collections, BJS will assess the data and make revisions in future collections. Also, BJS is committed to ensuring the privacy of the respondents and has many protocols in place to that end.

The requests for the survey instrument or other documentation came from Laurie Rose Kepros of Colorado’s Office of the State Public Defender, Harper Jean Tobin of HJ Tobin Policy Consulting, and Luis A. Vasquez of the Williams Institute.

9. Payment or Gift to Respondents

The use of non-monetary incentives will be submitted to appropriate IRBs for review and approval. In NIS-3, incentives were used in about 75% of jails, and those facilities had a 10% higher response rate than the jails without incentives.³ BJS will work with jail administrators to identify appropriate incentives for the correctional environment, such as a package of cookies or a metered envelope. The maximum cash value of an incentive for any respondent will be \$1. Under no circumstances will respondents be given money or commissary funds.

10. Assurance of Confidentiality

BJS and Westat hold in confidence any information that could identify an individual according to Title 34, United States Code, Sections 10134 and 10231. All respondents and jail administrators who participate will be given written assurance that the identity of all participants, victims, and perpetrators will be protected as required under Title 34. Rates of sexual victimization at the facility level will be published, as required under PREA.

All interviews will be conducted in a space that is configured to ensure respondent privacy. Names and other personal identifiers will not be linked to the questionnaire data, so if someone were to obtain the survey data, they could not associate any data with a particular individual. As required under Title 34 USC, section 10231, 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.

3 Berzofsky, M., and Zimmer, S. 2018. *National Inmate Survey (NIS-4): Sample Design Evaluation and Recommendations for Jails, Final Technical Plan*. Research Triangle Park, NC: RTI International.

Further, BJS has masked administration of the core and alternate survey to ensure that no correctional official, inmate, or the field representative will know which questionnaire an inmate has completed (see Section 1).

Although it will be impossible for survey data provided through the ACASI to be linked to individual respondents, if a juvenile respondent verbally reports any incident of abuse or harm, study personnel will follow state and local mandatory reporting regulations. The youth will be informed of this procedure during the consent process. Provision for such reports is authorized by an amendment to the PREA legislation (34 USC §30303(a)(7)).

BJS and Westat have received the requisite approvals from the appropriate Institutional Review Board (IRB) to ensure that the data collection procedures comply with human subjects' protection protocols and confidentiality regulations.

11. Justification for Sensitive Questions

PREA requires BJS to collect highly sensitive information. 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 asking first about the respondent's sexual activities. This serves two main purposes. First, a global binomial (yes/no) question leaves the instrument with limited ability to define what is meant by sex and sexual assault and leaves interpretation largely in the hands of the respondent. Further, if the response is negative, the interview is essentially over. Second, the literature in this area notes that sexual assault, particularly in correctional facilities, occurs on a continuum of coercion from no coercion at all to serious physical violence. The lesser kinds of coercion may be easily overlooked as consensual unless the general (sexual activity) to specific (coerced, pressured, or forced sexual activity) approach is utilized. Findings from the previous NIS collections confirm a substantial portion of sexual victimization is staff sexual misconduct, and often is reported by the inmate as "willing." These incidents would likely go unreported if not for beginning with questions about general sexual activity.

BJS has implemented several safeguards to protect inmates against undue trauma or distress. All respondents are told in the consent process that they will receive a questionnaire about either their sexual experiences in the facility or a series of questions on facility conditions, mental health, and substance use. Respondents are also reminded that participation is voluntary, and they may quit the survey at any time. Finally, BJS and Westat will work with each facility to determine a point of contact either within or outside the facility should a respondent experience distress or trauma as a result of participating in the survey.

12. Estimate of Respondent Hour Burden

BJS requests a total of 64,010 hours (17,065 for facility staff and 46,945 for inmates). The total respondent burden, including both facility staff and inmates, is summarized in

Table 1 below. This estimate is based on experience with previous studies. Facility staff will be engaged in the following activities: (1) arranging for the data collection visit; (2) completing the online Facility Questionnaire; (3) providing the initial and supplemental inmate roster; and (4) escorting inmates to and from interviews. The total estimated staff burden for these activities is **17,065** hours.

Expected burden placed on inmates for this data collection averages 7 minutes per respondent for the consent and either 35 minutes for the ACASI interview or 15 minutes on the PAPI survey. An estimated 65,360 inmates will be escorted to the interview area for consent administration, resulting in a total estimated inmate burden of **46,945** hours.

The burden estimates included assume 100% participation from both facilities and inmates. For purposes of comparison, during Year 3 of the NIS, the total maximum burden was estimated at 68,078 hours for the jail sample. The total burden used was 33,022 hours.

Table 1. Respondent Burden Hours for the NIS-4J Interviews and Facility Questionnaires

Description	Burden hrs. per response	Number of responses	Total expected burden hours
Facility:			
Respond to online facility questionnaire	0.5	290	145
Provide initial roster	1.00	290	290
Provide supplemental roster	1.00	290	290
Escort potential inmates to/from interview location	0.25	65,360	16,340
Inmates:			
Consent administration	0.12	65,360	7,843
ACASI interview	0.60	65,034	39,020
PAPI interview	0.25	326	82
TOTAL BURDEN			64,010

13. Estimate of Respondent Cost Burden

The total respondent cost includes the facility staff time to prepare and verify the inmate selection roster, to complete the Facility Questionnaire, and to escort 65,360 potential respondents to and from an interview location. It is estimated that facility staff will be available for approximately 17,065 hours to complete the interview process. This includes 145 hours for responding to the online facility survey, 580 hours for providing the initial and supplemental rosters, and 16,340 hours for escorting inmates to and from the interview site (.25 hours per respondent). At an estimate of \$36.31 per hour (2021's estimated hourly wage for first-line correctional officers, \$33.53⁴, adjusting for 8.3% inflation⁵) for 17,065 hours, the estimated respondent cost burden for the entire national survey is \$619,630.

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

14. Estimated Cost to Federal Government

The total estimated cost to the government for the collection and dissemination of the NIS-4 jail survey is **\$11,596,675**.

Costs associated with the cooperative agreement between BJS and Westat:

Survey and instrument planning, development, management, processing, equipment, and supplies	\$2,800,230
<u>Training, travel, and data collection</u>	<u>\$8,699,770</u>
Total estimated costs	\$11,500,000

Costs associated with BJS staff:

GS-12 Statistician (20%)	\$17,967
GS-13 Statistician (25%)	\$26,706
GS-15 Supervisory Statistician (20%)	\$32,667
<u>Benefits (25% of salaries)</u>	<u>\$19,335</u>
Total estimated costs	\$96,675

15. Reasons for Change in Burden

The total reported respondent burden has increased by 329 hours from the 63,681 hours reported in the previous OMB request for clearance for this collection. This increase is an artifact to changes in reporting. If BJS were to report burden comparably to the previous iteration, the burden would be much lower, since this iteration covers jails only and samples fewer inmates than NIS-3.

Relative to NIS-3, providing and verifying the roster has a much lower burden due to the smaller number of facilities (290 jails versus 558 prisons and jails). Staff escort time and

⁴ May 2021 occupational employment and wages estimate for first-line supervisors of correctional officers (Source: <https://www.bls.gov/oes/current/oes331011.htm>)

⁵ Consumer Price Index (Source: <https://www.bls.gov/cpi/>)

the consenting process are included in the burden estimate for the first time. The facility questionnaire is a new feature for this iteration of the NIS. For the ACASI and PAPI estimates, the estimated burden assumes an inmate response rate of 100%. The previous request reflected a projected response rate. If the calculations assumed a 62% response rate (similar to the last request), the ACASI burden would be approximately 40,321 responses and 24,193 hours and the PAPI burden would be approximately 202 responses and 51 hours. The resulting total burden would be 49,152 hours, compared to NIS-3's 63,681 hours.

16. Project Schedule and Plans for Publication

The NIS-3 data collection for both prisons and jails was completed in May 2012. The final report was published in May 2013. Similarly, BJS plans to publish a report a year after the end of data collection. The planned title is "Sexual Victimization in Jails Reported by Inmates, 2023."

The project schedule is provisional due to the COVID-19 outbreak. This schedule assumes it is feasible to work with the sampled facilities to facilitate data collection beginning in January 2023. The planned schedule is as follows:

- Pretest in jails: July 2022 (approved through OMB 1121-0339)
- Facility questionnaire expert review: July-August 2022 (approved through OMB 1121-0339)
- Initial outreach to jurisdictions: September 2022 (approved through OMB 1121-0339)
- Initial outreach to facilities: October 2022 (approved through OMB 1121-0339)
- Logistics and planning, including obtaining research approvals and scheduling site visits: October 2022 – August 2023
- Field interviewer training: January 2023
- Data collection: January-August 2023
- Data processing and weighting: March-October 2023
- Data file delivered to BJS: December 2023
- Initial table shells created: March 2024
- Final report published July 2024

All NIS data undergo disclosure review at the National Archive of Criminal Justice Data (NACJD). Identifiable information is stripped, perturbed, and masked to preserve the confidentiality of respondents. When the review is complete, the data are archived at the enclave at NACJD. Researchers seeking to access the data will submit applications with specific research questions and IRB approvals. Upon proposal approval, the data must be accessed securely and is subject to censoring should analysis reveal small cell sizes. All output will be reviewed before release.

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.