

## **PRISON RAPE ELIMINATION ACT (PREA) DETENTION**

### **OBJECTIVES**

- Staff will learn about the Prison Rape Elimination Act and its application to juvenile and adult detention operations
- Staff will review and learn the department's policies pertaining to sexual misconduct in their detention facilities

The Prison Rape Elimination Act (PREA) is a federal statute that was signed into law by George W. Bush in September 2003.

PREA applies to county jails as well as juvenile facilities. The purpose of the law is to eliminate and prevent sexual assault and rape within correctional systems including jails.

Under PREA, our facilities must have zero tolerance for all sexual misconduct including "consensual sex" between staff and inmates and inmates and inmates.

PREA requires the US Bureau of Justice Statistics to collect data regarding incidence and effects of rape in jails and prisons.

PREA created a National Prison Rape Elimination Commission to 1) Study the impact of prison rape, and 2) Develop standards to prevent, reduce and eliminate prison rape (accountability measures for complying w/ PREA)

The draft standards have been issued and, after public comment, the US Attorney General will have 1 year to publish and adopt national standards that county facilities must comply with. Facilities that do not comply with the standards will be ineligible for federal grants.

The behavior that PREA seeks to stop is conduct that shouldn't be happening in a facility because it compromises the safe and secure operation of the facility. Sexual misconduct also results in costly lawsuits—not under PREA but under other civil rights theories such as:

- Failure to Protect
- Cruel and unusual punishment
- Punishment without Due Process

The federal law is new but the problem is not. A law enforcement officer that has sexual intercourse with an individual in their custody is committing a crime. That the act was consensual or believed to be consensual is no defense.

Former NM county detention officers are currently serving criminal sentences because of their sexual misconduct with inmates and in one recent case with juveniles. Liability is not limited to the actual perpetrator. A supervisor who knew or should have known about the improper conduct and failed to stop it can also be held liable. These cases are very expensive and they are inexcusable.

## **COUNTY POLICY**

*Discuss the department's policies regarding sexual misconduct including officer code of ethics, investigations, and inmate rights.*

## **CLOSING**

*Encourage discussion about sexual misconduct in a secured setting and the need to protect inmates and juveniles from all forms of sexual conduct.*