



# Institute for Policy Integrity

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## Memorandum

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Date: September 10, 2010

To: Department of Justice, PREA Working Group  
Office of Information and Regulatory Affairs

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Re: Requisite Benefits Analysis of PREA Standards

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Prior to issuing a Proposed Rule pursuant to the Prison Rape Elimination Act of 2003 (PREA)<sup>1</sup>, the Department of Justice is required to conduct a thorough analysis of the costs and benefits of the regulations being proposed. In comments Policy Integrity previously submitted to the Department, we discuss this requirement in greater detail, explaining that it arises out of PREA's statutory mandate, Executive Order No. 12,866, general administrative law principles, and best practices.<sup>2</sup> As we emphasized in those comments, PREA's directive that national standards not impose "substantial additional costs" on prison authorities obliges the Department to give due consideration to all costs and benefits, whether they are direct, indirect, qualitative, or quantifiable.<sup>3</sup> Although the Department has reiterated its commitment to "carefully examin[ing] the potential cost implications of the standards"<sup>4</sup> the Department must also undertake an equal examination of potential benefits. However, while the Department has commissioned a study of potential costs,<sup>5</sup> no comparable benefits assessment has been put before, or commissioned by, the Department. Policy Integrity offers this memorandum as a starting point for a more comprehensive and rigorous benefits analysis.

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<sup>1</sup> Prison Rape Elimination Act of 2003, 42 U.S.C. §§ 15601-15609 (2009).

<sup>2</sup> Institute for Policy Integrity, *Comments on Advance Notice of Proposed Rulemaking for National Standards to Prevent, Detect, and Respond to Prison Rape*, 75 Fed. Reg. 11077 (Mar. 10, 2010), Docket No. OAG-131; AG Order No. 3143, RIN 1105-AB34 (May 10, 2010), via electronic submission, at 2-7.

<sup>3</sup> *Id.* at 2-5.

<sup>4</sup> Advance Notice of Proposed Rulemaking for National Standards to Prevent, Detect, and Respond to Prison Rape, 75 Fed. Reg. 11,077, 11,079 (Mar. 10, 2010) (to be codified at 28 C.F.R. pt. 115); Letter from Attorney General Eric Holder to Congressmen Frank Wolf and Bobby Scott (June 22, 2010), available at <http://big.assets.huffingtonpost.com/PREAletter.pdf> (discussing the Department's ongoing "concern regarding cost").

<sup>5</sup> BOOZ ALLEN HAMILTON, PRISON RAPE ELIMINATION ACT COST-IMPACT ANALYSIS, FINAL REPORT (June 18, 2010), available at <http://www.ojp.usdoj.gov/programs/pdfs/preacostimpactanalysis.pdf>.

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We do not have the data necessary to project the extent to which the PREA regulations currently being considered—those proposed by the National Prison Rape Elimination Commission<sup>6</sup>—will lower rates of sexual assault in correctional facilities. In the absence of such data, we draw on existing economic studies of sexual assault to derive potential present value benefits of reducing sexual assault in correctional facilities. Even allowing for conservative estimates of the causal relationship between the new rules and incidence of sexual assault in correctional facilities, there is evidence that the PREA regulations are cost-benefit justified.

This memorandum is composed of three parts. First, findings by the Bureau of Justice Statistics (BJS) demonstrate that sexual assault in correctional facilities is a significant problem. Second, economic studies of the costs of sexual assault are used, in combination with data collected by BJS, to generate preliminary estimates of the potential benefits to be gained by a reduction of sexual assaults in correctional facilities. Although these calculations are only rough estimates, they do suggest that a rigorous cost-benefit analysis, conducted with accepted methodological techniques, would support the implementation of the PREA standards.<sup>7</sup> Third, a general overview of the potential economic benefits and costs of the PREA standards is provided to highlight items that should be included in a comprehensive cost-benefit analysis.

### **Data on the Prevalence of Sexual Assault in Detention Centers**

Some correctional services representatives have disputed that the sexual assault of inmates is a serious problem in their facilities.<sup>8</sup> However, more reliable data collected by BJS, through its annual National Inmate Survey program, demonstrates that sexual assault in correctional facilities is in fact a significant problem in the United States.<sup>9</sup>

Table 1 provides an overview of sexual assault in local jails, state and federal prisons, and juvenile detention facilities. Based on survey results, BJS estimates that 24,700 inmates of local jails (3.2 percent of all inmates) and

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<sup>6</sup> NATIONAL PRISON RAPE ELIMINATION COMMISSION, REPORT (2009), available at <http://www.ncjrs.gov/pdffiles1/226680.pdf>.

<sup>7</sup> Some of the calculations and data sources used here would not be appropriate in a final cost-benefit analysis conducted by the Department of Justice. For example, the ASCA cost estimates may be inflated, and the Department must independently evaluate all estimates of costs and benefits. The analysis below is offered as informal guidance to demonstrate how the Department might approach a comprehensive cost-benefits analysis of PREA standards, and the range of tools and empirical data available to this end.

<sup>8</sup> See, e.g., Association of State Correctional Administrators, *Comments on PREA Standards, Docket No OAG-131* (May 10, 2010), at 1-2. In support, ASCA notes that there are “relatively few documented instances” of sexual assault occurring in correctional facilities. However, by “documented,” it appears that ASCA is solely referring to formal reports lodged by inmates using facilities’ internal complaint procedures.

<sup>9</sup> Alan J. Beck et al., SEXUAL VICTIMIZATION IN JUVENILE FACILITIES REPORTED BY YOUTH, 2008-09: BUREAU OF JUSTICE STATISTICS SPECIAL REPORT NCJ 228416 (January 2010), available at <http://bjs.ojp.usdoj.gov/content/pub/pdf/svjfry09.pdf> [hereinafter BJS JUVENILES]; Alan J. Beck and Paige M. Harrison, SEXUAL VICTIMIZATION IN LOCAL JAILS REPORTED BY INMATES 2007: BUREAU OF JUSTICE STATISTICS SPECIAL REPORT NCJ 221946 (June 2008), available at <http://bjs.ojp.usdoj.gov/content/pub/pdf/svljri07.pdf> [hereinafter BJS JAILS]; Alan J. Beck and Paige M. Harrison, SEXUAL VICTIMIZATION IN STATE AND FEDERAL PRISONS REPORTED BY INMATES, 2007: BUREAU OF JUSTICE STATISTICS SPECIAL REPORT NCJ 219414 (December 2007), available at <http://bjs.ojp.usdoj.gov/content/pub/pdf/svfpri07.pdf> [hereinafter BJS PRISONS].

60,500 inmates (4.5 percent) of state and federal prisons were sexually assaulted in 2007.<sup>10</sup> Sexual assault is also prevalent in youth facilities; BJS estimates that over 12 percent of youths in juvenile facilities (3,220 individuals) were victims of sexual assault in 2008-09. In both adult and juvenile facilities, at least 56 percent of sexual assaults were perpetrated by correctional staff, the majority of which was nonconsensual (82 percent for local jails, 76 percent for state and federal prisons, 53 percent for juvenile facilities).<sup>11</sup>

BJS tracks not only the number of victims of sexual assault, but also the frequency with which individuals are assaulted. BJS estimated that in 2007, 123 incidents of sexual victimization<sup>12</sup> occurred for every 1,000 inmates in state and federal prisons.<sup>13</sup> Of these incidents, 75 were unwilling sexual contact with correctional staff. Eleven prisons had nonconsensual victimization rates of at least 300 incidents per 1,000 inmates. Since the number of victimizations exceeds the number of assault victims in correctional facilities it would appear that, on average, victims are being assaulted multiple times in a calendar year. In local jails and juvenile facilities, inmates who have been previously sexually assaulted are at least twice as likely to be victimized again. Presumably, every repeat assault increases the level of physical and mental trauma sustained by an individual inmate.

Many inmates suffer physical injury as a result of sexual assault (see Tables 2 and 3). In 2007, approximately 24,700 inmates of local jails suffered physical injury as a result of sexual assault. BJS further estimated that 0.8 percent of state and federal prison inmates were physically injured during sexual assault in 2007, which would translate to over 10,000 inmates being injured. In juvenile facilities, 20 percent of youths sexually victimized by a fellow inmate suffered physical injuries (2008-09 survey data). Types of physical injury ranged from bruises, cuts and scratches to internal injuries and knife or stab wounds. Assuming that victims of sexual assault seek medical attention for these injuries, the costs of treatment vary according to the severity of the injury. Moreover, while these statistics provide some basis for estimating medical costs attendant to treating physical injuries resulting from sexual assault, it is important to note that they do not capture psychological trauma sustained during sexual assault, or shed light on the costs associated with that trauma.

### **The Economic Benefits of Reducing Sexual Assault in Correctional Facilities**

In order to determine the benefits of reducing the incidence of sexual assault in correctional facilities, it is necessary to estimate the costs of sexual assault—costs borne not only by individual victims, but also by their families and by society generally. Although we are not aware of any economic studies estimating the costs of sexual assaults occurring in correctional facilities, previous economic studies have measured the costs associated with sexual assaults occurring in the general population. These numbers may be used as a starting point for estimating the costs associated with sexual assaults occurring in correctional facilities, and the potential benefits to be gained by reducing those assaults.

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<sup>10</sup> These figures were obtained by (1) estimating the percentage of sampled inmates who were sexually assaulted in the past six to 12 months, and (2) using this percentage to estimate the total number of inmates who were sexually assaulted in correctional facilities.

<sup>11</sup> While some sexual contact between correctional staff and inmates may be consensual, such activity is nonetheless illegal.

<sup>12</sup> The term victimization refers to an incident of sexual assault. Hence, a single victim may be victimized multiple times.

<sup>13</sup> This figure, from 2007, underestimates the frequency with which inmates are assaulted because it excludes instances of unwanted “touching” by other inmates, as well as “willing” contacts between inmates and staff, which are illegal.

There are myriad costs associated with sexual assault (see Table 4). Although some of these costs may not arise, in the same proportion, in the context of correctional facilities, it seems reasonable to suppose that, at a minimum, sexual assaults in correctional facilities give rise to medical and mental health costs, legal costs associated with investigating and prosecuting the perpetrator, pain and suffering endured by both the victim and the victim’s family, potentially some lost labor productivity, and other emotional and financial costs borne by the families of victims, as well as perpetrators, of sexual assault.

Previous economic studies give estimates, in dollars, of both the tangible and intangible costs of rape and sexual assault (excluding child abuse).<sup>14</sup> One such study, published by the National Institute of Justice, puts the average cost *per victimization* at \$87,000 in 1993 dollars, which translates to \$122,881 in 2007 dollars.<sup>15</sup> A more recent study by Ted Miller and others, commissioned by the Minnesota Department of Health, provides updated figures on the costs arising from rape and sexual assault of adult victims<sup>16</sup>:

<u>Cost</u>	<u>Rape</u>		<u>Other Sexual Assault</u> <sup>17</sup>	
	MN	US	MN	US
Medical Care	\$700	\$600	-	-
Mental Health Care	\$1,400	\$1,300	-	-
Lost Work	\$2,800	\$2,500	-	-
Property Damage	\$100	\$100	-	-
Suffering and Lost Quality of Life	\$118,100	\$107,300	\$270	\$200
Sexually Transmitted Diseases	\$1,100	\$1,000	-	-
Pregnancy	\$400	\$400	-	-
Suicide Acts	\$8,200	\$7,600	-	-
Substance Abuse	\$2,300	\$2,100	-	-
Victim Services/Out of Home Placement	\$100	\$100	-	-
Criminal Justice:				
Investigation/Adjudication	\$500	\$500	-	-
Sanctioning	\$2,100	\$2,000	-	-
Earning Loss While Confined	\$1,300	\$1,300	-	-
Total (Rounded)	\$139,000	\$126,800	\$270	\$200

As the study’s authors point out, these estimates do not capture the full costs of sexual assault. For example, the above costs exclude “the costs of crimes committed by people whose experiences of victimization contributed to

<sup>14</sup> See Mark A. Cohen, *THE COSTS OF CRIME AND JUSTICE* (2005), at 42-43. While a separate discussion should be had on the propriety of applying these figures in the context of prison-based sexual assault, nonetheless they offer insight into the magnitude of the costs of sexual assault, and are some of the few relevant studies of which Policy Integrity is aware.

<sup>15</sup> Ted R. Miller et al., *VICTIM COSTS AND CONSEQUENCES: A NEW LOOK*, NATIONAL INSTITUTE OF JUSTICE RESEARCH REPORT NCJ-155282 (January 1996), available at <http://www.ncjrs.gov/pdffiles/victcost.pdf>. The breakdown of the average cost per victimization is provided in Table 5. Note that these are the present value of average lifetime costs for incidents of victimization.

<sup>16</sup> Ted R. Miller et al., *COSTS OF SEXUAL VIOLENCE IN MINNESOTA* (Minnesota Department of Health, July 2007), available at [http://www.pire.org/documents/mn\\_brochure.pdf](http://www.pire.org/documents/mn_brochure.pdf), at 11. This study focuses estimates the present value of the costs of sexual assault in 2005, in Minnesota dollars (\$ MN). To convert these figures to US dollars, the Minnesota price adjusters of 1.0845 for medical and mental health care costs, 1.035 for criminal justice costs and 1.10116 for work loss and quality of life were removed. After adjusting the costs they were rounded to the nearest \$100 to avoid false specificity [hereinafter Miller Minnesota].

<sup>17</sup> The category “Other Sexual Assault” includes sexual assaults not resulting in physical injury or attempted penetration. *Id.*

their criminal behavior, costs of family and relationship problems that arise when someone perpetrates sexual violence, ... [and] revictimization during the disclosure and/or investigation process.”<sup>18</sup>

The above costs pertain to a single incidence of victimization. To further contextualize these costs, in 2006 Minnesota spent over \$90 million on providing medical treatment and other assistance to victims of sexual assault (Table 6). All told, sexual assaults and rapes of adult individuals cost Minnesota almost \$4 billion in a one year period (see Tables 7 and 8 for a breakdown of post-victimization costs, including those associated with resulting sexually transmitted diseases, pregnancies, suicide acts, and substance abuse).

Using the cost figures above, survey data collected by BJS, and compliance costs estimated by Association of State Correction Administrators (ASCA), Policy Integrity conducted preliminary calculations of how much incidence of sexual assaults in correctional facilities would have to be reduced, in order for the benefits of the PREA standards to break even with the costs. ASCA argues that the initial one-time cost to implement the PREA standards is \$1.4 billion and the annual ongoing cost is \$1.9 billion.<sup>19</sup>

To compare the potential benefits and costs of implementing the PREA standards, it is first necessary to calculate the present value of both benefits and costs. Using data collected by the Minnesota study cited above and assuming a three percent discount rate, we discounted the costs of implementing the PREA standards for 50 years. Two scenarios were considered: (1) the annual ongoing cost of implementing the PREA standards remains *constant* over time, and (2) the annual ongoing cost of implementing the PREA standards *decreases* over time. The latter assumption is more realistic, since it is likely that correctional facilities will implement lower-cost methods of complying with the PREA standards over time.<sup>20</sup>

When estimating the benefits of implementing the PREA standards we referred to the Minnesota study’s finding that the present value cost per incidence of sexual assault is \$139,000 in Minnesota (which is approximately US\$126,800 after removing the Minnesota price adjusters).<sup>21</sup> To make our analysis more conservative, we do not include the costs of lost work, property damage, and pregnancy in the present value costs of sexual assault in correctional facilities.

Based on preliminary calculations, an annual reduction in sexual assaults of 14,875 is required to balance the benefits and costs of implementing PREA (when costs are assumed to be constant over time), which corresponds to 20.2 percent of current estimated annual sexual assaults in correctional facilities.<sup>22</sup> Under the more realistic

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<sup>18</sup> *Id.* at 4.

<sup>19</sup> See *supra* note 8, at 5.

<sup>20</sup> See Richard L. Revesz and Michael A. Livermore, *RETAKING RATIONALITY: HOW COST-BENEFIT ANALYSIS CAN BETTER PROTECT THE ENVIRONMENT AND OUR HEALTH* (2008), Chapter 8. When calculating the present value of the costs of implementing the PREA standards, we do not account for inflation.

<sup>21</sup> In the following benefit-cost scenario the 2005 estimates of the cost of sexual assault were converted to 2007 dollars using the CPI adjuster of 1.06, which was derived from the Bureau of Labor Statistics, *HISTORY OF CPI-U U.S. ALL ITEMS INDEXES AND ANNUAL PERCENT CHANGES FROM 1913 TO PRESENT*, available at <http://www.bls.gov/cpi/>.

<sup>22</sup> As already noted, there were 123 incidents of sexual victimization per 1,000 prison inmates in 2007. Based on Table 1, there were 597,400 inmates in local jails or state and federal prisons in 2007 and youths in juvenile facilities in 2008-09. If we apply the rate of victimization in prisons to all surveyed correctional facilities then this would suggest that 73,480

assumption that costs are decreasing over time, an annual reduction in sexual assaults of 11,560 is required to balance the benefits and costs of implementing PREA, which is 15.7 percent of existing annual sexual assaults in correctional facilities.<sup>23</sup>

For both scenarios the annual reductions in sexual assaults required for net benefits of implementing PREA to be positive are plausible. While, given data limitations it is impossible to say with confidence how the new rules will affect rates of sexual assault, for both scenarios the annual reduction in sexual assaults required to generate some net benefits are less than the current number of sexual assaults in correctional facilities. Although the calculations presented in this memorandum are preliminary and incomplete, they suggest that the benefits of implementing the PREA standards have the potential to offset the costs that have been estimated by ASCA.<sup>24</sup>

Further support for the above conclusions is provided by a 2001 study by Mark Cohen and others, who estimated the economic value people place on preventing sexual assault.<sup>25</sup> On average, people are willing to pay \$237,000 (in 2000 dollars, which translates to \$285,199 in 2007 dollars) to prevent rape and sexual assaults. Although the Cohen study did not expressly focus on eliminating sexual assault in correctional facilities, it does suggest that the public would value a reduction in sexual assault in correctional facilities. This further supports our conclusion that a comprehensive cost-benefit analysis would support the adoption of the national PREA standards proposed by the Commission.

#### **Items that Should be Included in a Full Cost-Benefit Analysis**

The following lists include benefits and costs that should be accounted for in a comprehensive cost-benefit analysis of the proposed PREA standards. Those which are not susceptible to quantification should nonetheless be considered and cited by the Department. These lists are neither complete nor definitive.

*Benefits.* Some of the benefits to be gained may be classified as cost-savings, such as: decreased litigation costs, decreased grievance petitions, decreased medical treatment costs; decreased mental healthcare treatment costs; and decreased prison security breaches. Additional significant benefits include: improved mental well-being and quality of life of inmates; improved well-being and productivity of correctional staff; improved quality of life and

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victimizations occurred. When calculating the reduction in sexual assaults required for PREA to be cost-benefit justified, the current annual number of sexual assaults in correctional facilities is assumed to be 73,480.

<sup>23</sup> Note that these figures are generated under very conservative assumptions. While the costs of PREA have been discounted for the life of the program (which we have assumed to be 50 years), the benefits of PREA have been discounted on two levels. First, the value to an individual inmate of avoiding a single incident of sexual victimization has been discounted over the life of the victim (at a three percent discount rate). Second, the benefits of the PREA program have been discounted by 3 percent each year.

The present value of annual costs of implementing the PREA standards is \$54.5 billion when costs are assumed to be constant over time and \$41.8 billion when costs are assumed to decrease each year. To simulate decreasing costs over time, we generated a convex cost function that trended to \$1.05 billion in annual ongoing costs, which is equivalent to a 45 percent reduction in real costs. This implies that the costs of complying with PREA decrease by one to three percent each year.

<sup>24</sup> Although Booz Allen Hamilton conducted a cost impact analysis of the PREA regulations for the Department of Justice, its cost estimates are incomplete. *See supra*, note 5. For the purposes of our benefits analysis, the figures presented by ASCA were more relevant. Accordingly, we did not use the Booz Allen Hamilton study in our cost analysis. In part, this decision was also made to avoid the double counting of costs.

<sup>25</sup> Mark A. Cohen et al., *Willingness-to-Pay for Crime Control Programs*, 42 *CRIMINOLOGY* 1, 86-106 (2004).

productivity of inmates; improved reentry and potential life-earnings of inmates; decreased recidivism; improved emotional and financial well-being of inmates' families; benefit society places on reduced incidence of sexual assault in correctional facilities (“willingness-to-pay”).

*Costs.* The most significant costs include: up-front implementation costs; continuing maintenance and compliance expenses; costs of detecting sexual assault; legal and other criminal justice system costs incurred in the course of prosecuting perpetrators of sexual assault (both correctional staff and inmates).

## **Conclusion**

Prior to setting national PREA standards, the Department must conduct a thorough cost-benefit analysis that gives appropriate attention to all potential costs and benefits of the regulations, whether they are direct, indirect, quantifiable, or qualitative. Information currently before the Department does not fulfill this mandate. Notably, although the Booz Allen Hamilton study surveys compliance costs, nowhere does it address cost-savings, or other benefits, that will also be generated.

By prevent sexual assaults before they occur, national PREA standards will save substantial taxpayer money currently being spent on medical treatment for victims, litigation, and other post-incident expenses. National standards will also produce significant economic benefits for the health and well-being of victims, their families, and society.

Policy Integrity's discussion of the economic literature and back-of-the-envelope calculations offer a starting-point for accurately assessing the benefits of reducing sexual assault in correctional facilities nationwide. They also suggest that these benefits have the potential to offset the implementation and compliance costs.

**Table 1: Sexual Assault in Local Jails, State and Federal Prisons and Juvenile Facilities**

	Local Jails	State and Federal Prisons <sup>e</sup>	Juvenile Facilities <sup>f</sup>
Limits on which instances of sexual victimization are captured by the survey	Incidents that occurred in the <u>6 month</u> period prior to the survey date	Incidents that occurred in the <u>12 month</u> period prior to the survey date	Incidents that occurred in the <u>12 month</u> period prior to the survey date
Number of inmates	306,598	264,251	26,551
Number of respondents	40,419	23,398	9,198
Respondents who had experienced one or more incidents of sexual victimization	1,330 (3.2%)	1,109 (4.5%)	1,199 (12.1%)
<b>Estimate of the number of inmates who are sexually assaulted in the USA</b>	<b>24,700 (3.2%)</b>	<b>60,500 (4.5%)</b>	<b>3,220 (12.1%)</b>
Perpetrator(s):			
Inmate	12,100 (1.6%)	27,500 (2.1%)	700 (2.6%)
<i>Nonconsensual sexual acts<sup>a</sup></i>	5,200 (0.7%)	16,800 (1.3%)	530 (2.0%)
<i>Abusive sexual contacts<sup>b</sup></i>	6,900 (0.9%)	10,600 (0.8%)	140 (0.5%)
Staff	15,200 (2.0%)	38,600 (2.9%)	2,730 (10.3%)
<i>Unwilling activity<sup>c</sup></i>	10,400 (1.3%)	22,600 (1.7%)	1,150 (4.3%)
<i>Willing activity<sup>d</sup></i>	8,400 (1.1%)	22,700 (1.7%)	1,710 (6.4%)
Institutions surveyed	282	146	195
<i>Prevalence rate at least twice the national average</i>	18	10	13 <sup>g</sup>
<i>Prevalence rate not statistically different from zero</i>	69	-	11 <sup>h</sup>
<i>No reported incidents of sexual assault</i>	18	6	36

Source: BJS JUVENILES; BJS JAILS; BJS PRISONS, *supra* note 9.

<sup>a</sup> Nonconsensual sexual act: giving or receiving sexual gratification, and oral, anal, or vaginal penetration.

<sup>b</sup> Abusive sexual contact: unwanted touching of specific body parts in a sexual way.

<sup>c</sup> Unwilling activity: sex or sexual contact with staff as a result of physical force, pressure, or offers of special favors or privileges.

<sup>d</sup> Although sexual activity between inmates and staff may be consensual, it is still an illegal activity.

<sup>e</sup> State and Federal prisons were restricted to adult confinement facilities, including prisons, penitentiaries, prison hospitals, prison farms, boot camps and centers for reception, classification, or alcohol and drug treatment. Community-based facilities (e.g. halfway houses, group homes and work release centers) were excluded from the survey of State and Federal prisons.

<sup>f</sup> ‘Juvenile facilities’ were defined as juvenile confinement facilities that incarcerated youth for at least 90 days.

“Facilities were excluded if fewer than 25% of the youth in the facility had been adjudicated, the facility held fewer than 10 adjudicated youth, or if the facility was locally or privately operated and held fewer than 105 youth.” BJS JUVENILES, *supra* note 8.

<sup>g</sup> High victimization rates were defined as rates with a lower bound of the confidence interval that was larger than 1.35 times the average prevalence rate for all facilities.

<sup>h</sup> Although the authors of the BJS Juveniles Report do not explicitly claim that these juvenile facilities have a prevalence rate that is not statistically different from zero, they argue that these facilities are defined as ‘low rate’ facilities for victimization. See *id.*

**Table 2: Injuries Sustained During Sexual Assault in Local Jails (2007)**

Type of Injury	All Inmates	All Victims
Any injury	0.6%	19.5%
Knife or stab wounds	0.1%	2.1%
Broken bones	0.1%	3.3%
Anal/rectal tearing	0.2%	6.3%
Teeth chipped/knocked out	0.3%	8.9%
Internal injuries	0.2%	6.3%
Knocked unconscious	0.2%	7.8%
Bruises, cuts, scratches	0.5%	15.8%
Number of inmates	772,800	24,700

Source: BJS JAILS, *supra* note 9, at 5.

**Table 3: Injuries Sustained During Sexual Assault in Juvenile Facilities (2008-09)**

Type of Injury	Victims of Other Youth	Victim of Staff
Any injury	20%	5%
Knife or stab wounds	9%	-
Broken bones	5%	-
Teeth chipped/knocked out	5%	-
Internal injuries	7%	-
Knocked unconscious	5%	-
Bruises, cuts, scratches	17%	-
Two or more serious injuries	6%	2%
Sought medical attention	5%	<1%

Source: BJS JUVENILES, *supra* note 9, at 13.

**Table 4: The Costs of Crime – A Typology**

<b>Cost Category</b>	<b>Party Who Most Directly Bears Cost</b>
I COSTS OF CRIME	
Productivity losses	
1 Lost workdays	
(a) Lost wages for unpaid workdays	Victim
(b) Lost productivity	Society/employer
(c) Temporary labor and training of replacements	Society/employer
2 Lost housework	Victim and family
3 Lost school days	
(a) Foregone wages owing to lack of education	Victim
(b) Foregone non-pecuniary benefits of education	Victim
(c) Foregone social benefits owing to lack of education	Society
Medical and mental health care	
1 Costs not reimbursed by insurance	Victim/victim's family/society
2 Costs reimbursed by insurance	Society
3 Administrative cost: insurance reimbursement	Society
Direct property losses	
1 Losses not reimbursed by insurance	Victim
2 Losses reimbursed by insurance	Society
3 Administrative cost: insurance reimbursement	Society
4 Administrative cost: recovery and processing by police	Society
Indirect costs of victimization	
1 Avoidance behavior	Victim
2 Expenditures on moving, alarms, guard dogs, etc.	Victim
Pain and suffering/quality of life	Victim
Loss of affection/enjoyment	Victim's family
Death	
1 Lost quality of life	Victim
2 Loss of affection/enjoyment	Victim's family
3 Funeral and burial expenses	Victim's family
4 Psychological injury/treatment	Victim's family
Legal costs associated with tort claims	Victim/victim's family/third party
Victim services	
1 Expenses charged to victim	Victim
2 Expenses paid by agency	Society
"Second-generation costs"	
1 Future victims of crime committed by earlier victims	Future victim
2 Future social costs associated with (1)	Society, etc.

Source: Cohen, *supra* note 14, at 10-11.

## II COST OF SOCIETY'S RESPONSE TO CRIME

Avoidance costs	
1 Avoidance behavior	Potential victim
2 Expenditures on moving, alarms, guard dogs, etc.	Potential victim
Fear of crime	Potential victim
Criminal justice system	Society
1 Police and investigative costs	Society
2 Prosecutors	Society
3 Courts	Society
4 Legal fees	
(a) Public defenders	Society
(b) Private legal fees	Offenders
5 Incarceration costs	Society
6 Non-incarcerative sanctions	Society
7 Victim/family time	Victim/family
8 Jury and witness time	Jury/witness
Victim services	
1 Victim service organizations	Society
2 Victim service volunteer time	Volunteers
3 Victim compensation programs	Society/offender
4 Victim/family time	Victim/family
Other non-criminal justice programs	
1 Hot-lines and public service announcements	Society
2 Community treatment programs	Society
3 Private therapy/counseling	Society/offender
Incarcerated offender costs	
1 Lost wages	Offender/family
2 Lost tax revenue and productivity	Society
3 Value of lost freedom	Offender
4 Psychological cost to family/loss of consortium	Family of offender
"Overdeterrence" costs	
1 Innocent individuals accused of offense	Innocent individuals
2 Restriction of legitimate activity	Innocent individuals
3 Actions taken by offenders to avoid detection e.g. kill robbery victims to reduce chance of being caught	Society/offender victim
"Justice" costs	
1 Constitutional protections to avoid false accusations	Society
2 Cost of increasing detection rate to avoid differential punishment	Society
III OFFENDER COSTS	
Opportunity cost of time spent in illegal activity instead of "working"	Society
Resources devoted to illegal activity (e.g. guns)	Offender

**Table 5: Government Spending on Sexual Violence Medical Treatment and Efforts to Assist Victims, Minnesota, FY 2006**

Cost	1993 dollars	2007 dollars
Loss of productivity	\$2,200	\$3,107
Medical care/ambulance	\$500	\$706
Mental health care	\$2,200	\$3,107
Police/fire services	\$37	\$52
Social/victim services	\$27	\$38
Property loss/damage	\$100	\$141
Subtotal: tangible losses	\$5,100	\$7,203
Quality of life	\$81,400	\$114,972
Total	\$87,000	\$122,881

Source: Miller Minnesota, *supra* note 16, at 9.

**Table 6: Government Spending on Sexual Violence Medical Treatment and Efforts to Assist Victims, Minnesota, FY 2006**

	\$ MN	\$ US
Medicare and Medicaid	\$82,113,000	\$75,715,000
Victim Services	\$3,353,000	\$3,092,000
Out-of-Home Placement	\$4,696,000	\$4,330,000
Financial Assistance	\$378,000	\$349,000
Total	\$90,540,000	\$83,485,000

Source: Miller Minnesota, *supra* note 16, at 10.

Note: To convert these cost estimates from Minnesota dollars to US dollars, the Minnesota price adjuster of 1.0845 for medical and mental health care costs was removed. After adjusting the costs they were rounded to the nearest \$1,000.

**Table 7: Suicide Acts and Substance Abuse Resulting from Sexual Assault in Minnesota, 2005, and the Cost per Case**

	\$	Medical	Other Resource Cost	Work Loss	Quality of Life Loss	Total
Suicide Act	MN	\$5,900	-	\$117,200	\$210,700	\$333,800
	US	\$5,400	-	\$106,400	\$191,300	\$303,200
Substance Abuse						
Alcohol Abuse and Dependence	MN	\$3,200	\$2,000	\$8,500	\$21,000	\$34,700
	US	\$3,000	\$1,800	\$7,700	\$19,100	\$31,600
Smoking	MN	\$1,500	-	\$1,700	\$11,000	\$14,200
	US	\$1,400	-	\$1,500	\$10,000	\$12,900
Illicit Drug Use	MN	\$1,000	\$1,800	\$4,800	\$5,400	\$13,000
	US	\$900	\$1,700	\$4,400	\$4,900	\$11,800

Source: Miller Minnesota, *supra* note 16, at 13.

Note: To convert these cost estimates from Minnesota dollars to US dollars, the Minnesota price adjusters of 1.0845 for medical and mental health care costs and 1.10116 for work loss and quality of life were removed. After adjusting the costs they were rounded to the nearest \$100.

**Table 8: Sexually Transmitted Diseases and Pregnancies Resulting from Sexual Assault in Minnesota, 2005, and the Cost per Case**

	Medical		Work Loss		Quality of Life Loss		Total Cost per Case	
	MN	US	MN	US	MN	US	MN	US
Sexually Transmitted Disease	\$700	\$600	\$1,200	\$1,100	\$3,500	\$3,200	\$5,400	\$4,900
Chlamydia	\$300	\$300	\$300	\$300	\$1,000	\$900	\$1,600	\$1,500
Gonorrhea	\$300	\$300	\$300	\$300	\$1,000	\$900	\$1,600	\$1,500
Herpes Simplex	\$700	\$600	\$300	\$300	\$1,000	\$900	\$2,000	\$1,800
HIV	\$312,400	\$288,100	\$704,400	\$639,700	\$2,016,600	\$1,831,300	\$3,033,400	\$2,759,100
Human Papillomavirus	\$1,000	\$900	\$300	\$300	\$1,000	\$900	\$2,300	\$2,100
Pelvic Inflammatory Disease	\$4,600	\$4,200	\$300	\$300	\$1,000	\$900	\$5,900	\$5,400
Syphilis	\$700	\$600	\$300	\$300	\$1,000	\$900	\$2,000	\$1,800
Trichomoniasis	\$30	\$30	\$20	\$20	\$60	\$50	\$110	\$100
Pregnancy	\$5,200	\$4,800	\$5,700	\$5,200	\$600	\$500	\$11,500	\$10,500
Abortion	\$500	\$500	\$300	\$300	\$1,000	\$900	\$1,800	\$1,600
Live Birth	\$12,900	\$11,900	\$14,400	\$13,100	Unknown	Unknown	\$27,300	\$25,000
Miscarriage	\$500	\$500	\$300	\$300	\$1,000	\$900	\$1,800	\$1,600

Source: Miller Minnesota, *supra* note 16, at 12.

Note: To convert these cost estimates from Minnesota dollars to US dollars, the Minnesota price adjusters of 1.0845 for medical and mental health care costs and 1.10116 for work loss and quality of life were removed. After adjusting the costs they were rounded to the nearest \$100.