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CENTER FOR EVIDENCE-BASED CORRECTIONS

The Prison Rape Elimination Act: An Overview and Consideration of Implementation Issues

presented to the

California Department of Corrections and Rehabilitation

by

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July 28, 2005

⇒ Objectives:

- 1. Introduce PREA**
- 2. Introduce the UCI research team, our objectives, and discuss current plans for research**
- 3. Discuss programming issues**



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Overview:

The 2003 Prison Rape Elimination Act (PREA)

Highlights of the PREA

- **Supports the elimination, reduction and prevention of sexual assault within the corrections system**
- **Mandates several national data collection activities**
- **Provides funding for program development and additional research**
- **Creates a national commission to develop standards and accountability measures**

The Law

- **Public Law 108–79 signed by President Bush on September 4, 2003**
- **Applies to all federal and state prisons, jails, police lock-ups, private facilities and community correctional settings; includes adult and juvenile, male and female facilities**
- **Appropriations for 2005 at \$40 million – promising but no guarantee that funding will continue at full level (2004 through 2010)**

The Law

SECTION 1. Introduction

SECTION 2. Findings

SECTION 3. Purposes

**SECTION 4. National prison rape
statistics, data, research**

**SECTION 5. Prison rape prevention
and prosecution**

**SECTION 6. Grants to protect inmates
and safeguard communities**

The Law

SECTION 7. National Prison Rape Reduction Commission

SECTION 8. Adoption and effect of national standards

SECTION 9. Requirement that accreditation organizations adopt standards of accreditation

SECTION 10. National prison rape statistics, data, research



The Law

Sec. 3 Purposes:

- 1) Establish a zero-tolerance standard for the incidence of rape in prisons in the United States.**



The Law

Sec. 3 Purposes:

- 2) **Make the prevention of prison rape a top priority in each prison system.**

The Law

Sec. 3 Purposes:

- 3) Develop and implement national standards for the detection, prevention, reduction, and punishment of prison rape.**



The Law

Sec. 3 Purposes

- 4) **Increase available data and information on the incidence of prison rape.**

The Law

Sec. 3 Purposes:

- 5) Standardize the definitions used for collecting data on the incidence of prison rape.**

The Law

Sec. 3 Purposes:

- 6) Increase the accountability of prison officials who fail to *detect, prevent, reduce, and punish* prison rape.**

The Law

Sec. 3 Purposes:

- 7) Protect the Eighth Amendment rights of Federal, State, and local prisoners.**



The Law

Sec. 3 Purposes:

- 8) **Increase the efficiency and effectiveness of federal expenditures through grant programs such as health care; mental health care; disease prevention; crime prevention, investigation, and prosecution; prison construction, maintenance, and operation; race relations; poverty; unemployment; and homelessness.**



The Law

Sec. 3 Purposes

- 9) **Reduce the costs that prison rape imposes on interstate commerce.**



Where We Enter:

Legislative Mandate

- 1. Although the issue of prison rape has been studied, Congress has noted in its finding that "insufficient research" has been conducted and "insufficient data reported."**
- 2. One of the reasons for passing PREA was to "increase available data and information on the incidence of prison rape, consequently improving the management and administration of correctional facilities."**

Where We Enter: **Legislative Mandate**

- 3) **Section 4 of the PREA mandates the development and implementation of a major research effort. While a significant portion of this work is to be carried out by BJS, the Attorney General is also authorized to provide grants to carry out research. NIJ was tasked with processing and awarding these research grants.**

- 4) **Enter the UCI proposal (handout).**



Why Research?

- CDCR's commitment to "evidence-based corrections"
- In March 2004 NIJ published a comprehensive literature review of the existing research titled "Prison Rape: A Critical Review of the Literature," which:
 - Describes research conducted since 1968
 - Describes both convergence and divergence across findings, noting the difficulties encountered when comparing across facilities of different sizes, security levels, missions, types of inmates, etc.
 - Describes how conducting such research presents a unique set of challenges
 - Offers suggestions to help guide future research
 - **But, only one prison in California studied!**



Wooden and Parker (1983)

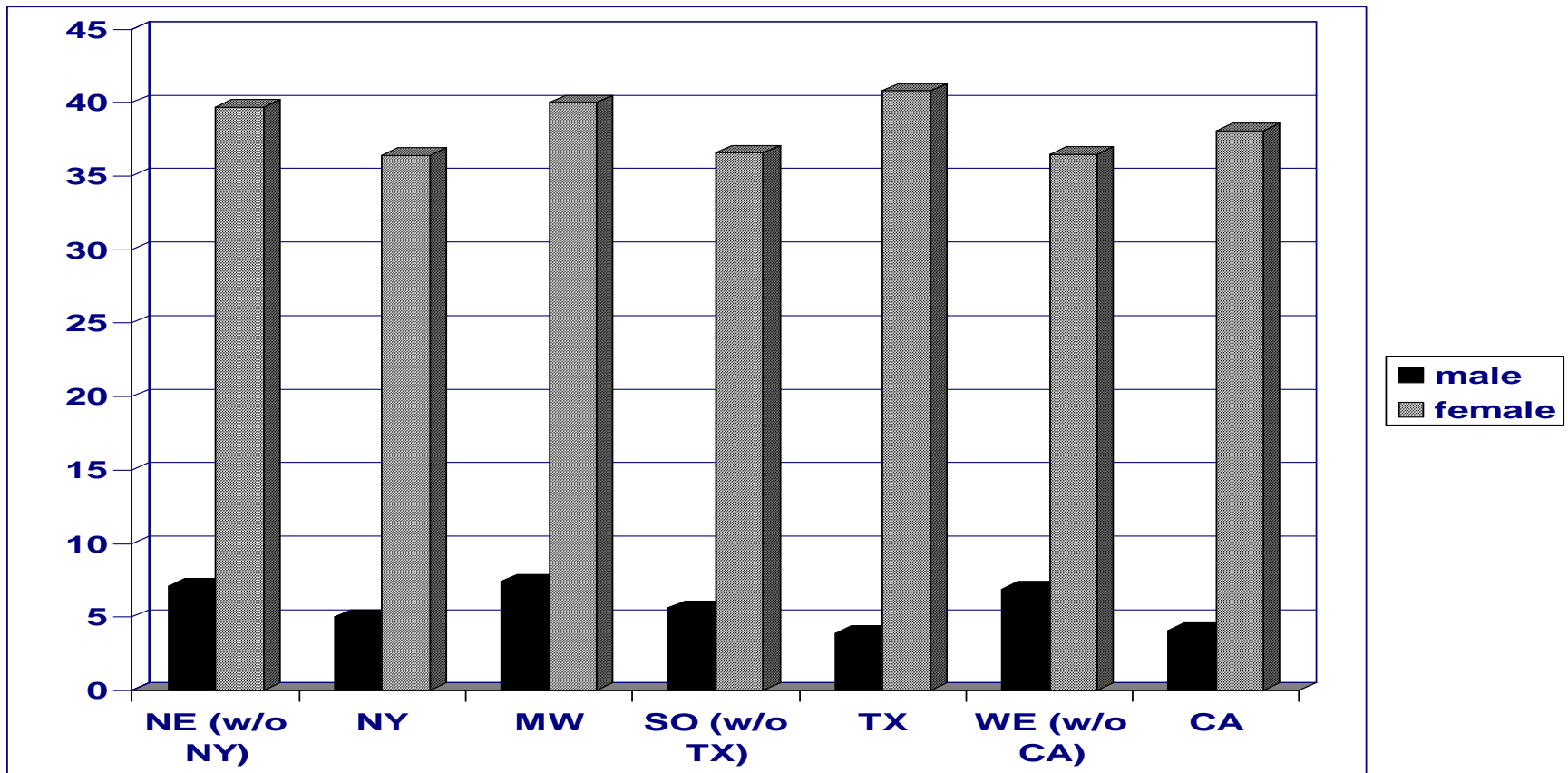
- **Research on sexual behavior and victimization in a California medium security prison between 1979-80;**
- **The prison held 2,500 inmates;**
- **The prison was used to house self-avowed homosexual and vulnerable inmates in single cells;**
- **Researchers distributed 600 questionnaires to a random sample of inmates and received 200 back**
- **65% of respondents report having sex in prison;**
- **14% of respondents report having been the victim of sexual assault or pressured to engage in sexual activity;**
- **Much of their analysis is dedicated to describing and explaining (what is assumed to be) homosexual behavior that occurs in prison.**



Current Federal Research

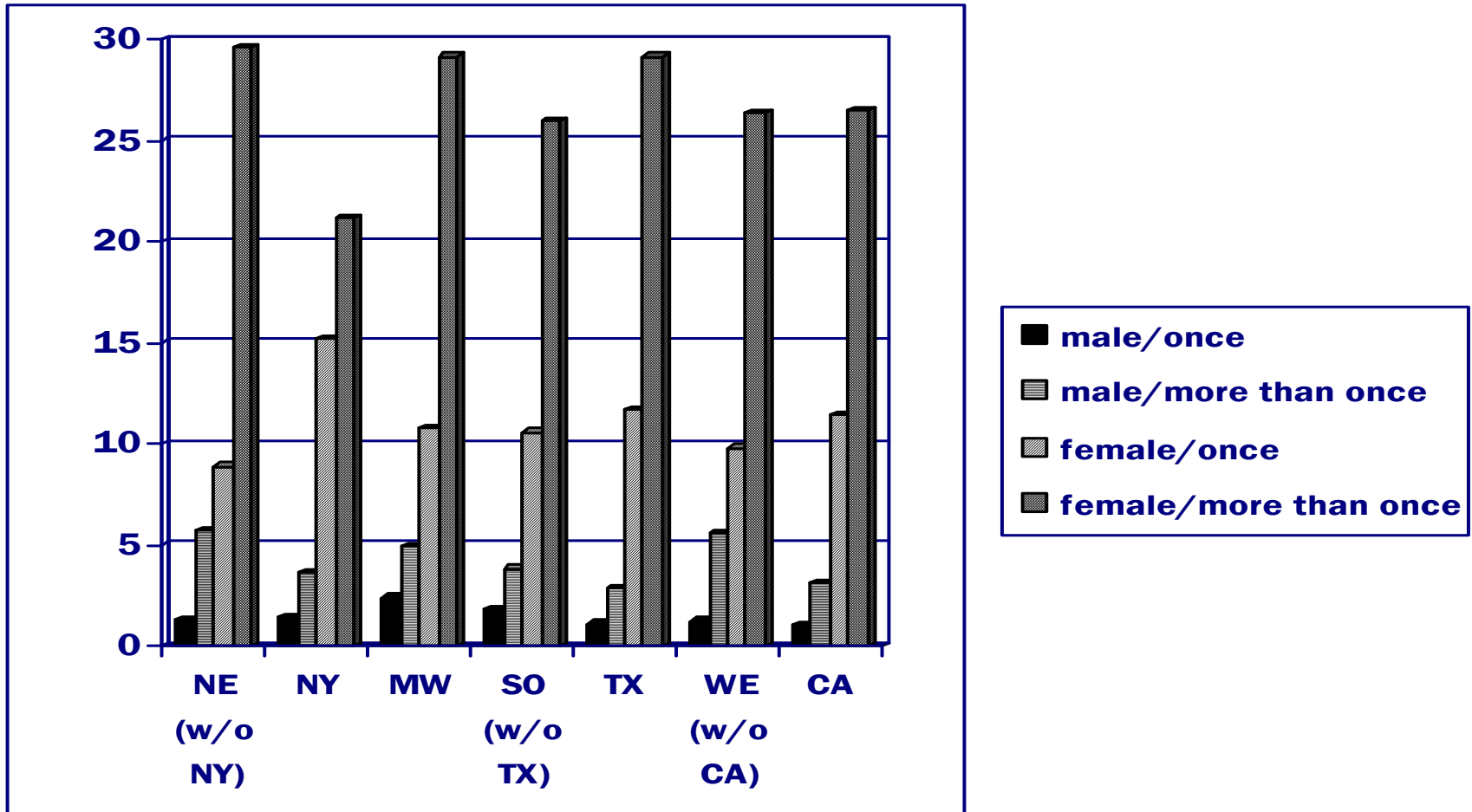
- 1. BJS "shall carry out a comprehensive statistical review and analysis of the incidence and effects of prison rape." Includes national inmate survey with a sample of 10% of ~8,700 facilities nationwide, with at least one facility in every jurisdiction.**
- 2. Mark Fleisher, Case Western Reserve University, is conducting an anthropological study of inmate culture. This work was funded by the NIJ in Fall 2003, immediately after the passage of the PREA and includes hundreds of interviews with inmates.**
- 3. 1997 Inmate Survey done by BJS.**

Percent of Inmates within Stratum Responding “Yes” to: “Before your admission to prison on [date of current incarceration], had anyone every pressured or forced you to have any sexual contact against your will, that is, touching of genitals”?



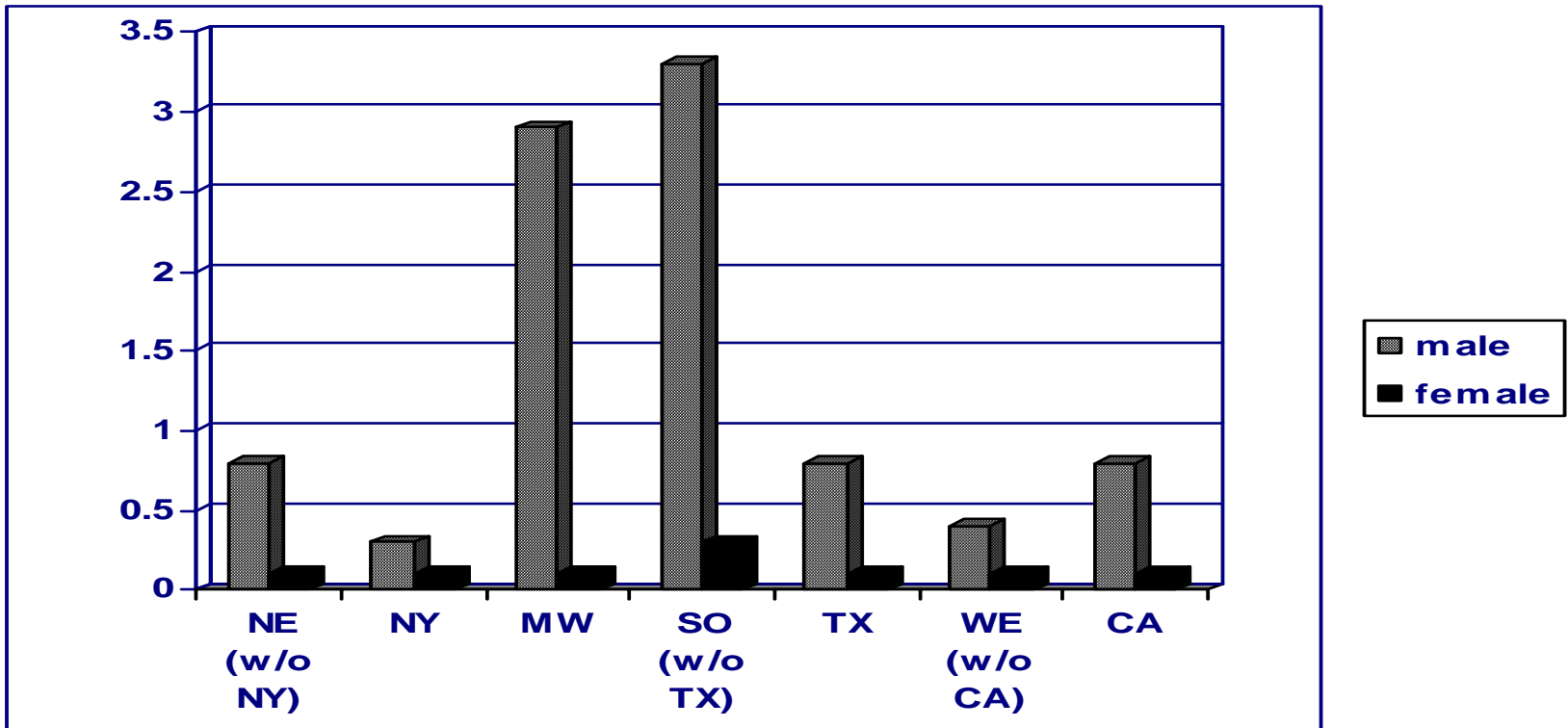
Source: Survey of Inmates in State and Federal Correctional Facilities. 1997. U.S. Department of Justice. Bureau of Justice Statistics.

Percent of Inmates within Stratum Responding “Once” and “More than Once” to: “Did the sexual contact against your will [prior to your most recent incarceration] occur “once” or “more than once”?



Source: Survey of Inmates in State and Federal Correctional Facilities. 1997. U.S. Department of Justice. Bureau of Justice Statistics.

**Percent of Inmates within Stratum Responding “yes” to:
 Before your admission to prison on [date of current incarceration],
 had anyone pressured or forced you to have any sexual contact
 against your will, that is, touching of genitals while Incarcerated”***



Source: Survey of Inmates in State and Federal Correctional Facilities. 1997. U.S. Department of Justice. Bureau of Justice Statistics.

*** Not necessarily in the same state in which the inmate is currently incarcerated.**



Current State Research

Protecting Inmates and Safeguarding Communities

FY 2004 Awards

Grantee	Award Amount
California Department of Corrections	\$500,000
Colorado Department of Corrections	\$254,455
Idaho Department of Correction	\$370,784
Iowa Department of Corrections	\$1,000,000
Louisiana Department of Pubic Safety And Corrections	\$998,646
Michigan Department of Corrections	\$1,000,000
Missouri Department of Corrections	\$688,330
Nebraska Department of Correctional Services	\$197,207
New Jersey Department of Corrections	\$602,207
New York State Department of Correctional Services	\$1,000,000
Ohio Department of Rehabilitation and Correction	\$542,080
Pennsylvania Department of Corrections	\$580,312
Rhode Island Department of Corrections	\$599,090
Texas Department of Criminal Justice	\$1,000,000
Vermont Department of Corrections	\$361,967
Washington State Department of Corrections	\$1,000,000
Total	\$10,695,078



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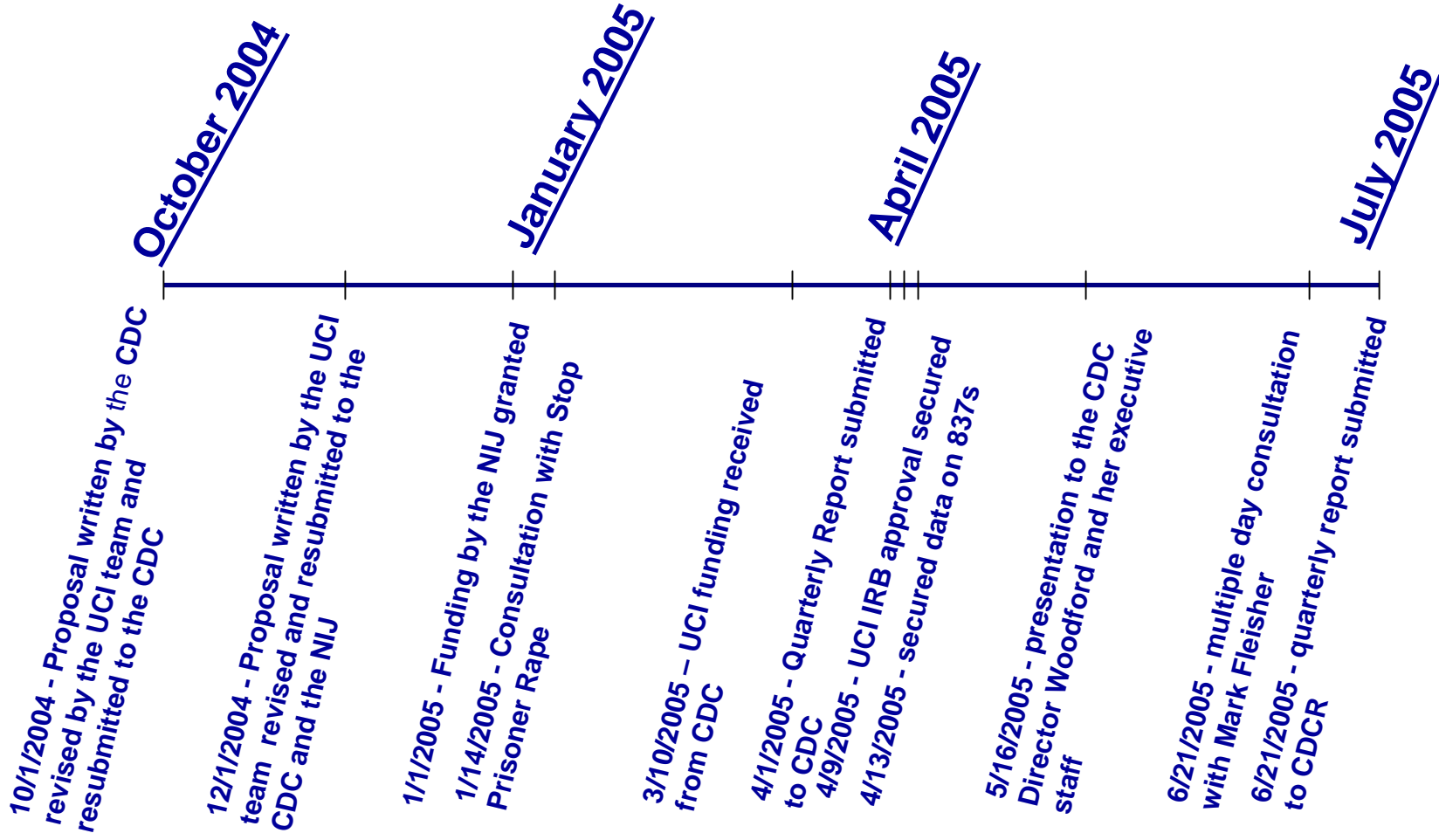


Overview:

The UCI Team's Research

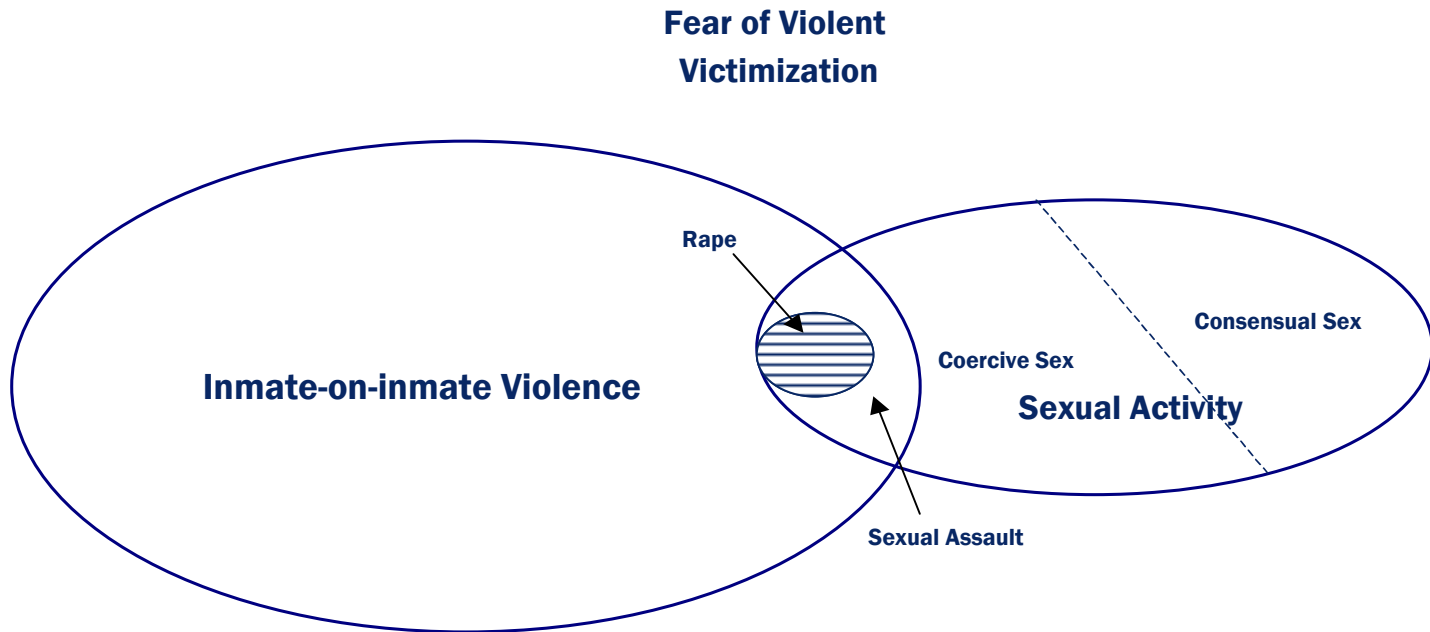


Timeline



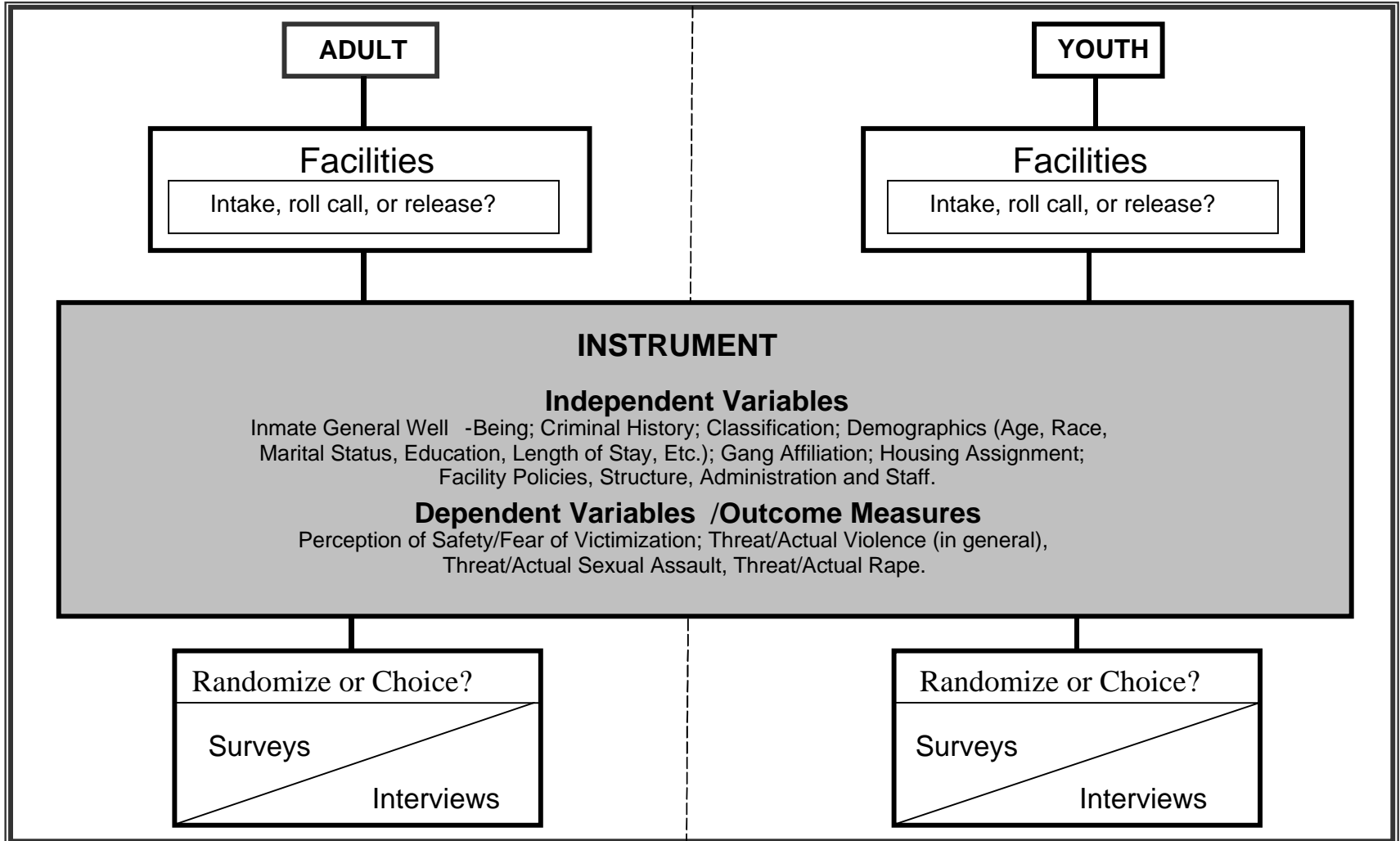


Conceptualizing the Problem





Tentative Research Design





Key Questions:

- 1) Where to solicit self-report data: intake, call out, and/or prerelease?**
- 2) How to solicit self-report data: surveys or interviews?**
- 3) How to identify human subjects: choice or randomization?**



Key Questions:

4) How to distinguish between rape and other forms of sexual assault?

Rape is defined in Section 10 of the Act quite broadly as follows: "(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 that 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."



Key Questions:

- 5) Is there usable data? In other words, what exists that we can capitalize on and what do we need to collect anew?**
- 6) Specific types of data needed:
 - i. on violence generally?**
 - ii. on sexual assault?**
 - iii. on inmates?**
 - iv. on facilities?**
 - v. on policies and protocols?****



➔ **Overview:**

Programming Issues:

A. Ohio's 10 pt. Plan

B. CDCR's Action Plan

➔ Providing an Example

“The Ohio Department of Rehabilitation and Correction is committed to emphasizing a zero tolerance of the sexual abuse of inmates, either by staff or by other prisoners.”

Ohio's 10 pt. Plan

- 1. Staff training for inmate-on-inmate sexual assault and inappropriate inmate on staff relationships**
- 2. Inmate education on inmate on inmate sexual assault and inappropriate inmate/staff relationships**
- 3. Sanctions**
- 4. Victim support persons**
- 5. Investigation procedures/Training**

Ohio's 10 pt. Plan

6. **Electronic tracking/identification of inmate aggressors/manipulators**
7. **Data collection**
8. **Audits**
9. **Process improvement team to address fear of reporting**
10. **Compliance with all elements of the PREA**



CDCR's Action Plan

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