

**The Rights of Incarcerated Victims of Crime:
A Comparison of the Colorado Victim Rights Act (VRA) and the Prison Rape Elimination
Act (PREA) with Recommendations for Improvement**

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I. INTRODUCTION

The Colorado Victim Rights Act (“VRA”) was enacted to improve the general effectiveness and well-being of the criminal justice system and to ensure the rights of victims of crime are protected in a manner no less vigorous than the rights of defendants. *Colo. Rev. Stat. § 24-4.1-301*. The Prison Rape Elimination Act (“PREA”) was enacted to prevent rape and sexual abuse of a population that is uniquely dependent on government actors for safety, security, survival, and that has unique vulnerabilities to sexual predators, whether they be facility staff or fellow inmates. *34 U.S.C.S. § 30302*. Although the VRA and PREA are not designed to be analogous or to address the same issues, both do address some aspects of government response to sexual abuse and sexual assault, and incarcerated victims of sex assault are subject to the protections of both the VRA and PREA. *34 U.S.C.S. § 30304, 30307; Colo. Rev. Stat. § 24-4.1-302*. This report aims to examine ways in which PREA and the VRA are similar and dissimilar, identify areas where victims are not protected, and make recommendations for how existing law could be improved to enhance the rights of incarcerated victims of crime.

II. EXECUTIVE SUMMARY

The Colorado Victim Rights Act (“VRA”) and the Prison Rape Elimination Act (“PREA”) provide legal rights for overlapping but non-identical populations. The rights and obligations under each apply to victims of sexual abuse and sexual assault, but the application of those rights are initiated by different events. Rights under the VRA become relevant when a crime covered by the VRA is reported to law enforcement, and they continue until any related criminal case is resolved. The rights and obligations of PREA are in effect regardless of whether a crime is reported, and result in protections for incarcerated populations prior to a crime being

committed, as well as after a report is made. The VRA includes more extensive rights to notification, as well rights to be heard, and a right to be treated with fairness, dignity and respect throughout the criminal justice process. PREA contains extensive requirements meant to prevent crime, but offers fewer protections once a crime has been reported, particularly if the incident is only addressed through administrative channels, versus the criminal justice system.

The expansion of VRA rights to incarcerated victims of crime, whether or not they are victims in a criminal case, would ensure that all victims of crime, wherever located, are ensured the same protections under the law. PREA should be strengthened by requiring compliance with the VRA, where applicable, and by integrating VRA rights into administrative proceedings related to the victimization of incarcerated individuals. In particular, incarcerated victims should have privacy protections, the right to be heard, the right to notification, and the right to be treated with fairness, dignity and respect.

III. COMPARISON OF LEGAL RIGHTS

The VRA and PREA both offer legal protections for victims of sexual abuse and sexual assault, including victims who are incarcerated. PREA protects pre-existing rights under the U.S. Constitution, in particular the 8th Amendment right to protection against cruel and unusual punishment, while the VRA creates affirmative rights for victims of crime in the criminal justice system. *USCS Const. Amend. 8; 34 U.S.C.S. § 30302(7); Colo. Rev. Stat. § 24-4.1-301*. The following is a comparison of key provisions of the legal obligations under the VRA and PREA.

A. Legislative purpose:

The Colorado Victim Rights Act amended the state Constitution in 1992 and imparted upon victims of crime the right to be “heard when relevant, informed, and present at all critical

stages of the criminal justice process.” *Colo. Const. Art. II, Sec.16a*. The enabling legislation for the VRA has a clear purpose to ensure the voluntary cooperation of victims of crime to improve the general effectiveness of the criminal justice system. *Colo. Rev. Stat. § 24-4.1-301*. The foundational rights of the VRA are to be treated with fairness, respect, and dignity, and the rights to be informed, present, and heard throughout the criminal justice process. *Colo. Rev. Stat. § 24-4.1-302.5*. The VRA applies to victims of designated crimes, generally crimes against persons, who are considered victims under the law. *Colo. Rev. Stat. § 24-4.1-302*.ⁱ

PREA was implemented in federal law in 2003 with clear goals to: establish a zero-tolerance policy toward rape in U.S. prisons; make prevention of rape in prisons a top priority; develop and implement national standards for the detection, prevention, reduction, and punishment of prison rape; increase the available data and information on the incidence of prison rape, and consequently improving the management and administration of correctional facilities; standardize the definitions used for collecting data on the incidence of prison rape; to increase the accountability of prison officials who fail to detect, prevent, reduce, and punish prison rape; to protect the Eighth Amendment rights of Federal, State, and local prisoners; increase the efficiency and effectiveness of Federal expenditures through grant programs such as those dealing with health care, mental health care, disease prevention; crime prevention, promotion of investigation and prosecution, prison construction, maintenance, and operation; race relations; poverty; unemployment; and homelessness, and to reduce the costs that prison rape imposes on interstate commerce. *34 U.S.C.S. § 30302*. The primary focus of PREA is on the prevention of crime, and the collection of data on crimes that occur, versus the protection of the rights of victims of crime.

B. Scope

The VRA protects a much broader population of crime victims than the population protected by PREA, which is focused specifically on sexual abuse and sexual assault. *Colo. Rev. Stat. § 24-4.1-302; 34 U.S.C.S. § 30302*. However, the VRA only creates obligations to act after a crime has been committed and reported. *Colo. Rev. Stat. § 24-4.1-302.5, 303*. Rights under the VRA apply throughout the criminal justice process, including during investigation, before any charges are filed, pre-trial, during trial, and after conviction. *Colo. Rev. Stat. § 24-4.1-302.5, 303*. PREA applies to all federal, state, and local prisons, jails, police lockups, private facilities, and community settings such as residential facilities, by requiring those facilities to take measures to protect inmates from sexual assault, and to respond appropriately to reports of sexual assault in their facilities. *34 U.S.C.S. § 30309(7)*. Certain preventative aspects of PREA protect inmates from sexual assault, and covered facilities are required to take required preventative measures whether or not any inmate has reported being a victim of a sexual assault or any other crime. *34 U.S.C.S. § 30302*. PREA creates obligations that pre-exist any report of a crime, with the goal of preventing the crime from occurring, such as requirements for screening inmates for risk, hiring practices, and operational requirements for facilities. *34 U.S.C.S. § 30305*.

C. Right to Fairness Respect, and Dignity

The fundamental right of the VRA is that crime victims should be “treated with fairness, respect and dignity, and to be free from intimidation, harassment, or abuse throughout the criminal justice system”. *Colo. Rev. Stat. § 24-4.1-301(1)(a)*. PREA does not create any right to being treated with fairness, dignity and respect, but is instead focused on protecting an inmate’s Constitutional right to be free from cruel and unusual punishment. *34 U.S.C.S. §30302(7)*. Protecting vulnerable populations from sexual assault certainly demonstrates one aspect of

treating a victim population with dignity and respect, but PREA does not go as far as the VRA, in terms of specifying a right, or designing a process that ensures that victims are treated fairly, respectfully, or with dignity after a crime has occurred..

D. Right to Privacy

The VRA provides extensive privacy protections to victims of crime throughout the criminal justice process. This includes the right to be heard at any court proceeding involving a subpoena for a victim's privileged records. *Colo. Rev. Stat. Ann. § 24-4.1-302.5(1)(d)(VII)*. Other privacy protections include the right to prevent a victim from having to provide their current address, phone number, place of employment, or other locating information, the right to have social security numbers redacted from documents, and the right to be notified how to request address protection. *Colo. Rev. Stat. Ann. § 24-4.1-302.5(1)(v,w,x)*. The VRA also requires correctional officers to keep location information about a victim and their family confidential. *Colo. Rev. Stat. Ann. § 24-4.1-303(2)*.

Inmates have a greatly diminished expectation of privacy and PREA does not expand or restore those rights to a pre-incarceration state. With limited exceptions, PREA also does not explicitly protect the privacy of victims of sexual assault or sexual abuse during the investigation of an incident, or during any administrative proceeding related to the same. PREA does require that staff not reveal information related to a sexual abuse report other than to the extent necessary for treatment, investigation, or other security or management decisions. *28 CFR 115.61*. However, there is no penalty or consequence for improperly sharing information, and the range of circumstances that could justify the sharing of information for “treatment, investigation, or other security or management decisions” is very broad. Victims who seek to report under PREA must be given ways to do so “privately”, and anonymous reports can be made. *28 CFR 115.51*.

However, privacy is a much lower standard than confidentiality. Inmates who make a report under PREA are also entitled to communication with outside victim advocates, “in as confidential a manner as possible”. *28 CFR 115.53*. PREA also requires that consent of the victim be obtained prior to reporting prior non-institutional victimization, unless it occurred before age 18. *28 CFR 115.81*. Although PREA also provides particular protections against retaliation, it is worth noting that none of the suggested measures for doing so (housing changes, support services, etc.) include protecting the confidentiality of victim information. *28 CFR 115.67*.

E. Right to Notice and Presence

The VRA has extensive requirements for notification of covered victims throughout the criminal justice process, to include all critical stagesⁱⁱ. *Colo. Rev. Stat. Ann. § 24-4.1-302.5(1)(b)*. The VRA also requires that victims be permitted to be present at all defined critical stages of the criminal justice process. *Colo. Rev. Stat. Ann. § 24-4.1-302.5(b)*. The extensive commitment to keeping victims informed as criminal cases progress is a cornerstone of the VRA, and ensure victims are aware of the status and progress of cases from reporting, through investigation, before and during trial, and after a conviction. Although methods of notification may vary across jurisdiction in Colorado, the VRA establishes very clear rights and obligations relating to keeping victims of crime informed through the pendency of the cases in which they are a victim.

The VRA also includes a right to be informed when a person accused or convicted of a crime against the victim is released, escapes, is transferred from, or discharged from any facility, or from probation or parole. *Colo. Rev. Stat. § 24-4.1-302.5-303*. Such extensive notification is essential to promote the safety of victims of crime.

PREA does not include extensive rights to notice of proceedings related to victimization. After a report is made under PREA, there is no notification requirement until an investigation is complete, at which time the inmate is informed only whether the report was substantiated, unsubstantiated, or unfounded. *28 CFR 115.73(a)*. PREA does require some additional notifications related to the location of an offender if the allegation is not deemed to be unfounded. If the offender is a staff member, the victim inmate will be informed whenever the staff member is no longer posted within the inmate's unit, no longer employed at the facility, or has been indicted or convicted on a charge related to sexual abuse within the facility. *28 CFR 115.73(c)*. If the offender is another inmate, the victim inmate will be informed when the agency learns that the alleged abuser has been indicted or convicted on a charge related to sexual abuse within the facility. However, this obligation to provide notification is terminated if the victim inmate is released from custody. *28 CFR 115.73(d-f)*. If a criminal case is filed as a result of victimization that occurred while someone is incarcerated, the rights of notification under the VRA do still apply, but in the event no criminal case occurs, inmate victims are likely to have very little information about what happened after a report is made, or what consequence their offenders received.

F. Right to be heard

The VRA ensures victims of crime have the right to participate in certain court proceedings via statements made, or submitted to, the court. *Colo. Rev. Stat. Ann. § 24-4.1-302.5(1)(d)*. This includes plea hearings, sentencing, any hearing related to a subpoena for a victim's privileged records, any hearing related to the modification of a mandatory protection order, any petition for expungement, and some proceedings related to bond. *Colo. Rev. Stat. Ann. § 24-4.1-302.5(1)(d)*. The ability for a victim of crime to address the court about their

position on matters critical to their privacy, safety, and the outcome of a criminal case is fundamental to the purpose of ensuring their voluntary participation to improve the effectiveness of the criminal justice system. *Colo. Rev. Stat. § 24-4.1-301*. PREA does not provide any rights similar to the ones imparted by the VRA. Once a report is made under PREA, unless a criminal case arising out of the same incident is filed, the inmate victim has no opportunity to be heard from again after their report is made. If a criminal case is filed, a victim of a crime who is an inmate does have the same rights to be present, and heard, as a victim in any criminal case, with the exception of the fact that their participation is limited to being only by phone or similar technology, versus the right to actually be present or heard in-person. *Colo. Rev. Stat. § 24-4.1-302.5(1)(d.5)(IV) and (j.5)(V)*. An incarcerated victim whose case proceeds solely through an administrative or non-criminal process will not have a right to be heard, because PREA does not provide for this right and the VRA would not apply.

G. Right to Safety and Protection

The VRA includes multiple rights related to improving the safety of victims after a crime is reported. The first right of the VRA is to be, not only, treated with fairness, respect, and dignity, but also to be “free from intimidation, harassment or abuse throughout the criminal justice process.” *Colo. Rev. Stat. Ann. § 24-4.1-302.5(1)(a)*. Other safety rights include the aforementioned rights related to privacy and notification about the location of the offender. The VRA also ensures the right to be informed about the existence of a criminal protection order, and what to do in the event a victim experiences intimidation or harassment by a person accused or convicted of a crime. *Colo. Rev. Stat. Ann. § 24-4.1-302.5 (1.6), (1)(m)*. The VRA also protects the victim’s right to be provided, whenever practicable, with a secure waiting area during court proceedings, and all reasonable attempts must be made to protect any victim and their family

from harm, harassment, intimidation, or retaliation. *Colo. Rev. Stat. Ann. § 24-4.1-302.5(1)(p)*, § 24-4.1-303(5).

While PREA does not articulate a specific right to safety, it contains substantial provisions aimed at preventing crimes from ever occurring. PREA's extensive safeguards to prevent sex crimes against inmates are a reflection of the diminished agency of inmates (e.g., restrictions on ability to legally consent to sexual activity, inability to move freely inside or outside of the facility, limited ability to choose or reject associations or interactions with staff or other inmates, etc.) and the greater dependency of inmate populations on the government to ensure their safety and survival (e.g., for food, shelter, protection, medical care, etc.).

Under PREA, facilities are required to prevent, investigate, and prosecute sexual abuse and sexual assault. *34 U.S.C.S. §30305(b)(1)(A-C)*. Facilities must take steps to screen all inmates for risk of victimization (as well as abusiveness).ⁱⁱⁱ *28 C.F.R. § 115.41*. Under PREA, inmates at high risk for sexual victimization shall not be placed in involuntary segregated housing unless an assessment of all available alternatives has been made, and a determination has been made that there is no available alternative means of separation from likely abusers. *28 C.F.R. § 115.43(a)*. When a prison agency learns that an inmate is subject to substantial risk of imminent sexual abuse, it "shall take immediate action to protect the inmate." *28 C.F.R. § 115.62*. PREA also contains provisions designed to protect inmates from retaliation, including monitoring for possible retaliation, and establishing policies to protect all inmates and staff who participate in an investigation from retaliation.^{iv} *28 C.F.R. § 115.67*. Last, PREA imposes extensive hiring and promotion restrictions and requirements on facilities, specifically to protect inmates from sexual assault. *28 C.F.R. § 115.17*.

IV. SUMMARY AND CONCLUSIONS

A. Areas of Harmony and Disharmony

There is an underlying philosophical and ethical harmony between PREA and the VRA. PREA is an articulation of the idea that rape should never be a punishment for a crime. This idea stems from ethical and constitutional ideas about acceptable forms of punishment, the dignity of the person, and basic rights to which all people are entitled.

The VRA stems from essentially the same ethical ideal, which acknowledges the agency and dignity of the individual, and seeks to prevent a government process from excluding a victim of crime from the legal system, and ensuring they are treated with fairness, respect, and dignity.

However, PREA and the VRA fundamentally exist to accomplish different goals and to protect largely different populations. PREA was enacted to protect incarcerated people from rape, to uphold inmates' 8th Amendment Constitutional right to be free from cruel and unusual punishment, and to create a system of data collection and required preventative actions that support a prison environment free from sexual assault. *34 U.S.C.A. § 30301(15)*. In contrast, the VRA was enacted to increase the participation of victims of crime in the criminal justice system, and to protect the rights and dignity of victims of crime.

There are no direct conflicts of law between PREA and the VRA. Compliance with PREA will never prevent compliance with VRA. In fact, it may enhance VRA compliance. Compliance with VRA will never prevent PREA compliance. However, there are significant gaps in protection, particularly for victims who are not entitled to the protections of both laws.

The primary gaps created by the lack of continuity across the VRA and PREA in areas of the VRA right to be treated with dignity, fairness and respect, the VRA rights related to privacy and safety, and the VRA rights to notification and to be heard. Victims of crime who are

incarcerated will not benefit from the added protections and rights of the VRA unless a criminal case is also reported, and charges are filed.

If a PREA complaint is only handled administratively, either through a personnel disciplinary process or an inmate disciplinary process, VRA rights do not apply, and the incarcerated victim has no legally articulated right to dignity, fairness and respect in the context of the legal process, nor do they have access to privacy and safety protections, rights to notification, or any voice in that process.

B. Areas for Further Study

While a gap in legal rights related to victims of crime who are incarcerated has been identified, the specific impacts of that gap on incarcerated victim populations, and the frequency and severity of those impacts, all remain to be determined. Specifically, it would be helpful to determine, through a meta-analysis, the characteristics of PREA cases that are typically handled through the criminal process, and the characteristics of cases that are more likely to be handled exclusively through an administrative process. Further study in this area would enable more detailed and robust recommendations for change. An additional suggested method of study or investigation is obtain input from advocates who work with victims in correctional facilities, inmates, and DOC personnel, on what impact the lack of VRA rights has on those who have made reports under PREA. Investigation of safety considerations related to the possible increased notification to and participation by incarcerated victims would enable well-rounded and well-informed recommendations that may expand rights for victims following a PREA report. Last, there is a lack of data on the number of incarcerated victims of crime who are entitled to rights under the VRA, and whether they are able to successfully participate in the criminal justice system, as provided for them under the VRA.

C. Recommendations

While recommendations should be reconsidered or refined once additional studies have been performed, it is already apparent that some victims are without the rights that the VRA intended to confer upon all victims of sexual assault. One way to ensure this gap is addressed would be a change in law to ensure that anyone reporting a VRA crime under PREA, was also entitled to either participate in the criminal justice system, or to have corresponding VRA rights provided in the PREA administrative process. As mentioned, compliance obligations with the VRA are focused on governmental actors and are focused on ensuring victims have access to meaningful participation in the criminal justice process. As PREA applies to the same agencies, an exploration of amending the VRA to afford victims in PREA specific rights to be treated with fairness, dignity, and respect as well as the rights to be present, informed, and heard when relevant, is recommended.

The body of law focused on expanding the rights of victims of crime continues expand. Both the VRA and PREA are relatively new laws that provide specific protections to victims of crime, but in different ways, and with different purposes. PREA's focus on the prevention of crime has led to the development of many mechanisms for identifying risk. However, the lack of legal protections for victims in PREA is inconsistent with the rights provided by the VRA, and results in a system that might not provide a good option for victims seeking to report a crime. Efforts to better understand the gaps between the VRA and PREA, and to learn more about how existing laws are being implemented, ensures that we continue to develop legal strategies that most effectively address the legal, safety, and privacy rights of all victims of crime.

ⁱⁱⁱ Colo. Rev. Stat. § 24-4.1-302 defines a victim as a “natural person against whom any crime has been perpetrated or attempted, unless the person is accountable for the crime or a crime arising from the same conduct or plan. If such person is deceased or incapacitated, the person’s spouse, parent, legal guardian, child, sibling, grandparent, grandchild, significant other, or other lawful representative. Persons under 18 are considered incapacitated, unless legally emancipated.” Crimes covered under Colo. Rev. Stat. § 24-4.1-302 are: murder, manslaughter, criminally negligent homicide, vehicular assault or homicide, failure to stop at the scene of an accident resulting in death or serious bodily injury, careless driving, first degree burglary, robbery or aggravated robbery, aggravated robbery of a controlled substances, assault, menacing, kidnapping, unlawful sexual contact, sexual assault, stalking, sexual assault on a child by one in a position of trust or a psychotherapist, violation of a protection order against a person charged with a VRA crime, human trafficking, child abuse, child prostitution and sexual exploitation, incest/aggravated incest, indecent exposure, invasion of privacy for sexual gratification, posting private images for harassment or pecuniary gain, intimidation or tampering with a witness or victim, retaliation against a judge, prosecutor, juror, witness, or victim, criminal attempt, solicitation, conspiracy, or accessory to any VRA crime, crimes identified as domestic violence by law enforcement or prosecutor, crimes with an underlying factual basis of domestic violence, crimes against at-risk adults/juveniles, bias motivated crimes.

ⁱⁱ Critical Stages are: Filing of charges and decisions not to file charges, decision to enter in to diversion agreement, motions hearings concerning evidentiary matters, any disposition of the complaint or charges against the accused, arraignment, preliminary hearing, subpoena for victim’s privileged records, trial, sentencing, resentencing, and any modification of sentence, appellate review or decision, attack on a judgment or conviction where a hearing is set, bond reduction or modification related to type, conditions, variance from schedule of bond, change of venue, transfer of supervision, modification of terms of probation, request for release from probation prior to end of sentence, filing of a complaint by probation for failure to report, probation and parole revocation hearings, parole application and parole board review, parole or release from imprisonment, transfer to a nonsecure facility, transfer, release, or escape from any state hospital, petition to terminate sex offender registration, execution in a capital case, hearing or decision regarding postconviction DNA testing, hearing regarding expungement or sealing unless the case was dismissed, there was a not guilty verdict, or a juvenile completed a sentence not involving unlawful sexual behavior, domestic violence, or a crime under section 24.4.1-302(1).

ⁱⁱⁱ All inmates shall be assessed during an intake screening and upon transfer to another facility for their risk of being sexually abused by other inmates or sexually abusive toward other inmates. 28 C.F.R. § 115.41(a). Intake screening shall ordinarily take place within 72 hours of arrival at the facility. 28 C.F.R. § 115.41(b). Such assessments shall be conducted using an objective screening instrument. 28 C.F.R. § 115.41(c). PREA has a minimum required list of risk factors that intake screeners must consider in assessing incoming inmates for risk of abusiveness or victimization. 28 C.F.R. § 115.41(d). PREA may require facilities to reassess inmates for risk of abusiveness or victimization. 28 C.F.R. § 115.41(e).

^{iv} Under PREA, the agency shall not hire or promote anyone who may have contact with inmates, and shall not enlist the services of any contractor who may have contact with inmates, who: has engaged in sexual abuse in a prison, jail, lockup, community confinement facility, juvenile facility, or other institution (as defined in 42 U.S.C. 1997); 28 C.F.R. § 115.17(a)(1).; has been convicted of engaging or attempting to engage in sexual activity in the community facilitated by force, overt or implied threats of force, or coercion, or if the victim did not consent or was unable to consent or refuse; or 28 C.F.R. § 115.17(a)(2); has been civilly or administratively adjudicated to have engaged in the activity described in paragraph (a)(2) of this section. 28 C.F.R. § 115.17(a)(3). Before promoting an employee, the agency shall consider any incidents of sexual harassment in determining whether to hire or promote anyone, or to enlist the services of any contractor, who may have contact with inmates. 28 C.F.R. § 115.17(b). Agencies must perform background checks before enlisting the services of any contractor who may have contact with inmates. 28 C.F.R. § 115.17(c)(1). PREA requires that agencies complete background checks that comply with specific requirements of PREA pertaining to agency employee background checks. 28 C.F.R. § 115.17(d). These specific PREA requirements detail that agencies must complete new background checks on their employees (who may have contact with inmates) at least every five years. 28 C.F.R. § 115.17(e). PREA also requires that agencies impose an affirmative reporting requirement on employees, to cover violations that may occur during those five-year intervals. 28 C.F.R. § 115.17(f). PREA requires agencies to provide information on substantiated allegations of sexual abuse or sexual harassment involving a former employee upon receiving a request from an institutional employer for whom such employee has applied to work, unless the agency is prohibited from doing so by law. 28 C.F.R. § 115.17(h).

Appendix – Comparison of Colorado and Federal Victim Rights, and PREA

CO VRA: § 24-4.1-302.5	FED. VRA: 18 U.S.C. § 3771	PREA: 34 U.S.C.A. §30301- 30309	NOTES ON COMPARISON
PURPOSE			
<p>§ 24-4.1-301 THE GENERAL ASSEMBLY HEREBY FINDS AND DECLARES THAT THE FULL AND VOLUNTARY COOPERATION OF VICTIMS OF AND WITNESSES TO CRIMES WITH STATE AND LOCAL LAW ENFORCEMENT AGENCIES AS TO SUCH CRIMES IS IMPERATIVE FOR THE GENERAL EFFECTIVENESS AND WELL-BEING OF THE CRIMINAL JUSTICE SYSTEM OF THE STATE. IT IS THE INTENT OF THIS PART 3, THEREFORE, TO ASSURE THAT ALL VICTIMS AND WITNESSES TO CRIMES ARE HONORED AND PROTECTED BY LAW ENFORCEMENT AGENCIES, PROSECUTORS, AND JUDGES IN A MANNER NO LESS VIGOROUS THAN THE PROTECTION AFFORDED CRIMINAL DEFENDANTS. § 24-4.1-302.5(1) IN ORDER TO PRESERVE AND PROTECT A VICTIM’S RIGHTS TO JUSTICE AND DUE PROCESS, EACH VICTIM OF A CRIME HAS</p>		<p style="text-align: center;">34 U.S.C.A. § 30302 Purposes</p> <p>The purposes of this chapter are to-</p> <ul style="list-style-type: none"> (1) establish a zero-tolerance standard for the incidence of prison rape in prisons in the United States; (2) make the prevention of prison rape a top priority in each prison system; (3) develop and implement national standards for the detection, prevention, reduction, and punishment of prison rape; (4) increase the available data and information on the incidence of prison rape, consequently improving the management and administration of correctional facilities; (5) standardize the definitions used for collecting data on the incidence of prison rape; (6) increase the accountability of prison officials who fail to detect, prevent, reduce, and punish prison rape; (7) protect the Eighth Amendment rights of Federal, State, and local prisoners; (8) increase the efficiency and effectiveness of Federal expenditures through grant programs such as those 	<p>The purpose of the VRA is to protect the dignity and rights of victims of covered crimes. The purpose of PREA is to prevent rape and sexual abuse of a population that is uniquely dependent on government actors for safety, security, survival. The VRA and PREA are not designed to be analogous or to address the same issues, although both do cover some aspects of government response to sexual assault reporting. PREA protects already-existent rights under the U.S. Constitution, while the VRA creates new rights for victims.</p>

Appendix – Comparison of Colorado and Federal Victim Rights, and PREA

<p>THE FOLLOWING RIGHTS [LISTING RIGHTS].</p>		<p>dealing with health care; mental health care; disease prevention; crime prevention, investigation, and prosecution; prison construction, maintenance, and operation; race relations; poverty; unemployment; and homelessness; and (9) reduce the costs that prison rape imposes on interstate commerce.</p>	
SCOPE			
<p>ANY PERSON WHO IS A VICTIM OF A CRIMINAL ACT, OR SUCH PERSON'S DESIGNEE, LEGAL GUARDIAN, OR SURVIVING IMMEDIATE FAMILY MEMBERS IF SUCH PERSON IS DECEASED, SHALL HAVE THE RIGHT TO BE HEARD WHEN RELEVANT, INFORMED, AND PRESENT AT ALL CRITICAL STAGES OF THE CRIMINAL JUSTICE PROCESS. ALL TERMINOLOGY, INCLUDING THE TERM "CRITICAL STAGES", SHALL BE DEFINED BY THE GENERAL ASSEMBLY. COLO. CONST. ART. II, § 16A</p> <p>24-4.1-302. DEFINITIONS</p>	<p>18 U.S.C. § 3771</p> <p>(2) Habeas corpus proceedings.-- (B) Enforcement.-- (i) In general.--These rights may be enforced by the crime victim or the crime victim's lawful representative in the manner described in paragraphs (1) and (3) of subsection (d).</p> <p>(D) Definition.--For purposes of this paragraph, the term "crime victim" means the person against whom the State offense is committed or, if that person is killed or incapacitated, that person's family member or other lawful representative.</p> <p>18 U.S.C.A. § 3771 (West)</p>	<p>Prisoners in United States prisons (30302- purpose)</p> <p>(B)(ii) Victims The Panel may request the testimony of prison rape victims, organizations representing such victims, and other appropriate individuals and organizations. 34 U.S.C.A. § 30303 (West)</p> <p>PREA applies to all correctional facilities, including prisons, jails, juvenile facilities, military and Indian country facilities, and U.S. Immigration and Customs Enforcement (ICE) facilities. https://www.bjs.gov/index.cfm?ty=tp&tid=20</p>	<p>The scope of populations protected by the VRA is much broader than that of PREA. PREA applies to prisoners in U.S. prisons while the VRA applies to crime victims who have reported a crime. In terms of scope of time, PREA creates obligations that pre-exist any report of a crime, in order to prevent crime, such as hiring and operational requirements for facilities. The VRA is only creates obligations to act after a crime has been committed.</p>

Appendix – Comparison of Colorado and Federal Victim Rights, and PREA

<p>AS USED IN THIS PART 3, AND FOR NO OTHER PURPOSE, INCLUDING THE EXPANSION OF THE RIGHTS OF ANY DEFENDANT:</p> <p>(1) "CRIME" MEANS ANY OF THE FOLLOWING OFFENSES, ACTS, AND VIOLATIONS AS DEFINED BY THE STATUTES OF THE STATE OF COLORADO, WHETHER COMMITTED BY AN ADULT OR A JUVENILE:</p> <p>(A) MURDER IN THE FIRST DEGREE, IN VIOLATION OF SECTION 18-3-102, C.R.S.;</p> <p>(B) MURDER IN THE SECOND DEGREE, IN VIOLATION OF SECTION 18-3-103, C.R.S.;</p> <p>(C) MANSLAUGHTER, IN VIOLATION OF SECTION 18-3-104, C.R.S.;</p> <p>(D) CRIMINALLY NEGLIGENT HOMICIDE, IN VIOLATION OF SECTION 18-3-105, C.R.S.;</p> <p>(E) VEHICULAR HOMICIDE, IN VIOLATION OF SECTION 18-3-106, C.R.S.;</p> <p>(F) ASSAULT IN THE FIRST DEGREE, IN VIOLATION OF SECTION 18-3-202, C.R.S.;</p>	<p>(2) Crime victim.--</p> <p>(A) In general.--The term “crime victim” means a person directly and proximately harmed as a result of the commission of a Federal offense or an offense in the District of Columbia.</p> <p>(B) Minors and certain other victims.--In the case of a crime victim who is under 18 years of age, incompetent, incapacitated, or deceased, the legal guardians of the crime victim or the representatives of the crime victim's estate, family members, or any other persons appointed as suitable by the court, may assume the crime victim's rights under this chapter, but in no event shall the defendant be named as such guardian or representative.</p> <p>18 U.S.C.A. § 3771 (West)</p> <p>(2) Habeas corpus proceedings.--</p> <p>(A) In general.--In a Federal habeas corpus proceeding arising out of a State conviction, the court shall ensure that a crime victim is afforded the rights described in paragraphs (3), (4), (7), and (8) of subsection (a).</p> <p>(B) Enforcement.--</p>	<p>PREA applies to all federal, state, and local prisons, jails, police lockups, private facilities, and community settings such as residential facilities.</p> <p>https://www.sheriffs.org/content/prea</p>	
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<p>(G) ASSAULT IN THE SECOND DEGREE, IN VIOLATION OF SECTION 18-3-203, C.R.S.;</p> <p>(H) ASSAULT IN THE THIRD DEGREE, IN VIOLATION OF SECTION 18-3-204, C.R.S.;</p> <p>(I) VEHICULAR ASSAULT, IN VIOLATION OF SECTION 18-3-205, C.R.S.;</p> <p>(J) MENACING, IN VIOLATION OF SECTION 18-3-206, C.R.S.;</p> <p>(K) (DELETED BY AMENDMENT, L. 95, P. 1256, § 22, EFFECTIVE JULY 1, 1995.)</p> <p>(L) FIRST DEGREE KIDNAPPING, IN VIOLATION OF SECTION 18-3-301, C.R.S.;</p> <p>(M) SECOND DEGREE KIDNAPPING, IN VIOLATION OF SECTION 18-3-302, C.R.S.;</p> <p>(N)</p> <p>(I) SEXUAL ASSAULT, IN VIOLATION OF SECTION 18-3-402, C.R.S.; OR</p> <p>(II) SEXUAL ASSAULT IN THE FIRST DEGREE, IN VIOLATION OF SECTION 18-3-402, C.R.S., AS IT EXISTED PRIOR TO JULY 1, 2000;</p> <p>(O) SEXUAL ASSAULT IN THE SECOND DEGREE, IN VIOLATION</p>	<p>(i) In general.--These rights may be enforced by the crime victim or the crime victim's lawful representative in the manner described in paragraphs (1) and (3) of subsection (d).</p> <p>(ii) Multiple victims.--In a case involving multiple victims, subsection (d)(2) shall also apply.</p> <p>(C) Limitation.--This paragraph relates to the duties of a court in relation to the rights of a crime victim in Federal habeas corpus proceedings arising out of a State conviction, and does not give rise to any obligation or requirement applicable to personnel of any agency of the Executive Branch of the Federal Government.</p> <p>(D) Definition.--For purposes of this paragraph, the term “crime victim” means the person against whom the State offense is committed or, if that person is killed or incapacitated, that person's family member or other lawful representative.</p> <p>(d) Enforcement and limitations.--</p> <p>(1) Rights.--The crime victim or the crime victim's lawful representative, and the attorney for the Government may assert the rights described in</p>		
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<p>OF SECTION 18-3-403, C.R.S., AS IT EXISTED PRIOR TO JULY 1, 2000; (P) (I) UNLAWFUL SEXUAL CONTACT, IN VIOLATION OF SECTION 18-3-404, C.R.S.; OR (II) SEXUAL ASSAULT IN THE THIRD DEGREE, IN VIOLATION OF SECTION 18-3-404, C.R.S., AS IT EXISTED PRIOR TO JULY 1, 2000; (Q) SEXUAL ASSAULT ON A CHILD, IN VIOLATION OF SECTION 18-3-405, C.R.S.; (R) SEXUAL ASSAULT ON A CHILD BY ONE IN A POSITION OF TRUST, IN VIOLATION OF SECTION 18-3-405.3, C.R.S.; (S) SEXUAL ASSAULT ON A CLIENT BY A PSYCHOTHERAPIST, IN VIOLATION OF SECTION 18-3-405.5, C.R.S.; (S.3) INVASION OF PRIVACY FOR SEXUAL GRATIFICATION, IN VIOLATION OF SECTION 18-3-405.6, C.R.S.; (T) ROBBERY, IN VIOLATION OF SECTION 18-4-301, C.R.S.; (U) AGGRAVATED ROBBERY, IN VIOLATION OF SECTION 18-4-302, C.R.S.;</p>	<p>subsection (a). A person accused of the crime may not obtain any form of relief under this chapter.</p>		
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<p>(V) AGGRAVATED ROBBERY OF CONTROLLED SUBSTANCES, IN VIOLATION OF SECTION 18-4-303, C.R.S.;</p> <p>(W) REPEALED.</p> <p>(X) INCEST, IN VIOLATION OF SECTION 18-6-301, C.R.S.;</p> <p>(Y) AGGRAVATED INCEST, IN VIOLATION OF SECTION 18-6-302, C.R.S.;</p> <p>(Z) CHILD ABUSE, IN VIOLATION OF SECTION 18-6-401, C.R.S.;</p> <p>(AA) SEXUAL EXPLOITATION OF CHILDREN, IN VIOLATION OF SECTION 18-6-403, C.R.S.;</p> <p>(BB) CRIMES AGAINST AT-RISK ADULTS OR AT-RISK JUVENILES, IN VIOLATION OF SECTION 18-6.5-103, C.R.S.;</p> <p>(BB.3) ANY CRIME IDENTIFIED BY LAW ENFORCEMENT PRIOR TO THE FILING OF CHARGES AS DOMESTIC VIOLENCE, AS DEFINED IN SECTION 18-6-800.3 (1), C.R.S.;</p> <p>(BB.7) AN ACT IDENTIFIED BY A DISTRICT ATTORNEY IN A FORMAL CRIMINAL CHARGE AS DOMESTIC VIOLENCE, AS DEFINED IN SECTION 18-6-800.3 (1), C.R.S.;</p>			
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<p>(CC) ANY CRIME, THE UNDERLYING FACTUAL BASIS OF WHICH HAS BEEN FOUND BY THE COURT ON THE RECORD TO INCLUDE AN ACT OF DOMESTIC VIOLENCE, AS DEFINED IN SECTION 18-6-800.3 (1), C.R.S., PURSUANT TO SECTION 18-6-801 (1), C.R.S.;</p> <p>(CC.1)</p> <p>(I) STALKING, IN VIOLATION OF SECTION 18-3-602, C.R.S.;</p> <p>(II) STALKING, IN VIOLATION OF SECTION 18-9-111 (4), C.R.S., AS IT EXISTED PRIOR TO AUGUST 11, 2010;</p> <p>(CC.3) A BIAS-MOTIVATED CRIME, IN VIOLATION OF SECTION 18-9-121, C.R.S.;</p> <p>(CC.5) CARELESS DRIVING, IN VIOLATION OF SECTION 42-4-1402, C.R.S., THAT RESULTS IN THE DEATH OF ANOTHER PERSON;</p> <p>(CC.6) FAILURE TO STOP AT THE SCENE OF AN ACCIDENT, IN VIOLATION OF SECTION 42-4-1601, WHERE THE ACCIDENT RESULTS IN THE DEATH OR SERIOUS BODILY INJURY OF ANOTHER PERSON;</p>			
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<p>(DD) ANY CRIMINAL ATTEMPT, AS DESCRIBED IN SECTION 18-2-101, C.R.S., ANY CONSPIRACY, AS DESCRIBED IN SECTION 18-2-201, C.R.S., ANY CRIMINAL SOLICITATION, AS DESCRIBED IN SECTION 18-2-301, C.R.S., AND ANY ACCESSORY TO A CRIME, AS DESCRIBED IN SECTION 18-8-105, C.R.S., INVOLVING ANY OF THE CRIMES SPECIFIED IN THIS SUBSECTION (1);</p> <p>(EE) RETALIATION AGAINST A WITNESS OR VICTIM, IN VIOLATION OF SECTION 18-8-706, C.R.S.;</p> <p>(EE.3) INTIMIDATING A WITNESS OR A VICTIM, IN VIOLATION OF SECTION 18-8-704, C.R.S.;</p> <p>(EE.7) AGGRAVATED INTIMIDATION OF A WITNESS OR A VICTIM, IN VIOLATION OF SECTION 18-8-705, C.R.S.;</p> <p>(FF) TAMPERING WITH A WITNESS OR VICTIM, IN VIOLATION OF SECTION 18-8-707, C.R.S.;</p> <p>(GG) INDECENT EXPOSURE, IN VIOLATION OF SECTION 18-7-302, C.R.S.;</p>			
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<p>(HH) VIOLATION OF A PROTECTION ORDER ISSUED UNDER SECTION 18-1-1001 AGAINST A PERSON CHARGED WITH COMMITTING SEXUAL ASSAULT IN VIOLATION OF SECTION 18-3-402, SEXUAL ASSAULT ON A CHILD IN VIOLATION OF SECTION 18-3-405, SEXUAL ASSAULT ON A CHILD BY ONE IN A POSITION OF TRUST IN VIOLATION OF SECTION 18-3-405.3, SEXUAL ASSAULT ON A CLIENT BY A PSYCHOTHERAPIST IN VIOLATION OF SECTION 18-3-405.5, OR STALKING IN VIOLATION OF SECTION 18-3-602;</p> <p>(II) HUMAN TRAFFICKING IN VIOLATION OF SECTION 18-3-503 OR 18-3-504, C.R.S.;</p> <p>(JJ) FIRST DEGREE BURGLARY, IN VIOLATION OF SECTION 18-4-202, C.R.S.;</p> <p>(KK) RETALIATION AGAINST A JUDGE, IN VIOLATION OF SECTION 18-8-615, C.R.S.; RETALIATION AGAINST A PROSECUTOR, IN VIOLATION OF SECTION 18-8-616, C.R.S.; OR RETALIATION AGAINST A JUROR,</p>			
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Houston, Kazi and Tofte Nestaval, Emily. 2019. The Rights of Incarcerated Victims of Crime. Colorado Coalition Against Sexual Assault: Denver, CO.

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<p>IN VIOLATION OF SECTION 18-8-706.5, C.R.S.;</p> <p>(LL) CHILD PROSTITUTION, IN VIOLATION OF SECTION 18-7-401, C.R.S.; SOLICITING FOR CHILD PROSTITUTION, IN VIOLATION OF SECTION 18-7-402, C.R.S.; PROCUREMENT OF A CHILD FOR SEXUAL EXPLOITATION, IN VIOLATION OF SECTION 18-6-404, C.R.S.; PIMPING OF A CHILD, IN VIOLATION OF SECTION 18-7-405, C.R.S.; INDUCEMENT OF CHILD PROSTITUTION, IN VIOLATION OF SECTION 18-7-405.5, C.R.S.; OR PATRONIZING A PROSTITUTED CHILD, IN VIOLATION OF SECTION 18-7-406, C.R.S.;</p> <p>(MM) POSTING A PRIVATE IMAGE FOR HARASSMENT IN VIOLATION OF SECTION 18-7-107 OR POSTING A PRIVATE IMAGE FOR PECUNIARY GAIN IN VIOLATION OF SECTION 18-7-108.</p>			
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RIGHT TO FAIRNESS AND RESPECT

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<p>§ 24-4.1-302.5(1)(A) THE RIGHT TO BE TREATED WITH FAIRNESS, RESPECT, AND DIGNITY, AND TO BE FREE FROM INTIMIDATION, HARASSMENT, OR ABUSE, THROUGHOUT THE CRIMINAL JUSTICE PROCESS;</p> <p>(O) THE RIGHT TO BE ASSURED THAT IN ANY CRIMINAL PROCEEDING THE COURT, THE PROSECUTOR, AND OTHER LAW ENFORCEMENT OFFICIALS WILL TAKE APPROPRIATE ACTION TO ACHIEVE A SWIFT AND FAIR RESOLUTION OF THE PROCEEDINGS;</p>	<p>18 U.S.C. § 3771</p> <p>(a)(6) The right to full and timely restitution as provided in law.</p> <p>(7) The right to proceedings free from unreasonable delay.</p> <p>(8) The right to be treated with fairness and with respect for the victim's dignity and privacy.</p>	<p>No corresponding right</p>	<p>Most rights specified under the VRA are an articulation of the idea that crime victims should be treated with fairness, respect and dignity. PREA does not create such a right. PREA’s focus is on protecting a basic human right to be free from sexual violence, and to protect an inmate’s constitutional right to be free from cruel and unusual punishment. The VRA sets a higher bar for treatment of its covered populations.</p>
<p>RIGHT TO SAFETY</p>			
<p>§ 24-4.1-302.5(1)(A) THE RIGHT TO BE . . . FREE FROM INTIMIDATION, HARASSMENT, OR ABUSE THROUGHOUT THE CRIMINAL JUSTICE PROCESS. § 24-4.1-302.5(1)(V) THE RIGHT TO PREVENT ANY PARTY AT ANY COURT PROCEEDING FROM COMPELLING TESTIMONY REGARDING THE CURRENT ADDRESS, TELEPHONE NUMBER, PLACE OF EMPLOYMENT, OR</p>	<p>18 U.S.C. § 3771</p> <p>(a)(1) The right to be reasonably protected from the accused.</p>	<p>§ 30305. Grants to protect inmates and safeguard communities</p> <p>(b) Use of grant amounts</p> <p>Amounts received by a grantee under this section may be used by the grantee, directly or through subgrants, only for one or more of the following activities:</p> <p>(1) Protecting inmates</p> <p>Protecting inmates by--</p> <p>(A) undertaking efforts to more effectively prevent prison rape;</p>	<p>The VRA right to safety only applies in a given case after a report of a covered crime is made. While PREA doesn’t articulate a right to safety, it contains much more extensive safeguards to prevent crime against covered populations, such as explicit requirements for monitoring and preventing retaliation. This is a reflection of the</p>

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<p>OTHER LOCATING INFORMATION OF THE VICTIM UNLESS THE VICTIM CONSENTS OR THE COURT ORDERS DISCLOSURE UPON A FINDING THAT A REASONABLE AND ARTICULABLE NEED FOR THE INFORMATION EXISTS. ANY PROCEEDING CONDUCTED BY THE COURT CONCERNING WHETHER TO ORDER DISCLOSURE SHALL BE IN CAMERA. § 24-4.1-302.5(1)(X) THE RIGHT TO BE NOTIFIED OF HOW TO REQUEST PROTECTION OF THEIR ADDRESS PURSUANT TO THE COLORADO RULES OF CRIMINAL PROCEDURE. § 24-4.1-303(14.4) THE COURT OR ITS DESIGNEE, PURSUANT TO SECTION 18-3-415, C.R.S. [TESTING FOR PERSONS CHARGED WITH A SEXUAL OFFENSE], SHALL DISCLOSE THE RESULTS OF ANY TESTING FOR A SEXUALLY TRANSMITTED INFECTION THAT IS ORDERED AND PERFORMED PURSUANT TO SECTION 18-3-415, 25-4-408(6) [PUBLIC HEALTH RESPONSIBILITIES WHEN</p>		<p>(B) investigating incidents of prison rape; or (C) prosecuting incidents of prison rape. 34 U.S.C.A. § 30305 (West)</p> <p>§ 115.17 Hiring and promotion decisions (a) The agency shall not hire or promote anyone who may have contact with inmates, and shall not enlist the services of any contractor who may have contact with inmates, who— (1) Has engaged in sexual abuse in a prison, jail, lockup, community confinement facility, juvenile facility, or other institution (as defined in 42 U.S.C. 1997); (2) Has been convicted of engaging or attempting to engage in sexual activity in the community facilitated by force, overt or implied threats of force, or coercion, or if the victim did not consent or was unable to consent or refuse; or (3) Has been civilly or administratively adjudicated to have engaged in the activity described in paragraph (a)(2) of this section. (b) The agency shall consider any incidents of sexual harassment in</p>	<p>diminished agency (e.g., inmates cannot consent to sexual activity) and greater dependency of PREA covered populations on government actors to ensure inmate safety. Government liability for inmate safety is well-developed under other bodies of civil law.</p>
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<p>CERTAIN INDIVIDUALS ARE EXPOSED TO SEXUALLY TRANSMITTED DISEASES], OR 25-4-412, C.R.S. [PUBLIC HEALTH PROCEDURES RELATED TO SEXUALLY TRANSMITTED DISEASES], TO ANY VICTIM OF A SEXUAL OFFENSE IN THE CASE IN WHICH THE TESTING WAS ORDERED. DISCLOSURE OF DIAGNOSTIC TEST RESULTS MUST COMPLY WITH THE REQUIREMENTS OF SECTION 25-4-410(2), C.R.S [HEALTH CARE PROVIDER’S DUTIES RELATED DISCOVERY AND TREATMENT OF A PATIENT WITH A SEXUALLY TRANSMITTED INFECTION].</p> <p>(P) THE RIGHT TO BE PROVIDED, WHENEVER PRACTICABLE, WITH A SECURE WAITING AREA DURING COURT PROCEEDINGS THAT DOES NOT REQUIRE A VICTIM OR A WITNESS TO BE SEEN OR TO BE IN CLOSE PROXIMITY TO THE PERSON ACCUSED OR CONVICTED OF A CRIME AGAINST THE VICTIM OR SUCH PERSON'S FAMILY OR FRIENDS;</p>		<p>determining whether to hire or promote anyone, or to enlist the services of any contractor, who may have contact with inmates.</p> <p>(c) Before hiring new employees who may have contact with inmates, the agency shall:</p> <p>(1) Perform a criminal background records check; and</p> <p>(2) Consistent with Federal, State, and local law, make its best efforts to contact all prior institutional employers for information on substantiated allegations of sexual abuse or any resignation during a pending investigation of an allegation of sexual abuse.</p> <p>(d) The agency shall also perform a criminal background records check before enlisting the services of any contractor who may have contact with inmates.</p> <p>(e) The agency shall either conduct criminal background records checks at least every five years of current employees and contractors who may have contact with inmates or have in place a system for otherwise capturing such information for current employees.</p> <p>(f) The agency shall ask all applicants and employees who may have contact with inmates directly about previous</p>	
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<p>COLO. REV. STAT. ANN. § 24-4.1-302.5 (WEST)</p>		<p>misconduct described in paragraph (a) of this section in written applications or interviews for hiring or promotions and in any interviews or written self-evaluations conducted as part of reviews of current employees. The agency shall also impose upon employees a continuing affirmative duty to disclose any such misconduct.</p> <p>(g) Material omissions regarding such misconduct, or the provision of materially false information, shall be grounds for termination.</p> <p>(h) Unless prohibited by law, the agency shall provide information on substantiated allegations of sexual abuse or sexual harassment involving a former employee upon receiving a request from an institutional employer for whom such employee has applied to work.</p> <p>§ 115.41 Screening for risk of victimization and abusiveness</p> <p>(a) All inmates shall be assessed during an intake screening and upon transfer to another facility for their risk of being sexually abused by other inmates or sexually abusive toward other inmates.</p> <p>(b) Intake screening shall ordinarily take place within 72 hours of arrival at the facility.</p>	
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		<p>(c) Such assessments shall be conducted using an objective screening instrument.</p> <p>(d) The intake screening shall consider, at a minimum, the following criteria to assess inmates for risk of sexual victimization:</p> <ol style="list-style-type: none">(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. <p>(e) The initial screening shall consider prior acts of sexual abuse, prior convictions for violent offenses, and history of prior institutional violence or sexual abuse, as known to the agency, in</p>	
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		<p>assessing inmates for risk of being sexually abusive.</p> <p>(f) Within a set time period, not to exceed 30 days from the inmate’s arrival at the facility, the facility will reassess the inmate’s risk of victimization or abusiveness based upon any additional, relevant information received by the facility since the intake screening.</p> <p>(g) An inmate’s risk level shall be reassessed when warranted due to a referral, request, incident of sexual abuse, or receipt of additional information that bears on the inmate’s risk of sexual victimization or abusiveness.</p> <p>(h) Inmates may not be disciplined for refusing to answer, or for not disclosing complete information in response to, questions asked pursuant to paragraphs (d)(1), (d)(7), (d)(8), or (d)(9) of this section.</p> <p>(i) The agency shall implement appropriate controls on the dissemination within the facility of responses to questions asked pursuant to this standard in order to ensure that sensitive information is not exploited to the inmate’s detriment by staff or other inmates.</p> <p>§ 115.43 Protective custody</p>	
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		<p>(a) Inmates at high risk for sexual victimization shall not be placed in involuntary segregated housing unless an assessment of all available alternatives has been made, and a determination has been made that there is no available alternative means of separation from likely abusers. If a facility cannot conduct such an assessment immediately, the facility may hold the inmate in involuntary segregated housing for less than 24 hours while completing the assessment.</p> <p>(b) Inmates placed in segregated housing for this purpose shall have access to programs, privileges, education, and work opportunities to the extent possible. If the facility restricts access to programs, privileges, education, or work opportunities, the facility shall document:</p> <ol style="list-style-type: none">(1) The opportunities that have been limited;(2) The duration of the limitation; and(3) The reasons for such limitations. <p>(c) The facility shall assign such inmates to involuntary segregated housing only until an alternative means of separation from likely abusers can be arranged, and such an assignment shall not ordinarily exceed a period of 30 days.</p>	
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		<p>(d) If an involuntary segregated housing assignment is made pursuant to paragraph (a) of this section, the facility shall clearly document:</p> <ul style="list-style-type: none">(1) The basis for the facility’s concern for the inmate’s safety; and(2) The reason why no alternative means of separation can be arranged. <p>(e) Every 30 days, the facility shall afford each such inmate a review to determine whether there is a continuing need for separation from the general population.</p> <p>§ 115.66 Preservation of ability to protect inmates from contact with abusers</p> <p>(a) Neither the agency nor any other governmental entity responsible for collective bargaining on the agency’s behalf shall enter into or renew any collective bargaining agreement or other agreement that limits the agency’s ability to remove alleged staff sexual abusers from contact with any inmates pending the outcome of an investigation or of a determination of whether and to what extent discipline is warranted.</p> <p>(b) Nothing in this standard shall restrict the entering into or renewal of agreements that govern:</p> <ul style="list-style-type: none">(1) The conduct of the disciplinary process, as long as such agreements are	
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		<p>not inconsistent with the provisions of §§ 115.72 and 115.76; or</p> <p>(2) Whether a no-contact assignment that is imposed pending the outcome of an investigation shall be expunged from or retained in the staff member’s personnel file following a determination that the allegation of sexual abuse is not substantiated.</p> <p>§ 115.67 Agency protection against retaliation</p> <p>(a) The agency shall establish a policy to protect all inmates and staff who report sexual abuse or sexual harassment or cooperate with sexual abuse or sexual harassment investigations from retaliation by other inmates or staff, and shall designate which staff members or departments are charged with monitoring retaliation.</p> <p>(b) The agency shall employ multiple protection measures, such as housing changes or transfers for inmate victims or abusers, removal of alleged staff or inmate abusers from contact with victims, and emotional support services for inmates or staff who fear retaliation for reporting sexual abuse or sexual harassment or for cooperating with investigations.</p>	
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		<p>(c) For at least 90 days following a report of sexual abuse, the agency shall monitor the conduct and treatment of inmates or staff who reported the sexual abuse and of inmates who were reported to have suffered sexual abuse to see if there are changes that may suggest possible retaliation by inmates or staff, and shall act promptly to remedy any such retaliation. Items the agency should monitor include any inmate disciplinary reports, housing, or program changes, or negative performance reviews or reassignments of staff. The agency shall continue such monitoring beyond 90 days if the initial monitoring indicates a continuing need.</p> <p>(d) In the case of inmates, such monitoring shall also include periodic status checks.</p> <p>(e) If any other individual who cooperates with an investigation expresses a fear of retaliation, the agency shall take appropriate measures to protect that individual against retaliation.</p> <p>(f) An agency’s obligation to monitor shall terminate if the agency determines that the allegation is unfounded.</p> <p>§ 115.68 Post-allegation protective custody</p>	
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		Any use of segregated housing to protect an inmate who is alleged to have suffered sexual abuse shall be subject to the requirements of § 115.43.	
RIGHT TO PRIVACY			
<p>§ 24-4.1-302.5(1)(V) THE RIGHT TO PREVENT ANY PARTY AT ANY COURT PROCEEDING FROM COMPELLING TESTIMONY REGARDING THE CURRENT ADDRESS, TELEPHONE NUMBER, PLACE OF EMPLOYMENT, OR OTHER LOCATING INFORMATION OF THE VICTIM UNLESS THE VICTIM CONSENTS OR THE COURT ORDERS DISCLOSURE UPON A FINDING THAT A REASONABLE AND ARTICULABLE NEED FOR THE INFORMATION EXISTS. ANY PROCEEDING CONDUCTED BY THE COURT CONCERNING WHETHER TO ORDER DISCLOSURE SHALL BE IN CAMERA.</p> <p>§ 24-4.1-302.5(1)(W) THE RIGHT TO HAVE THE DISTRICT ATTORNEY, A LAW ENFORCEMENT AGENCY, A PROBATION DEPARTMENT, A</p>	<p>(8) The right to be treated with fairness and with respect for the victim's dignity and privacy. 18 U.S.C.A. § 3771</p>	<p>(5) Surveys In carrying out the review and analysis under paragraph (1), the Bureau shall, in addition to such other methods as the Bureau considers appropriate, use surveys and other statistical studies of current and former inmates from a sample of Federal, State, county, and municipal prisons. The Bureau shall ensure the confidentiality of each survey participant, except as authorized in paragraph (7). 34 U.S.C.A. § 30303 (West)</p>	<p>The VRA protects privacy rights or expectations that are likely to be violated or challenged in a criminal case. Inmates have a greatly diminished right to privacy and PREA does not expand or restore those rights. PREA also does not explicitly protect informational privacy expectations that might be challenged during the investigation or disciplinary proceeding.</p>

Appendix – Comparison of Colorado and Federal Victim Rights, and PREA

<p>STATE OR PRIVATE CORRECTIONAL FACILITY, THE DEPARTMENT OF HUMAN SERVICES, OR THE COLORADO MENTAL HEALTH INSTITUTE AT PUEBLO MAKE ALL REASONABLE EFFORTS TO EXCLUDE OR REDACT A VICTIM'S SOCIAL SECURITY NUMBER OR A WITNESS' SOCIAL SECURITY NUMBER FROM A CRIMINAL JUSTICE DOCUMENT OR RECORD CREATED OR COMPILED AS A RESULT OF A CRIMINAL INVESTIGATION WHEN THE DOCUMENT OR RECORD IS RELEASED TO ANYONE OTHER THAN THE VICTIM, THE DEFENSE ATTORNEY OF RECORD, THE DEFENSE ATTORNEY'S AGENT, OR A CRIMINAL JUSTICE AGENCY THAT HAS DUTIES UNDER THIS ARTICLE. § 24-4.1-302.5(1)(X) THE RIGHT TO BE NOTIFIED OF HOW TO REQUEST PROTECTION OF THEIR ADDRESS PURSUANT TO THE COLORADO RULES OF CRIMINAL PROCEDURE.</p>			
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Appendix – Comparison of Colorado and Federal Victim Rights, and PREA

<p>§ 24-4.1-303(2) UPON REQUEST OF THE VICTIM, ALL CORRECTIONAL OFFICIALS SHALL KEEP CONFIDENTIAL THE ADDRESS, TELEPHONE NUMBER, PLACE OF EMPLOYMENT, OR OTHER PERSONAL INFORMATION OF SUCH VICTIM OR MEMBERS OF SUCH VICTIM'S IMMEDIATE FAMILY. § 24-4.1-303(18) THE DISTRICT ATTORNEY, A LAW ENFORCEMENT AGENCY, A PROBATION DEPARTMENT, A STATE OR PRIVATE CORRECTIONAL FACILITY, THE DEPARTMENT OF HUMAN SERVICES, OR THE COLORADO MENTAL HEALTH INSTITUTE AT PUEBLO SHALL MAKE ALL REASONABLE EFFORTS TO EXCLUDE OR REDACT A VICTIM'S SOCIAL SECURITY NUMBER OR A WITNESS' SOCIAL SECURITY NUMBER FROM ANY CRIMINAL JUSTICE DOCUMENT OR RECORD CREATED OR COMPILED AS A RESULT OF A CRIMINAL INVESTIGATION WHEN THE DOCUMENT OR RECORD IS RELEASED TO</p>			
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Appendix – Comparison of Colorado and Federal Victim Rights, and PREA

<p>ANYONE OTHER THAN THE VICTIM, A CRIMINAL JUSTICE AGENCY THAT HAS DUTIES UNDER THIS ARTICLE, OR THE ATTORNEY FOR THE DEFENDANT.</p>			
RIGHT TO NOTICE AND PRESENCE			
<p>§ 24-4.1-302.5(1)(B) THE RIGHT TO BE INFORMED OF AND PRESENT FOR ALL CRITICAL STAGES OF THE CRIMINAL JUSTICE PROCESS AS SPECIFIED IN SECTION 24-4.1-302(2) [DEFINING “CRITICAL STAGES”]III; EXCEPT THAT THE VICTIM SHALL HAVE THE RIGHT TO BE INFORMED OF, WITHOUT BEING PRESENT FOR, THE CRITICAL STAGES DESCRIBED IN SECTION 24-4.1(302)(2)(A), (2)(A.5), (2)(A.7), (2)(E.5), (2)(K.3), (2)(N), (2)(P), (2)(Q), AND (2)(U).IV § 24-4.1-302.5(1)(B.5) THE RIGHT TO BE INFORMED OF AND PRESENT FOR THE CRITICAL STAGES OF THE CRIMINAL JUSTICE PROCESS DESCRIBED IN SECTION 24-4.1-302(2)(K) TO (2)(Q) AND (2)(S)V , UPON THE WRITTEN REQUEST OF THE VICTIM; EXCEPT THAT THE VICTIM SHALL HAVE THE RIGHT TO BE INFORMED OF THE</p>	<p>18 U.S.C. § 3771 (a)(2) The right to reasonable, accurate, and timely notice of any public court proceeding, or any parole proceeding, involving the crime or of any release or escape of the accused. (3) The right not to be excluded from any such public court proceeding, unless the court, after receiving clear and convincing evidence, determines that testimony by the victim would be materially altered if the victim heard other testimony at that proceeding. (9) The right to be informed in a timely manner of any plea bargain or deferred prosecution agreement. (10) The right to be informed of the rights under this section and the services described in section 503(c) of the Victims' Rights and Restitution Act of 1990 (42 U.S.C. 10607(c)) and</p>	<p>§ 115.73 Reporting to inmates (a) Following an investigation into an inmate’s allegation that he or she suffered sexual abuse in an agency facility, the agency shall inform the inmate as to whether the allegation has been determined to be substantiated, unsubstantiated, or unfounded. (b) If the agency did not conduct the investigation, it shall request the relevant information from the investigative agency in order to inform the inmate. (c) Following an inmate’s allegation that a staff member has committed sexual abuse against the inmate, the agency shall subsequently inform the inmate (unless the agency has determined that the allegation is unfounded) whenever: (1) The staff member is no longer posted within the inmate’s unit; (2) The staff member is no longer employed at the facility; (3) The agency learns that the staff member has been indicted on a charge</p>	<p>PREA requires covered facilities to report the results of their investigation to the inmate, and also if there are subsequent findings against the accused in other cases. The VRA has far more extensive requirements for notification of covered victims, to include all critical stages. PREA also does not create a right for covered victims to be present at any proceeding, while the VRA requires that victims be permitted to be present at all critical stages (as defined).</p>

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<p>CRITICAL STAGE DESCRIBED IN SECTION 24-4.1-302(2)(I) [ATTACK ON A JUDGMENT OR CONVICTION FOR WHICH A COURT HEARING IS SET] WITHOUT SUBMITTING A WRITTEN REQUEST FOR NOTIFICATION. § 24-4.1-302.5(1)(G) THE RIGHT TO BE PRESENT AT THE SENTENCING HEARING, INCLUDING ANY HEARING CONDUCTED PURSUANT TO SECTION 18-1.3-1201 OR 18-1.4-102, C.R.S. [IMPOSITION OF SENTENCE IN CLASS 1 FELONIES, APPELLATE REVIEW], FOR CASES INVOLVING CLASS 1 FELONIES, OF ANY PERSON CONVICTED OF A CRIME AGAINST SUCH VICTIM, AND TO INFORM THE DISTRICT ATTORNEY AND THE COURT, IN WRITING, BY A VICTIM IMPACT STATEMENT, AND BY AN ORAL STATEMENT, OF THE HARM THAT THE VICTIM HAS SUSTAINED AS A RESULT OF THE CRIME, WITH THE DETERMINATION OF WHETHER THE VICTIM MAKES WRITTEN INPUT OR ORAL INPUT, OR BOTH,</p>	<p>provided contact information for the Office of the Victims' Rights Ombudsman of the Department of Justice.</p> <p>(b) RIGHTS AFFORDED.--In any court proceeding involving an offense against a crime victim, the court shall ensure that the crime victim is afforded the rights described in subsection (a). Before making a determination described in subsection (a)(3), the court shall make every effort to permit the fullest attendance possible by the victim and shall consider reasonable alternatives to the exclusion of the victim from the criminal proceeding. The reasons for any decision denying relief under this chapter shall be clearly stated on the record.</p>	<p>related to sexual abuse within the facility; or (4) The agency learns that the staff member has been convicted on a charge related to sexual abuse within the facility. (d) Following an inmate's allegation that he or she has been sexually abused by another inmate, the agency shall subsequently inform the alleged victim whenever: (1) The agency learns that the alleged abuser has been indicted on a charge related to sexual abuse within the facility; or (2) The agency learns that the alleged abuser has been convicted on a charge related to sexual abuse within the facility. (e) All such notifications or attempted notifications shall be documented. (f) An agency's obligation to report under this standard shall terminate if the inmate is released from the agency's custody.</p>	
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<p>TO BE MADE AT THE SOLE DISCRETION OF THE VICTIM. § 24-4.1-302.5(2) SUBSECTION (1) OF THIS SECTION SHALL NOT BE CONSTRUED TO IMPLY THAT ANY VICTIM WHO IS INCARCERATED BY THE DEPARTMENT OF CORRECTIONS OR ANY LOCAL LAW ENFORCEMENT AGENCY HAS A RIGHT TO BE RELEASED TO ATTEND ANY HEARING OR THAT THE DEPARTMENT OF CORRECTIONS OR THE LOCAL LAW ENFORCEMENT AGENCY HAS ANY DUTY TO TRANSPORT SUCH INCARCERATED VICTIM TO ANY HEARING. § 24-4.1-303(3.5) THE DISTRICT ATTORNEY'S OFFICE, IF PRACTICABLE, SHALL INFORM THE VICTIM OF ANY PENDING MOTION OR DECISION BY THE DISTRICT ATTORNEY TO SEQUESTER THE VICTIM FROM A CRITICAL STAGE IN THE CASE. THE DISTRICT ATTORNEY SHALL INFORM THE COURT OF THE VICTIM'S POSITION ON THE MOTION OR THE DISTRICT ATTORNEY'S DECISION, IF ANY.</p>			
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<p>IF THE VICTIM HAS OBJECTED, THEN THE COURT, BEFORE GRANTING THE SEQUESTRATION ORDER, SHALL STATE IN WRITING OR ON THE RECORD THAT THE VICTIM'S OBJECTION WAS CONSIDERED AND STATE THE BASIS FOR THE COURT'S DECISION. § 24-4.1-303(6) (A) A VICTIM OR AN INDIVIDUAL DESIGNATED BY THE VICTIM MAY BE PRESENT AT ALL CRITICAL STAGES OF A CRIMINAL PROCEEDING REGARDING ANY CRIME AGAINST SUCH VICTIM UNLESS THE COURT OR THE DISTRICT ATTORNEY DETERMINES THAT EXCLUSION OF THE VICTIM IS NECESSARY TO PROTECT THE DEFENDANT'S RIGHT TO A FAIR TRIAL OR THE CONFIDENTIALITY OF JUVENILE PROCEEDINGS. IF THE VICTIM IS PRESENT, THE COURT, AT THE VICTIM'S REQUEST, MAY PERMIT THE PRESENCE OF AN INDIVIDUAL TO PROVIDE SUPPORT TO THE VICTIM. (B) A VICTIM MAY BE PRESENT AT THE PHASE OF THE TRIAL AT</p>			
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<p>WHICH THE DEFENDANT IS DETERMINED TO BE GUILTY OR NOT GUILTY AND MAY BE HEARD AT SUCH PHASE OF THE TRIAL IF CALLED TO TESTIFY BY THE DISTRICT ATTORNEY, DEFENSE, OR COURT IF ANY SUCH STATEMENT WOULD BE RELEVANT. (C) THE COURT SHALL MAKE ALL REASONABLE EFFORTS TO ACCOMMODATE THE VICTIM UPON THE RETURN OF A VERDICT BY THE JURY. IF THE COURT IS INFORMED BY THE DISTRICT ATTORNEY THAT THE VICTIM IS EN ROUTE TO THE COURTROOM FOR THE READING OF THE VERDICT, THE COURT SHALL STATE ON THE RECORD THAT IT HAS CONSIDERED THE INFORMATION PROVIDED BY THE DISTRICT ATTORNEY PRIOR TO THE RETURN OF THE VERDICT BY THE JURY. § 24-4.1-302.5(4) (A) IF A VICTIM CONTACTS A CRIMINAL JUSTICE AGENCY REGARDING A CRIME THAT OCCURRED BEFORE 1993, AND THE OFFENDER WHO COMMITTED THE CRIME IS CURRENTLY SERVING A</p>			
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SENTENCE FOR THE CRIME, THE VICTIM MAY REQUEST NOTIFICATION OF ANY FUTURE CRITICAL STAGES OF THE CRIMINAL PROCEEDINGS. THIS PROVISION DOES NOT REQUIRE A CRIMINAL JUSTICE AGENCY TO PROACTIVELY LOCATE VICTIMS OF CRIMES THAT OCCURRED BEFORE 1993. (B) IF AN ARREST IS MADE FOR A CRIME COMMITTED BEFORE 1993 THAT WAS PREVIOUSLY UNSOLVED, THE APPROPRIATE CRIMINAL JUSTICE AGENCY SHALL NOTIFY THE CRIME VICTIM OF ALL FUTURE CRITICAL STAGES.

ANY PERSON WHO IS A VICTIM OF A CRIMINAL ACT, OR SUCH PERSON'S DESIGNEE, LEGAL GUARDIAN, OR SURVIVING IMMEDIATE FAMILY MEMBERS IF SUCH PERSON IS DECEASED, SHALL HAVE THE RIGHT TO BE HEARD WHEN RELEVANT, **INFORMED**, AND **PRESENT** AT ALL CRITICAL STAGES OF THE CRIMINAL JUSTICE PROCESS.

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<p>ALL TERMINOLOGY, INCLUDING THE TERM “CRITICAL STAGES”, SHALL BE DEFINED BY THE GENERAL ASSEMBLY. COLO. CONST. ART. II, § 16A</p>			
RIGHT TO BE HEARD			
<p>§ 24-4.1-302.5(1)(D) THE RIGHT TO BE HEARD AT ANY COURT PROCEEDING: (I) INVOLVING THE DEFENDANT'S BOND AS SPECIFIED IN SECTION 24-4.1-302(2)(C) [BOND-RELATED PROCEEDINGS THAT CONSTITUTE “CRITICAL STAGES”]; (II) AT WHICH THE COURT ACCEPTS A PLEA OF NOLO CONTENDERE; (III) AT WHICH THE COURT ACCEPTS A NEGOTIATED PLEA AGREEMENT; (IV) AT WHICH A PERSON ACCUSED OR CONVICTED OF A CRIME AGAINST THE VICTIM IS SENTENCED OR RESENTENCED; (V) AT WHICH THE SENTENCE OF A PERSON ACCUSED OR CONVICTED OF A CRIME</p>	<p>18 U.S.C. § 3771 (a)(4) The right to be reasonably heard at any public proceeding in the district court involving release, plea, sentencing, or any parole proceeding. (5) The reasonable right to confer with the attorney for the Government in the case.</p>	<p>No corresponding right</p>	<p>The VRA creates a right for victims to participate in certain court proceedings by making a statement. The PREA does not create such a right.</p>

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<p>AGAINST THE VICTIM IS MODIFIED; (VI) AT WHICH THE DEFENDANT REQUESTS A MODIFICATION OF THE NO CONTACT PROVISION OF THE MANDATORY CRIMINAL PROTECTION ORDER UNDER SECTION 18-1-1001, C.R.S. [MANDATORY PROTECTIVE ORDER AGAINST ADULT DEFENDANTS], OR SECTION 19-2-707, C.R.S. [MANDATORY PROTECTIVE ORDER AGAINST JUVENILE OFFENDERS]; (VII) INVOLVING A SUBPOENA FOR RECORDS CONCERNING THE VICTIM'S MEDICAL HISTORY, MENTAL HEALTH, EDUCATION, OR VICTIM COMPENSATION, OR ANY OTHER RECORDS THAT ARE PRIVILEGED PURSUANT TO SECTION 13-90-107, C.R.S. [WHO MAY NOT TESTIFY WITHOUT CONSENT, DEFINITIONS]; OR (VIII) INVOLVING A PETITION FOR EXPUNGEMENT AS DESCRIBED IN SECTION 19-1-306 [EXPUNGEMENT OF JUVENILE DELINQUENT RECORDS]. § 24-4.1-302.5(1)(D.5) (I) IF A VICTIM OR A VICTIM'S DESIGNEE IS</p>			
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<p>UNAVAILABLE TO BE PRESENT FOR THE CRITICAL STAGES DESCRIBED IN PARAGRAPH (D) OF THIS SUBSECTION (1) AND THE VICTIM OR THE VICTIM'S DESIGNEE WISHES TO ADDRESS THE COURT, THE RIGHT TO REQUEST THAT THE COURT, WITHIN THE COURT'S RESOURCES, ARRANGE AND PROVIDE THE MEANS FOR THE VICTIM AND THE VICTIM'S DESIGNEE TO PROVIDE INPUT TO THE COURT BEYOND A WRITTEN VICTIM IMPACT STATEMENT. (II) FOR PURPOSES OF THIS PARAGRAPH (D.5), "UNAVAILABLE" MEANS THAT THE VICTIM OR THE VICTIM'S DESIGNEE IS PHYSICALLY UNABLE TO ATTEND THE COURT HEARING, MAY SUSTAIN A FINANCIAL HARDSHIP TO ATTEND THE COURT HEARING, IS CONCERNED FOR HIS OR HER SAFETY IF HE OR SHE ATTENDS THE COURT HEARING, MAY SUFFER SIGNIFICANT EMOTIONAL IMPACT BY ATTENDING THE HEARING, OR IS UNAVAILABLE FOR OTHER</p>			
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<p>GOOD CAUSE. (III) THE VICTIM OR THE VICTIM'S DESIGNEE SHALL NOTIFY THE DISTRICT ATTORNEY WITHIN A REASONABLE TIME THAT HE OR SHE IS UNAVAILABLE TO ATTEND THE COURT HEARING. THE DISTRICT ATTORNEY'S OFFICE SHALL THEN INFORM THE COURT THAT THE VICTIM OR THE VICTIM'S DESIGNEE, DUE TO HIS OR HER UNAVAILABILITY, IS REQUESTING THE COURT TO ARRANGE FOR AND PROVIDE THE MEANS TO ADDRESS THE COURT, WHICH MAY INCLUDE BUT NEED NOT BE LIMITED TO APPEARING BY PHONE OR SIMILAR TECHNOLOGY. THE DISTRICT ATTORNEY SHALL INFORM THE VICTIM OR THE VICTIM'S DESIGNEE OF THE COURT'S DECISION REGARDING AN ALTERNATE ARRANGEMENT. (IV) THIS SUBSECTION (1)(D.5) APPLIES TO A VICTIM WHO IS INCARCERATED OR OTHERWISE BEING HELD IN A LOCAL COUNTY JAIL, THE DEPARTMENT OF CORRECTIONS, OR THE</p>			
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<p>DIVISION OF YOUTH SERVICES IN THE DEPARTMENT OF HUMAN SERVICES, BUT IS LIMITED TO PARTICIPATION BY TELEPHONE. § 24-4.1-302.5(1)(G) THE RIGHT TO BE PRESENT AT THE SENTENCING HEARING, INCLUDING ANY HEARING CONDUCTED PURSUANT TO SECTION 18-1.3-1201 OR 18-1.4-102, C.R.S. [IMPOSITION OF SENTENCE IN CLASS 1 FELONIES, APPELLATE REVIEW], FOR CASES INVOLVING CLASS 1 FELONIES, OF ANY PERSON CONVICTED OF A CRIME AGAINST SUCH VICTIM, AND TO INFORM THE DISTRICT ATTORNEY AND THE COURT, IN WRITING, BY A VICTIM IMPACT STATEMENT, AND BY AN ORAL STATEMENT, OF THE HARM THAT THE VICTIM HAS SUSTAINED AS A RESULT OF THE CRIME, WITH THE DETERMINATION OF WHETHER THE VICTIM MAKES WRITTEN INPUT OR ORAL INPUT, OR BOTH, TO BE MADE AT THE SOLE DISCRETION OF THE VICTIM. § 24-4.1-302.5(1)(J) THE RIGHT TO BE INFORMED, UPON WRITTEN</p>			
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Houston, Kazi and Tofte Nestaval, Emily. 2019. The Rights of Incarcerated Victims of Crime. Colorado Coalition Against Sexual Assault: Denver, CO.

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<p>REQUEST FROM THE VICTIM, OF ANY PROCEEDING AT WHICH ANY POSTCONVICTION RELEASE FROM CONFINEMENT IN A SECURE STATE CORRECTIONAL FACILITY IS BEING CONSIDERED FOR ANY PERSON CONVICTED OF A CRIME AGAINST THE VICTIM AND THE RIGHT TO BE HEARD AT ANY SUCH PROCEEDING OR TO PROVIDE WRITTEN INFORMATION THERETO. FOR PURPOSES OF THIS SUBSECTION (1), “PROCEEDING” MEANS RECONSIDERATION OF SENTENCE, A PAROLE HEARING, A FULL PAROLE BOARD REVIEW, COMMUTATION OF SENTENCE, OR CONSIDERATION FOR PLACEMENT IN THE SPECIALIZED PROGRAM DEVELOPED BY THE DEPARTMENT OF CORRECTIONS PURSUANT TO SECTION 17-34-102. § 24-4.1-302.5(1)(J.2) THE RIGHT TO BE INFORMED OF ANY REQUEST FOR PROGRESSION FROM THE STATE MENTAL HEALTH HOSPITAL ON BEHALF OF A PERSON IN ITS CUSTODY AS</p>			
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<p>A RESULT OF A CRIMINAL CASE INVOLVING THE VICTIM, AND THE RIGHT TO BE HEARD AT ANY HEARING DURING WHICH A COURT CONSIDERS SUCH A REQUEST. FOR PURPOSES OF THIS SUBSECTION (1)(J.2), “REQUEST FOR PROGRESSION” INCLUDES ANY REQUEST FOR OFF-GROUNDS OR UNSUPERVISED PRIVILEGES, COMMUNITY PLACEMENT, CONDITIONAL RELEASE, UNCONDITIONAL DISCHARGE, OR A SPECIAL FURLOUGH. § 24-4.1-302.5(1)(J.5) (I) THE RIGHT TO PROVIDE A WRITTEN VICTIM IMPACT STATEMENT THAT WILL BE INCLUDED WITH ANY REFERRAL MADE BY THE DEPARTMENT OF CORRECTIONS OR A DISTRICT COURT TO PLACE AN OFFENDER IN A COMMUNITY CORRECTIONS FACILITY OR PROGRAM. A COMMUNITY CORRECTIONS BOARD MAY ALLOW A VICTIM TO PROVIDE AN ORAL STATEMENT TO THE COMMUNITY CORRECTIONS BOARD WHEN AN OFFENDER IS BEING CONSIDERED FOR A</p>			
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DIRECT SENTENCE TO COMMUNITY CORRECTIONS AND MAY PLACE REASONABLE LIMITS ON THE VICTIM'S ORAL STATEMENT. (II) FOR PURPOSES OF THIS PARAGRAPH (J.5), THE VICTIM SHALL HAVE THE RIGHT TO PROVIDE A SEPARATE ORAL STATEMENT TO THE COMMUNITY CORRECTIONS BOARD CONSIDERING A TRANSITIONAL REFERRAL, BUT THE BOARD SHALL HAVE DISCRETION TO PLACE REASONABLE PARAMETERS ON THE VICTIM'S ORAL STATEMENT. IF A COMMUNITY CORRECTIONS BOARD DENIES THE OFFENDER'S REFERRAL TO COMMUNITY CORRECTIONS, THE VICTIM'S RIGHT UNDER THIS SUBPARAGRAPH (II) TO PROVIDE AN ORAL STATEMENT SHALL NOT TAKE EFFECT. (III) FOR PURPOSES OF THIS SUBSECTION (1)(J.5), IF A VICTIM OR A VICTIM'S DESIGNEE IS UNAVAILABLE TO BE PRESENT FOR A PROCEEDING TO CONSIDER AN OFFENDER FOR A DIRECT SENTENCE OR			
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<p>TRANSITIONAL REFERRAL TO COMMUNITY CORRECTIONS AS DESCRIBED IN SUBSECTION (1)(J.5)(I) OF THIS SECTION, AND THE VICTIM OR THE VICTIM'S DESIGNEE WISHES TO ADDRESS THE COMMUNITY CORRECTIONS BOARD, THE VICTIM OR THE VICTIM'S DESIGNEE SHALL NOTIFY THE COMMUNITY CORRECTIONS BOARD WITHIN A REASONABLE TIME THAT THE VICTIM IS UNAVAILABLE TO ATTEND THE PROCEEDING BUT WOULD LIKE TO MAKE A STATEMENT. WITHIN ITS RESOURCES, THE COMMUNITY CORRECTIONS BOARD SHALL ARRANGE FOR AND PROVIDE THE MEANS FOR THE VICTIM TO ADDRESS THE BOARD, WHICH MEANS MAY INCLUDE, BUT NEED NOT BE LIMITED TO, APPEARING BY PHONE OR VIA SIMILAR TECHNOLOGY. (IV) FOR PURPOSES OF THIS SUBSECTION (1)(J.5), "UNAVAILABLE" MEANS THE VICTIM OR THE VICTIM'S DESIGNEE IS PHYSICALLY UNABLE TO ATTEND THE PROCEEDING, MAY SUSTAIN A</p>			
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<p>FINANCIAL HARDSHIP TO ATTEND THE PROCEEDING, IS CONCERNED FOR HIS OR HER SAFETY IF HE OR SHE ATTENDS THE PROCEEDING, MAY SUFFER SIGNIFICANT EMOTIONAL IMPACT BY ATTENDING THE PROCEEDING, OR IS UNAVAILABLE FOR OTHER GOOD CAUSE. (V) THIS SUBSECTION (1)(J.5) APPLIES TO A VICTIM WHO IS INCARCERATED OR OTHERWISE BEING HELD IN A LOCAL COUNTY JAIL, THE DEPARTMENT OF CORRECTIONS, OR THE DIVISION OF YOUTH CORRECTIONS IN THE DEPARTMENT OF HUMAN SERVICES BUT IS LIMITED TO PARTICIPATION BY PHONE OR SIMILAR TECHNOLOGY. § 24 -4.1 - 302.5(1)(Y) THE RIGHT TO RECEIVE A COPY OF THE VICTIM IMPACT STATEMENT FORM FROM THE DISTRICT ATTORNEY’S OFFICE. § 24 -4.1 - 303(6) (A) A VICTIM OR AN INDIVIDUAL DESIGNATED BY THE VICTIM MAY BE PRESENT AT ALL CRITICAL STAGES OF A</p>			
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<p>CRIMINAL PROCEEDING REGARDING ANY CRIME AGAINST SUCH VICTIM UNLESS THE COURT OR THE DISTRICT ATTORNEY DETERMINES THAT EXCLUSION OF THE VICTIM IS NECESSARY TO PROTECT THE DEFENDANT'S RIGHT TO PAGE 10 OF 37 A FAIR TRIAL OR THE CONFIDENTIALITY OF JUVENILE PROCEEDINGS. IF THE VICTIM IS PRESENT, THE COURT, AT THE VICTIM'S REQUEST, MAY PERMIT THE PRESENCE OF AN INDIVIDUAL TO PROVIDE SUPPORT TO THE VICTIM. (B) A VICTIM MAY BE PRESENT AT THE PHASE OF THE TRIAL AT WHICH THE DEFENDANT IS DETERMINED TO BE GUILTY OR NOT GUILTY AND MAY BE HEARD AT SUCH PHASE OF THE TRIAL IF CALLED TO TESTIFY BY THE DISTRICT ATTORNEY, DEFENSE, OR COURT IF ANY SUCH STATEMENT WOULD BE RELEVANT. (C) THE COURT SHALL MAKE ALL REASONABLE EFFORTS TO ACCOMMODATE THE VICTIM UPON THE RETURN OF A VERDICT BY THE JURY. IF</p>			
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THE COURT IS INFORMED BY THE DISTRICT ATTORNEY THAT THE VICTIM IS EN ROUTE TO THE COURTROOM FOR THE READING OF THE VERDICT, THE COURT SHALL STATE ON THE RECORD THAT IT HAS CONSIDERED THE INFORMATION PROVIDED BY THE DISTRICT ATTORNEY PRIOR TO THE RETURN OF THE VERDICT BY THE JURY. § 24-4.1-303(14.5)(A) AT ANY PROCEEDING SPECIFIED IN SECTION 24-4.1-302.5(1)(D), THE COURT SHALL INQUIRE WHETHER THE VICTIM IS PRESENT AND WISHES TO ADDRESS THE COURT. THE COURT SHALL ADVISE THE VICTIM OF HIS OR HER RIGHT TO ADDRESS THE COURT REGARDING ISSUES RELEVANT TO THE CASE.

ANY PERSON WHO IS A VICTIM OF A CRIMINAL ACT, OR SUCH PERSON'S DESIGNEE, LEGAL GUARDIAN, OR SURVIVING IMMEDIATE FAMILY MEMBERS IF SUCH PERSON IS DECEASED, SHALL HAVE THE RIGHT TO BE **HEARD** WHEN RELEVANT,

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<p>INFORMED, AND PRESENT AT ALL CRITICAL STAGES OF THE CRIMINAL JUSTICE PROCESS. ALL TERMINOLOGY, INCLUDING THE TERM “CRITICAL STAGES”, SHALL BE DEFINED BY THE GENERAL ASSEMBLY. COLO. CONST. ART. II, § 16A</p>			
RIGHT TO PROTECTION			
<p>§ 24-4.1-302.5(1)(M) THE RIGHT TO BE INFORMED ABOUT WHAT STEPS CAN BE TAKEN BY A VICTIM OR A WITNESS, INCLUDING INFORMATION REGARDING PROTECTION SERVICES, IN CASE THERE IS ANY INTIMIDATION OR HARASSMENT BY A PERSON ACCUSED OR CONVICTED OF A CRIME AGAINST THE VICTIM, OR ANY OTHER PERSON ACTING ON BEHALF OF THE ACCUSED OR CONVICTED PERSON.</p> <p>§ 23-4.1-302.5(1)(P) THE RIGHT TO BE PROVIDED, WHENEVER PRACTICABLE, WITH A SECURE WAITING AREA DURING COURT</p>	<p>18 U.S.C. § 3771. Crime victims' rights</p> <p>(a) RIGHTS OF CRIME VICTIMS.-- A crime victim has the following rights:</p> <p>(1) The right to be reasonably protected from the accused.</p>	<p>(13) The high incidence of sexual assault within prisons involves actual and potential violations of the United States Constitution. In <i>Farmer v. Brennan</i>, 511 U.S. 825 (1994), the Supreme Court ruled that deliberate indifference to the substantial risk of sexual assault violates prisoners' rights under the Cruel and Unusual Punishments Clause of the Eighth Amendment. The Eighth Amendment rights of State and local prisoners are protected through the Due Process Clause of the Fourteenth Amendment. Pursuant to the power of Congress under Section Five of the Fourteenth Amendment, Congress may take action to enforce those rights in States where officials have demonstrated such indifference. States that do not take</p>	<p>The PREA does not specifically mention rights to protection, but does make reference to the Eighth Amendment protections for prisoners against cruel and unusual punishment. PREA also creates obligations for covered facilities to monitor inmates in order to prevent retaliation after a complaint. Other bodies of civil law which further develop facility liability for inmate safety will also inform facilities' practices to prevent harm to reporting victims.</p>

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<p>PROCEEDINGS THAT DOES NOT REQUIRE A VICTIM OR A WITNESS TO BE SEEN OR TO BE IN CLOSE PROXIMITY TO THE PERSON ACCUSED OR CONVICTED OF A CRIME AGAINST THE VICTIM OR SUCH PERSON’S FAMILY OR FRIENDS.</p> <p>§ 24-4.1-302.5(1.6) THE RIGHT TO BE INFORMED OF THE EXISTENCE OF A CRIMINAL PROTECTION ORDER UNDER SECTION 18-1- 1001, C.R.S. [MANDATING PROTECTION ORDER AGAINST ADULT DEFENDANTS], OR SECTION 19-2-707, C.R.S. [MANDATING PROTECTION ORDER AGAINST JUVENILE OFFENDERS], AND, UPON REQUEST OF THE VICTIM, INFORMATION ABOUT PROVISIONS THAT MAY BE ADDED OR MODIFIED, AND THE PROCESS FOR REQUESTING SUCH AN ADDITION OR MODIFICATION.</p> <p>§ 24-4.1-303(5) ALL REASONABLE ATTEMPTS SHALL BE MADE TO PROTECT ANY VICTIM OR THE</p>		<p>basic steps to abate prison rape by adopting standards that do not generate significant additional expenditures demonstrate such indifference. Therefore, such States are not entitled to the same level of Federal benefits as other States. 34 U.S.C.A. § 30301 (West)</p>	
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<p>VICTIM'S IMMEDIATE FAMILY FROM HARM, HARASSMENT, INTIMIDATION, OR RETALIATION ARISING FROM COOPERATING IN THE REPORTING, INVESTIGATION, AND PROSECUTION OF A CRIME. LAW ENFORCEMENT OFFICIALS AND THE DISTRICT ATTORNEY SHALL PROVIDE REASONABLE EFFORTS TO MINIMIZE CONTACT BETWEEN THE VICTIM AND THE VICTIM'S IMMEDIATE FAMILY AND THE DEFENDANT AND THE RELATIVES OF THE DEFENDANT BEFORE, DURING, AND IMMEDIATELY AFTER A JUDICIAL PROCEEDING. WHENEVER POSSIBLE, A WAITING AREA SHALL BE PROVIDED THAT IS SEPARATE IN BOTH PROXIMITY AND SIGHT FROM THAT OF THE DEFENDANT, THE DEFENDANT'S RELATIVES, AND ANY DEFENSE WITNESSES. § 24-4.1-303(9)(H) THE DISTRICT ATTORNEY AND ANY LAW ENFORCEMENT AGENCY SHALL INFORM EACH VICTIM AS TO THE AVAILABILITY OF THE FOLLOWING . . . THE EXISTENCE</p>			
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<p>OF A CRIMINAL PROTECTION ORDER UNDER SECTION 18-1-1001, C.R.S. [MANDATORY PROTECTIVE ORDER AGAINST ADULT DEFENDANTS], OR SECTION 19-2-707, C.R.S. [MANDATORY PROTECTIVE ORDER AGAINST JUVENILE OFFENDERS], AND, UPON REQUEST OF THE VICTIM, INFORMATION ABOUT PROVISIONS THAT MAY BE ADDED OR MODIFIED AND THE PROCESS FOR REQUESTING SUCH AN ADDITION OR MODIFICATION. § 24-4.1-305 (1) WHEN ANY PERSON ATTEMPTING DEFENSE-INITIATED VICTIM OUTREACH CONTACTS ANY VICTIM OF ANY CRIME, THE PERSON SHALL IMMEDIATELY PROVIDE FULL AND UNAMBIGUOUS DISCLOSURE OF: (A) THE PERSON'S LEGAL NAME; AND (B) THE FACT THAT THE PERSON IS ACTING AS AN AGENT FOR THE PERSON ACCUSED OF THE CRIME OR FOR THE DEFENSE TEAM OF SUCH PERSON. (2)(A) AS USED IN THIS</p>			
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<p>SECTION, UNLESS THE CONTEXT REQUIRES OTHERWISE, “DEFENSE-INITIATED VICTIM OUTREACH” MEANS ANY EFFORT BY THE DEFENSE TEAM, INCLUDING BUT NOT LIMITED TO A VICTIM LIAISON, VICTIM OUTREACH SPECIALIST, SOCIAL WORKER, INVESTIGATOR, OR OTHER INDIVIDUAL, TO DIRECTLY OR INDIRECTLY CONTACT A VICTIM OR A VICTIM’S FAMILY MEMBER ON BEHALF OF THE DEFENDANT OR DEFENSE COUNSEL. (B) THE DEFINITION IN PARAGRAPH (A) OF THIS SUBSECTION (2) DOES NOT REQUIRE THE IDENTIFIED MEMBERS OF A DEFENSE TEAM TO COMPLY WITH ANY GUIDELINES OR STANDARDS PROMULGATED BY AN PROFESSIONAL DEFENSE-INITIATED VICTIM OUTREACH ORGANIZATION.</p>			
<p>RIGHT TO NOTICE OF RELEASE OR ESCAPE</p>			

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<p>(I)(A) THE RIGHT TO BE INFORMED, UPON REQUEST BY THE VICTIM, WHEN A PERSON WHO IS ACCUSED OR CONVICTED OF A CRIME AGAINST THE VICTIM IS RELEASED OR DISCHARGED FROM COUNTY JAIL; (B) THE RIGHT TO BE INFORMED, UPON WRITTEN REQUEST BY THE VICTIM, WHEN A PERSON WHO IS ACCUSED OR CONVICTED OF A CRIME AGAINST THE VICTIM IS RELEASED OR DISCHARGED FROM CUSTODY OTHER THAN COUNTY JAIL, IS PAROLED, ESCAPES FROM A SECURE OR NONSECURE CORRECTIONAL FACILITY OR PROGRAM, OR ABSCONDS FROM PROBATION OR PAROLE. (II) WITH RESPECT TO THE RELEASE, DISCHARGE, OR PERMANENT TRANSFER OF A PERSON FROM A COUNTY JAIL OR CORRECTIONAL FACILITY, THE PROVISIONS OF SUBPARAGRAPH (I) OF THIS PARAGRAPH (C) SHALL APPLY WHEN THE PERSON RELEASED,</p>	<p>18 U.S.C. § 3771 (a)(2) The right to reasonable, accurate, and timely notice of any public court proceeding, or any parole proceeding, involving the crime or of any release or escape of the accused. (c) (3) NOTICE.--Notice of release otherwise required pursuant to this chapter shall not be given if such notice may endanger the safety of any person.</p>	<p>No precisely corresponding right, however, PREA requires the following: § 115.73 Reporting to inmates (c) Following an inmate’s allegation that a staff member has committed sexual abuse against the inmate, the agency shall subsequently inform the inmate (unless the agency has determined that the allegation is unfounded) whenever: (1) The staff member is no longer posted within the inmate’s unit; (2) The staff member is no longer employed at the facility;</p>	<p>PREA does not create a right to notice of release or escape. The VRA does create such a right, available to the victim upon written request.</p>
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Houston, Kazi and Tofte Nestaval, Emily. 2019. The Rights of Incarcerated Victims of Crime. Colorado Coalition Against Sexual Assault: Denver, CO.

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<p>DISCHARGED, OR PERMANENTLY TRANSFERRED IS NO LONGER WITHIN THE CARE AND CONTROL OF THE SUPERVISING LAW ENFORCEMENT OR CORRECTIONAL AGENCY. THE PROVISIONS OF SUBPARAGRAPH (I) OF THIS PARAGRAPH (C) SHALL NOT APPLY TO THE TEMPORARY TRANSFER OF THE CARE AND CONTROL OF A PERSON FROM A COUNTY JAIL OR A CORRECTIONAL FACILITY BY THE SUPERVISING LAW ENFORCEMENT OR CORRECTIONAL AGENCY TO ANOTHER EQUALLY OR MORE SECURE COUNTY JAIL OR CORRECTIONAL FACILITY, SO LONG AS THE PERSON WILL RETURN TO THE CARE AND CONTROL OF THE TRANSFERRING SUPERVISORY AGENCY. COLO. REV. STAT. ANN. § 24-4.1-302.5 (WEST)</p>			
STATE/FEDERAL OBLIGATIONS			
	(c) Best efforts to accord rights.--	requires the Bureau of Justice Statistics (BJS) to carry out a comprehensive	The main function of the PREA is that is requires the

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	<p>(1) Government.--Officers and employees of the Department of Justice and other departments and agencies of the United States engaged in the detection, investigation, or prosecution of crime shall make their best efforts to see that crime victims are notified of, and accorded, the rights described in subsection (a).</p>	<p>statistical review and analysis of the incidence and effects of prison rape for each calendar year. BJS’s review must include, but is not limited to, the identification of the common characteristics of both victims and perpetrators of prison rape; and prisons and prison systems with a high incidence of prison rape. Analysis must—</p> <ul style="list-style-type: none"> ▪ be based on a random sample, or other scientifically appropriate sample, of not less than 10% of all federal, state, and county prisons, and a representative sample of municipal prisons; and include at least one prison from each state ▪ use surveys and other statistical studies of current and former inmates from a representative sample of federal, state, county, and municipal prisons; and ensure the confidentiality of each survey participant ▪ provide a list of institutions in the sample, separated into each category and ranked according to the incidence of prison rape in each institution; and provide a list of any prisons in the sample that 	<p>Bureau of justice Statistics to carry out a comprehensive statistical review and analysis of the incidence and effects of prison rape for each calendar year. The overall data collection effort provides various measures of the prevalence and characteristics of sexual assault in correctional facilities. In general, the VRA’s are made up of entitlements and positive rights to victims, whereas the PREA creates obligations that facilities much meet, which arise out of the inmates preexistent constitutional rights to be free from cruel and unusual punishment.</p>
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did not cooperate with the survey.
<https://www.bjs.gov/index.cfm?ty=tp&tid=20>

§ 30303. National prison rape statistics, data, and research

(a) Annual comprehensive statistical review

(1) In general

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

(A) both victims and perpetrators of prison rape; and

(B) prisons and prison systems with a high incidence of prison rape.

(2) Considerations

In carrying out paragraph (1), the Bureau shall consider--

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

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		<p>(B) how the Bureau should collect information about staff-on-inmate sexual assault; (C) how the Bureau should collect information beyond inmate self-reports of prison rape; (D) how the Bureau should adjust the data in order to account for differences among prisons as required by subsection (c)(3); (E) the categorization of prisons as required by subsection (c)(4);</p> <p>30303-</p> <p>(b) Review Panel on Prison Rape (1) Establishment To assist the Bureau in carrying out the review and analysis under subsection (a), there is established, within the Department of Justice, the Review Panel on Prison Rape (in this section referred to as the “Panel”). 34 U.S.C.A. § 30303 (West)</p> <p>(3) Public hearings (A) In general The duty of the Panel shall be to carry out, for each calendar year, public hearings concerning the operation of the three prisons with the highest incidence of prison rape and the two prisons with</p>	
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		<p>the lowest incidence of prison rape in each category of facilities identified under subsection (c)(4). The Panel shall hold a separate hearing regarding the three Federal or State prisons with the highest incidence of prison rape. The purpose of these hearings shall be to collect evidence to aid in the identification of common characteristics of both victims and perpetrators of prison rape, and the identification of common characteristics of prisons and prison systems with a high incidence of prison rape, and the identification of common characteristics of prisons and prison systems that appear to have been successful in deterring prison rape. 34 U.S.C.A. § 30303 (West)</p>	
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