



The Basics About Sexual Abuse in U.S. Detention

ALTHOUGH *you may think that I'm not like you, we are not so different. I want to have control over my own body and my life, just as you do. I want to choose the people with whom I get intimate, just as you do. I absolutely did not want to have sex with that man in the San Francisco Jail, but I felt powerless to refuse him.*

— Cecilia Chung,
Survivor of sexual violence
in detention

SEXUAL ABUSE behind bars is a widespread human rights crisis in prisons and jails across the U.S. According to the best available research, 20 percent of inmates in men's prisons are sexually abused at some point during their incarceration.¹ The rate for women's facilities varies dramatically from one prison to another, with one in four inmates being victimized at the worst institutions.²

In a 2007 survey of prisoners across the country, the Bureau of Justice Statistics (BJS) found that 4.5 percent (or 60,500) of the more than 1.3 million inmates held in federal and state prisons had been sexually abused in the previous year alone.³ A BJS survey in county jails was just as troubling; nearly 25,000 jail detainees reported having been sexually abused in the past six months.⁴

Unfortunately, the data provided by the BJS still represent only a fraction of the true number of detainees who are victimized, especially of those held in county jails. The number of admissions to local jails over the course of a year is approximately 17 times higher than the nation's jail population on any given day,⁵ so the BJS surveyors were able to cover only a very small proportion of jail detainees over an entire year.

These statistics expose a serious, systemic failure to protect the basic human rights of inmates. Survivors can be abused relentlessly, sometimes for long periods of time, and marked as fair game for attacks by other detainees.⁶ In some cases, prisoners are

treated like the perpetrators' property and sold within the facility.⁷ In prisons and jails throughout the country, simple preventive measures are rarely taken, and reports of rape are often ignored. In the worst facilities, corrections officials facilitate or participate in sexual violence, respond to inmates' cries for help with laughter or derision, and grant perpetrators impunity.

While anyone can become the victim of sexual violence, the most marginalized members of society at-large also tend to be the most vulnerable behind bars. In particular, inmates who are gay, transgender, young, mentally ill, or incarcerated for the first time and for non-violent offenses tend to be victimized.⁸

Survivors of sexual abuse behind bars experience the same emotional pain as other rape victims. The absence of confidential counseling in the aftermath of an assault causes many prisoner rape survivors to develop serious long-term problems, like post-traumatic stress disorder (PTSD), depression, and alcohol and other drug addictions.⁹ Moreover, the high rates of HIV and other sexually transmitted diseases in detention place incarcerated survivors at great risk for infection.¹⁰ Once released—and 95 percent of inmates do return home¹¹—survivors bring their emotional trauma and medical conditions back to their communities.

Whether committed by staff or by fellow inmates, sexual assault behind bars is a form of torture that violates international human

rights law, the U.S. Constitution, and state criminal law. The U.S. has ratified two international treaties—the International Covenant on Civil and Political Rights (ICCPR) and the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT)—which require the U.S. to protect prisoners from sexual violence.¹²

When the government takes away someone's freedom, it incurs a responsibility to

protect that person's safety. In *Farmer v. Brennan* and the Prison Rape Elimination Act of 2003, the U.S. government has recognized that prisoner rape can amount to cruel and unusual punishment, in violation of the Eighth Amendment of the U.S. Constitution.¹³ Moreover, every state has rape and sexual custodial misconduct laws that criminalize this form of abuse, regardless of the victim's custody status, sexual orientation or gender identity.

Endnotes

- 1 Cindy Struckman-Johnson et al., *Sexual Coercion Reported by Men and Women in Prison*, 33 J. SEX RES. 67 (1996); see also Cindy Struckman-Johnson & David Struckman-Johnson, *Sexual Coercion Rates in Seven Midwestern Prison Facilities for Men*, 80 PRISON J. 379, 383 (2000).
- 2 Cindy Struckman-Johnson & David Struckman-Johnson, *Sexual Coercion Reported by Women in Three Midwestern Prisons*, 39 J. SEX RES. 217, 220 (2002).
- 3 ALLEN J. BECK & PAIGE M. HARRISON, BUREAU OF JUSTICE STATISTICS, SEXUAL VICTIMIZATION IN STATE AND FEDERAL PRISONS REPORTED BY INMATES, 2007 (2007).
- 4 ALLEN J. BECK & PAIGE M. HARRISON, BUREAU OF JUSTICE STATISTICS, SEXUAL VICTIMIZATION IN LOCAL JAILS REPORTED BY INMATES, 2007 (2008).
- 5 WILLIAM J. SABOL & TODD D. MINTON, BUREAU OF JUSTICE STATISTICS, JAIL INMATES AT MIDYEAR 2007 2 (2008).
- 6 Cindy Struckman-Johnson & David Struckman-Johnson, *A Comparison of Sexual Coercion Experiences Reported by Men and Women in Prison*, 21 J. OF INTERPERSONAL VIOLENCE 1531, 1599 (2006); Christopher D. Man & John P. Cronan, *Forecasting Sexual Abuse in Prisons: The Prison Subculture of Masculinity as a Backdrop for "Deliberate Indifference,"* J. CRIM. & CRIMINOLOGY 127, 153-54 (2001).
- 7 HUMAN RIGHTS WATCH, NO ESCAPE: MALE RAPE IN U.S. PRISONS 86 (2001).
- 8 For more information about the vulnerability of gay and transgender inmates and incarcerated youth, see Just Detention International, Fact Sheet, LGBTQ Detainees Chief Targets for Sexual Abuse in Detention (2009); Just Detention International, Fact Sheet, Incarcerated Youth at Extreme Risk of Sexual Abuse (2009).
- 9 To learn more about the psychological impact of prisoner rape, see Just Detention International, Fact Sheet, Mental Health Consequences of Sexual Abuse in Detention (2009).
- 10 For more information about the risk of HIV and other sexually transmitted diseases, see Just Detention International, Fact Sheet, Sexual Violence in Detention and Public Health (2009).
- 11 TIMOTHY HUGHES & DORIS JAMES WILSON, BUREAU OF JUSTICE STATISTICS, REENTRY TRENDS IN THE UNITED STATES (2003).
- 12 Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, G.A. Res.39/46, 39 U.N. GAOR, 39th Sess., Supp. No. 51, at 197, U.N. Doc. A/39/51 (1984) (entered into force June 26, 1987); International Covenant on Civil and Political Rights, adopted Dec. 16, 1966, 999 U.N.T.S. 171 (adopted into force March 23, 1976). For further information about prisoner rape and international law, see Just Detention International, Fact Sheet, Prisoner Rape is Torture Under International Law (2009).
- 13 Prison Rape Elimination, 42 U.S.C. § 15601, *et seq.* (2005); *Farmer v. Brennan*, 511 U.S. 825 (1994).

About Just Detention International (JDI)

Just Detention International (JDI) is a human rights organization that seeks to end sexual abuse in all forms of detention.

All of JDI's work takes place within the framework of international human rights laws and norms. The sexual assault of detainees, whether committed by corrections staff or by inmates, is a crime and is recognized internationally as a form of torture.

JDI has three core goals for its work: to ensure government accountability for prisoner rape; to transform ill-informed public attitudes about sexual violence in detention; and to promote access to resources for those who have survived this form of abuse.

JDI is concerned about the safety and well-being of all detainees, including those held in adult prisons and jails, juvenile facilities, immigration detention centers, and police lock-ups, whether run by government agencies or by private corporations on behalf of the government.

When the government takes away someone's freedom, it incurs a responsibility to protect that person's safety. All inmates have the right to be treated with dignity. No matter what crime someone has committed, sexual violence must never be part of the penalty.

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