

Sexual Assault in Prisons, Jails, and Other Detention Settings



Issue Summary

Individuals who are detained in the U.S. experience alarming rates of sexual violence. With 20% of both men and women sexually assaulted at some point during their incarceration, sexual violence in detention is a human rights crisis. *Just Detention International, "The Basics About Sexual Abuse in U.S. Detention," 2009*

- More than 4% of prison inmates and 3% of jailed individuals were sexually victimized in the past year. *Bureau of Justice Statistics, "Sexual Victimization in Prisons and Jails Reported by Inmates 2008-09," 2010.*
- Approximately 12% of detainees in juvenile facilities experienced sexual victimization within the last year. 2.5% reported another youth perpetrator and 10.3% reported a perpetrator who was facility staff. *Bureau of Justice Statistics, "Sexual Victimization in Juvenile Facilities Reported by Youth 2008-09," 2010*
- Nonviolent offenders, first-time detainees, sexual minorities, and individuals who are young or mentally ill are most at risk for sexual victimization in detention. *Human Rights Watch, "Nowhere to Hide: Retaliation Against Women in Michigan State Prisons," 1998; Human Rights Watch, "All Too Familiar: Sexual Abuse of Women in U.S. State Prisons," 1996; Human Rights Watch, "No Escape: Male Rape in U.S. Prisons," 2001*
- Survivors in detention often go without counseling services or receive inadequate services that are neither confidential nor safe from retaliation. *Human Rights Watch, "No Escape: Male Rape in U.S. Prisons," 2001*

The International and Domestic Response

Policymakers have worked to curb sexual violence in detention. While none of these efforts have stopped prisoner sexual assault, they represent a growing recognition of a global responsibility to end rape behind bars. Officials in jails, prisons, and other detention settings across the country are presently required by multiple sources of law to prevent sexual abuse.

- The U.S. has ratified two international treaties that call for the government to prevent sexual assault in prisons. *International Covenant on Civil and Political Rights, 1966; Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, 1984*
- The Supreme Court has recognized that rape in prison qualifies as cruel and unusual punishment in violation of the Eight Amendment. *Farmer v. Brennan, 511 U.S. 825, 1994*
- The Prison Rape Elimination Act enhanced resources for correctional agencies, researchers, and states to address sexual abuse in detention, obligating the Bureau of Justice Statistics to collect and analyze data on prisoner rape. The Act also generated a comprehensive investigation into sexual abuse in detention and national recommendations to reduce rape. The U.S. Attorney General has had since June 2009 to revise and formally adopt the national recommendations, which would then bind federally funded facilities. The last public comment period on the proposed standards ended in April 2011, and the Department of Justice is currently finalizing the new federal regulations. *The Prison Rape Elimination Act, 42 U.S.C. §§ 15601-15609, 2011*