The Basics About Sexual Abuse in U.S. 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 home—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.
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.\textsuperscript{12}

When the government takes away someone’s freedom, it incurs a responsibility to protect that person’s safety. In \textit{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.\textsuperscript{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


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).

