



**W**HILE ... movies ... have made light comedy out of prison rape, it's not a joking matter. The mere possibility of being raped represents a serious form of torture for nearly all inmates and a prison punk's daily reality is not something that any civilized nation should wish on even its most wayward citizen.

— *Eli Lehrer*<sup>1</sup>

## Truths About Sexual Abuse in U.S. Detention Facilities

**S**EXUAL violence in detention will remain a problem in the U.S. as long as flippant and ill-informed public attitudes about this form of abuse prevail. Many people consider prisoner rape to be irrelevant to their lives because it happens behind bars. Others think that sexual abuse in detention somehow deters crime. Some believe that inmates who get sexually assaulted are especially violent, and conclude that they deserve the abuse. Still others think that prisoner rape is funny. Each of these ideas is incorrect – dangerously so – but these misconceptions thrive because the general public knows little about the reality of sexual abuse behind bars.

**Prisoner rape does not prevent crime.** No causal link has ever been found between prisoner rape and lower crime rates. On the contrary, prisoner rape is in itself a serious crime that rarely is prosecuted. Moreover, studies have shown that sexual abuse increases the overall levels of violence in prison.<sup>2</sup> Rather than serve as a deterrent, then, sexual assault in detention encourages more crime by creating a culture where such violence is permitted and often overlooked.

**Prisoner rape victims are typically non-violent with clear traits of vulnerability.** While any inmate can become a victim of prisoner rape, marginalized and special needs populations are the most vulnerable. In women's facilities, typical survivors of sexual abuse are non-violent, young, and mentally ill inmates.<sup>3</sup> In men's facilities, non-violent, young prisoners, particularly youth housed with adults, and gay and

transgender prisoners have the highest rates of victimization.<sup>4</sup> Once raped, an inmate is likely to be "marked" as a victim and repeatedly abused.<sup>5</sup> One recent study found that nearly 75 percent of male and 57 percent of female prisoner rape survivors were sexually abused more than once, and 30 percent of all survivors endured six or more assaults.<sup>6</sup> In the worst cases, prisoners are treated like the perpetrators' property and sold to others within the facility.

**No one deserves to be raped.** Whether perpetrated by corrections staff or by other inmates with the acquiescence of officials, sexual violence in detention is a crime and a human rights violation. Sexual violence in detention amounts to torture under international treaties ratified by the United States.<sup>7</sup> Both Congress and the U.S. Supreme Court have also recognized that prisoner rape can violate an individual's constitutional right to be free from cruel and unusual punishment.<sup>8</sup> In addition to the rape and sexual assault laws that apply to everyone, every U.S. jurisdiction has a custodial sexual misconduct law that, at a minimum, makes it a crime for officials to have sex with inmates.<sup>9</sup>

**Sexual violence in detention spreads disease.** Prisoner rape victims are highly vulnerable to contracting HIV and other sexually transmitted diseases. The U.N. Office on Drugs and Crime states, "reducing the transmission of HIV in prisons is an integral part of reducing the spread of infection in the broader society, as any diseases contracted in prison, or medical conditions made worse by poor conditions of confinement, become issues of public health for the wider society when people are released."<sup>10</sup> In 2004, the HIV prevalence rate inside U.S.

prisons was more than four times higher than in society overall.<sup>11</sup> Hepatitis C rates are 8 to 20 times higher in prisons than on the outside, with 12 to 35 percent of prison cases involving chronic infection.<sup>12</sup> The rates of infection for chlamydia, gonorrhea, and syphilis are likewise significantly higher among inmates than in the population at-large.<sup>13</sup> In addition to contracting infectious diseases, many survivors of sexual abuse in detention are plagued by the destabilizing effects of post-traumatic stress disorder and rape trauma syndrome.<sup>14</sup>

**Sexual abuse is never a laughing matter.** While joking about the things that make us anxious is sometimes a relief, humor can also trivialize and dehumanize. Regrettably, wisecracks about sexual abuse are commonplace, on late night television, in movies, and in popular culture generally. Such flippant attitudes are one of the major obstacles to ending sexual violence in detention and JDI has made it part of its mission to ensure that prisoner rape is described accurately – as a crime and a devastating human rights violation.

## Endnotes

- 1 Eli Lehrer, *No Joke*, NATIONAL REVIEW, June 20, 2002.
- 2 Julie Kunselman et al., *Nonconsensual Sexual Behavior*, in PRISON SEX: PRACTICE AND POLICY 30 (Christopher Hensley ed., 2002).
- 3 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).
- 4 HUMAN RIGHTS WATCH, NO ESCAPE: MALE RAPE IN U.S. PRISONS 63 (2001).
- 5 Christopher D. Man & John P. Cronan, *Forecasting Sexual Abuse in Prisons: The Prison Subculture of Masculinity as a Backdrop for "Deliberate Indifference"*, 92 J. CRIM L. & CRIMINOLOGY 153 (Fall 2001/Winter 2002).
- 6 Cindy Struckman-Johnson & David Struckman-Johnson, *A Comparison of Sexual Coercion Experiences Reported by Men and Women in Prison*, 21 J. INTERPERSONAL VIOLENCE 1591, 1599 (2006).
- 7 International Covenant on Civil and Political Rights, adopted 16 Dec. 1966, entered into force 23 Mar. 1976., 999 U.N.T.S. 171, Article 9; Convention against Torture and Other Cruel, Inhumane or Degrading Treatment or Punishment, adopted 10 Dec. 1984, entered into force 28 June 1987, G.A. Res. 39/46, 39 UN GAOR, Supp. (No. 51), UN Doc. A/39/51, at 197 (1984). For further information, see Just Detention International, Fact Sheet, Prisoner Rape is Torture Under International Law (2009).
- 8 42 U.S.C. § 15601 (13); *Farmer v. Brennan*, 511 U.S. 825 (1994). For a further discussion of the Prison Rape Elimination Act, Congress' effort to combat sexual violence in detention, see Just Detention International, Fact Sheet, The Prison Rape Elimination Act (2009).
- 9 For more information about the criminal consequences of sexual violence in detention, including a comparison of the custodial sexual misconduct laws across the country and a list of all relevant sex crime laws by jurisdiction, see Just Detention International, Custodial Sexual Misconduct and Other Sex Offense Laws, at [http://www.justdetention.org/en/custodial\\_state.aspx](http://www.justdetention.org/en/custodial_state.aspx) (last visited Jan. 22, 2009).
- 10 U.N. OFFICE ON DRUGS AND CRIME, HIV PREVENTION, CARE, TREATMENT AND SUPPORT IN PRISON SETTINGS A FRAMEWORK FOR AN EFFECTIVE NATIONAL RESPONSE (2006).
- 11 Susan Okie, *Sex, Drugs, Prisons, and HIV*, 356 NEW ENG. J. MED. 105 (2007). In 2005, the confirmed AIDS rate was two and one-half times higher in prisons than in society. LAURA M. MARUSCHAK, BUREAU OF JUSTICE STATISTICS, HIV IN PRISONS, 2005 (2007).
- 12 Scott A. Allen et al., *Hepatitis C Among Offenders — Correctional Challenge and Public Health Opportunity*, 67 FED. PROBATION 22 (Sept. 2003).
- 13 CENTERS FOR DISEASE CONTROL & PREVENTION, U.S. DEP'T HEALTH & HUM. SVCS., SEXUALLY TRANSMITTED DISEASE SURVEILLANCE 2007 89 (2008), available at <http://www.cdc.gov/std/stats07/Surv2007-SpecialFocusProfiles.pdf> (last visited Jan. 22, 2009).
- 14 Robert W. Dumond and Doris A. Dumond, *The Treatment of Sexual Assault Victims*, in *Prison Sex: Practice & Policy* 82 (Christopher Hensley ed., Lynne Rienner Publishers, Inc., 2002).

## About Just Detention International (JDI)

**J**ust 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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