

# Sexual Violence in Detention

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## Issue Summary

- An estimated **200,000** people are sexually abused behind bars in a single year. **4%** of adults in federal prisons and **3.2%** of adults in jails reported experiencing one or more incidents of sexual victimization in the past twelve months.
- **39.9%** of transgender adults in federal prisons and **26.8%** of transgender adults in local jails reported experiencing being sexual victimized in the past twelve months.
- Lesbian, gay, and bisexual prisoners were sexually abused by other inmates at a rate more than ten times higher than heterosexual prisoners (**12.2%** vs. **1.2%**).<sup>1</sup>
- **7.1%** of youth housed in juvenile facilities reported experiencing one or more incidents of sexual victimization in the past twelve months. **1.9%** of youth reported an incident involving another youth, while **5.8%** of youth reported an incident involving facility staff members.<sup>2</sup>
- Survivors in detention often go without counseling or receive inadequate services.<sup>3</sup>

In Maryland, the Bureau of Justice Statistics (BJS) identified the Baltimore City Detention Center (BCDC) as a high rate facility with a staff sexual misconduct rate of **6.7%**. The BCDC - Men's Detention Facility has since been closed. At the Maryland Correctional Institute for Women, **12.7%** of inmates reported being sexually victimized by a fellow inmate or staff member.<sup>4</sup>

## Prison Culture

Understanding rape in prison requires advocates to gain insight into prison culture. The media's normalization of prison rape furthers the culture of sexual violence within prisons by sending the message that male inmates "had it coming." Inside prisons, the mentality of victim blaming is rampant. Victims of sexual violence are seen as weak because they "failed" to defend themselves. Additionally, the transphobia, homophobia, and misogyny that exist in our society are magnified in prison. This leads to the normalization of sexual violence against LGBT+ inmates.<sup>5</sup>

## The International and Domestic Response

Policymakers have worked to curb sexual violence in detention. While none of these efforts have stopped prison rape, they represent a growing recognition of a global responsibility to end sexual assault 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. ratified **two international treaties** that call for the government to prevent sexual assault in prisons.<sup>6</sup>
- The Supreme Court recognized that rape in prison qualifies as cruel and unusual punishment in violation of the **Eighth Amendment**.<sup>7</sup>
- Enacted in 2003, the federal **Prison Rape Elimination Act (PREA)** established a "zero-tolerance" policy for sexual assault and rape in correctional facilities. PREA enhanced resources for correctional agencies, researchers, and states to address sexual abuse in detention.

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<sup>1</sup> Allen J. Beck et al, "Sexual Victimization in Prisons and Jails Reported by Inmates, 2011–12", Bureau of Justice Statistics, May 2013.

<sup>2</sup> Allen J. Beck et al, "Sexual Victimization in Juvenile Facilities Reported by Youth, 2012", Bureau of Justice Statistics, June 2013.

<sup>3</sup> Human Rights Watch, "No Escape: Male Rape in U.S. Prisons," 2001.

<sup>4</sup> Allen J. Beck et al, "Sexual Victimization in Prisons and Jails Reported by Inmates, 2011–12", Bureau of Justice Statistics, May 2013.

<sup>5</sup> Just Detention International, "In Danger: Lesbian, Gay and Bisexual Survivors Behind Bars" Webinar, June 2017 Mark S. Fleisher, Jessie L. Krienert, "The Culture of Prison Sexual Violence," U.S. Department of Justice, Document No. 216515. November 2006

<sup>6</sup> International Covenant on Civil and Political Rights, 1966; Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, 1984.

<sup>7</sup> Farmer v. Brennan, 511 U.S. 825, 1994.