



## Prisoner Rape Survivors Need Crime Victim Assistance Services

**S**EXUAL ASSAULT is pervasive in the United States. Study after study has shown that this crime impacts people at all age levels and in every part of this Nation.

— President Barack Obama<sup>1</sup>

**S**EXUAL ASSAULT is a crime that has a devastating impact on survivors. Quality medical care and crisis counseling are essential to the ability of rape survivors to heal from their abuse and to rebuild their lives. Unfortunately, in the U.S. today, rather than being recognized as the victims of crime that they are, survivors of rape and other forms of sexual abuse in detention are denied access to even the most basic assistance offered to rape survivors in the community – such as rape crisis counseling.<sup>2</sup>

One reason for this alarming lack of services in prisons and jails stems directly from a funding restriction in the guidelines of the federal Victims of Crime Act (VOCA).<sup>3</sup> This restriction precludes agencies that receive victim assistance grants under VOCA from using any such funding to serve incarcerated individuals – even in cases where detainees have been raped or subjected to other forms of sexual violence.<sup>4</sup> JDI believes that this VOCA funding restriction must be lifted as a matter of urgency.

Passed in 1984, VOCA created the Crime Victims' Fund, which uses fines and penalties assessed in federal court to fund victim assistance and crime victim compensation programs. Victim assistance programs provide crisis intervention, counseling, and resources in the aftermath of a crime.<sup>5</sup> Victim compensation programs provide money to help pay out-of-pocket expenses incurred as a result of a crime.<sup>6</sup> Every year, some 300 million dollars are allotted for crime victim assistance<sup>7</sup> – the VOCA funding

restriction means that no incarcerated survivor of sexual violence in detention is eligible to benefit from that assistance.

The vast majority of rape crisis centers and related service providers receive a significant portion of their funding from VOCA, limiting their ability to serve prisoner rape survivors. To make matters worse, the VOCA funding restriction has caused many rape crisis centers and other community-based service providers erroneously to believe that they will jeopardize their VOCA funding even if they use funds from other sources to serve incarcerated individuals. As a result, even agencies that receive private donations are sometimes reluctant to serve survivors in prisons or jails.

Sexual violence behind bars is shockingly common. 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.<sup>8</sup> 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.<sup>9</sup> The most vulnerable inmates come from the same marginalized populations as the individuals at greatest risk for sexual abuse in the community, including youth, gay and transgender individuals, and people with disabilities.<sup>10</sup>

Survivors of sexual abuse behind bars experience the same emotional pain as other rape victims – and they need and deserve the same services. 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.<sup>11</sup> Moreover, the high rates of HIV and other sexually transmitted diseases in detention place incarcerated survivors at great risk for infection.<sup>12</sup> Once released – and more than 95 percent of inmates do return home<sup>13</sup> – survivors bring their emotional trauma and medical conditions back to their communities.

Since the passage of VOCA and the creation of its funding guidelines, legislators and other criminal justice policymakers have begun to recognize that victimization behind bars must be addressed. In particular, the Prison Rape Elimination Act (PREA) of 2003<sup>14</sup> and the Second Chance Act of 2007<sup>15</sup> emphasize that treatment services for inmates are needed for the health of individual detainees as well as the community at large.

PREA seeks to “establish a zero-tolerance standard for the incidence of prison rape” and to “increase the efficiency and effectiveness of Federal expenditures through grant programs such as those dealing with health care; mental

health care; disease prevention; crime prevention, investigation, and prosecution ...”<sup>16</sup> National standards that have been developed under the law emphasize the importance of corrections officials collaborating with community-based service providers to ensure that survivors are able to access needed support services and appropriate treatment.<sup>17</sup>

The Second Chance Act seeks “to protect the public and promote law-abiding conduct by providing necessary services to offenders, while the offenders are incarcerated and after reentry into the community ...”<sup>18</sup> With a focus on reentry, this law recognizes that inmate health must be addressed behind bars, in an effort to ensure that incarcerated individuals become law-abiding members of society upon release.

No one deserves to be raped. Rape and other forms of sexual assault are crimes, no matter where they occur. Victims of these crimes need and deserve support services, regardless of their custody status or criminal history. Instead of limiting services, the government should encourage community-based providers to support anyone who has been sexually assaulted, including people in detention.

## Endnotes

- 1 The White House, Office of the Press Secretary, National Sexual Assault Awareness Month, 2009 Proclamation, April 8, 2009.
- 2 Advocates and counselors often differ in how they refer to someone who has endured sexual violence. Some individuals consider themselves ‘survivors’ of sexual assault immediately after they were first attacked. Others identify as ‘victims’ and do not call themselves survivors until they have made significant progress in their healing and recovery. In recognition that only the individual can decide which term best applies to him or her, this Fact Sheet uses ‘victim’ to refer to individuals eligible for services under the Victims of Crime Act (VOCA), while continuing JDI’s practice of referring to people sexually assaulted behind bars as ‘survivors.’
- 3 Victims of Crime Act (VOCA) of 1984, Pub. L. No. 98-473, 98 Stat. 2170 (1984) (codified in relevant part at 42 U.S.C. §§ 10601-10607).
- 4 VOCA Victim Assistance Grant Program, 67 Fed. Reg. 56,444, 56,457 (Sept. 3, 2002) (“Subgrantees cannot use VOCA funds to offer rehabilitative services to perpetrators or offenders. Likewise, VOCA funds cannot support services to incarcerated individuals, even when the service pertains to the victimization of that individual.”).
- 5 42 U.S.C. § 10603 (b).
- 6 42 U.S.C. § 10602 (b).
- 7 See Office for Victims of Crime, 2008 Crime Victims Fund Compensation and Assistance Allocations, on-line at <http://www.ovc.gov/fund/cvfa2008.html> (last visited May 12, 2009).
- 8 ALLEN J. BECK & PAIGE M. HARRISON, BUREAU OF JUSTICE STATISTICS, SEXUAL VICTIMIZATION IN STATE AND FEDERAL PRISONS REPORTED BY INMATES, 2007 (2007).
- 9 ALLEN J. BECK & PAIGE M. HARRISON, BUREAU OF JUSTICE STATISTICS, SEXUAL VICTIMIZATION IN LOCAL JAILS REPORTED BY INMATES, 2007 (2008).
- 10 For more information, 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).
- 11 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).
- 12 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).
- 13 TIMOTHY HUGHES & DORIS JAMES WILSON, BUREAU OF JUSTICE STATISTICS, REENTRY TRENDS IN THE UNITED STATES (2003).
- 14 42 U.S.C. § 15601 *et seq.* To learn more about PREA, see Just Detention International, Fact Sheet, The Prison Rape Elimination Act (2009).
- 15 P.L. 110-199, 122 Stat. 657 (2008).
- 16 42 U.S.C. § 15602 (1), (8).
- 17 In accordance with PREA, on June 23, 2009, the National Prison Rape Elimination Commission released its Standards for the Prevention, Detection, Response, and Monitoring of Sexual Abuse (available on-line at <http://www.cybercemetery.unt.edu/archive/nprec/20090820154816/http://nprec.us/publication/>). From the date of their release, the Attorney General has one year to publish a final rule adopting the standards, after which they will be binding on all corrections systems. States and localities will be required to certify their compliance or they will lose a portion of their federal funds. 42 U.S.C. § 15607.
- 18 42 USC § 17501 (5).

## 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.

### JUST DETENTION INTERNATIONAL

3325 Wilshire Blvd., Suite 340  
Los Angeles, CA 90010  
Tel: (213) 384-1400  
Fax: (213) 384-1411

East Coast Office  
1025 Vermont Ave., NW, Third Floor  
Washington, DC 20005  
Tel: (202) 580-6971  
Fax: (202) 638-6056

info@justdetention.org  
www.justdetention.org