FACT SHEET

FEBRUARY 2009

Sexual Abuse in Detention is a Public Health Issue

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.*

— U.N. Office on Drugs and Crime[1]

PRISONER RAPE victims are highly vulnerable to contracting HIV and other sexually transmitted diseases. In 2004, the HIV prevalence rate inside U.S. prisons was more than four times higher than in society overall.[2] 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.[3] The rates of infection for chlamydia, gonorrhea, and syphilis are likewise significantly higher among inmates than in the population at-large.[4]

While many inmates contract infections prior to incarceration or through non-sexual activity in prison, such as needle-sharing, the high rates of sexual violence behind bars is a clear source of transmission. According to the best available research, as many as 20 percent of male prisoners have been pressured or coerced into sex, and ten percent have been raped.[5] In one women's facility, more than a quarter of the women studied said they had been pressured into sex.[6] Contracting HIV through sexual assault can transform even a relatively short time in prison into an un-adjudicated death sentence.

As prisoners return home – and 95 percent of all inmates are eventually released[7] – they bring with them the diseases that they acquired in detention. Men and women who did not receive testing, counseling, and treatment in prison are unlikely to have the knowledge, skills, or access to the resources needed upon release to protect themselves and their loved ones. In short, infectious disease among detainees is a serious public health issue.

U.S. constitutional law[8] and international treaties[9] to which the U.S. is a party require that corrections officials take measures to prevent and control disease among inmates. Unfortunately, few corrections facilities are willing to take even the most basic preventative measures. Less than one percent of corrections facilities in the U.S. make condoms available to detainees,[10] even though many survivors of sexual violence report that they would have been able to negotiate the use of protection had it been available.

Harm reduction measures such as condom distribution are uniformly recommended by public health agencies addressing infectious diseases in prisons.[11] Corrections staff often object to condom distribution on the ground that condoms pose a security risk and encourage prohibited behavior. However, the U.S. prisons and jails that do allow for condom distribution have never found grounds to reverse or repeal their policy.[12]

Organizations like the World Health Organization and UNAIDS[13] recommend routine screening for sexually transmitted diseases, voluntary testing and counseling for HIV, and early treatment for all infectious diseases. While less controversial than condom distribution, these basic measures are often unavailable to U.S. inmates.

Endnotes

1 U.N. Office on Drugs and Crime, HIV Prevention, Care, Treatment and Support in Prison Settings A Framework for an Effective National Response (2006).

2 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).

3 Scott A. Allen et al., *Hepatitis C Among Offenders—Correctional Challenge and Public Health Opportunity*, 67 Fed. Probation 22 (Sept. 2003).

4 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).

5 Cindy Struckman-Johnson et al., *Sexual Coercion Reported by Men and Women in Prison*, 33 J. Sex Res. 67 (1996); *see also* Cindy Struckman-Johnson & David Struckman-Johnson, *Sexual Coercion Rates in Seven Midwestern Prison Facilities for Men,* 80 Prison J. 379, 383 (2000).

6 Cindy Struckman-Johnson & David Struckman-Johnson, *Sexual Coercion Reported by Women in Three Midwestern Prison,* 39 J. Sex Res. 217, 220 (2002).

7 Timothy Hughes and Doris James Wilson, Bureau of Justice Statistics, Reentry Trends in the United States (2003), *at* http://www.ojp.usdoj.gov/bjs/reentry/reentry.htm.

8 *See, e.g., Estelle v. Gamble*, 429 U.S. 97, 100 (1976) (establishing "the government's obligation to provide medical care for those whom it is punishing by incarceration"). The Supreme Court later narrowed its interpretation of the constitutional standard regarding medical care in prison, requiring proof that officials were "deliberately indifferent to serious medical needs." *Wilson v. Seiter*, 501 U.S. 294 (1991); *see also Farmer v. Brennan*, 511 U.S. 825 (1994).

9 *See* Convention Against Torture and Other Cruel Inhuman or Degrading Treatment or Punishment, adopted December 10, 1984, G.A. Res. 39/46, annex, 39 UN GAOR Supp. (no. 51) at 197, UN Doc. A/39/51(1984) (entered into force June 26, 1987, ratified by the U.S. Oct. 14, 1994); International Covenant on Civil and Political Rights, adopted December 16, 1966, arts. 6, 7, 10(1), 999 U.N.T.S. 171 (entered into force March 23, 1976, ratified by the U.S. June 8, 1992); International Covenant on Economic, Social and Cultural Rights, adopted December 16, 1966, art. 12, 99 U.N.T.S. 3 (entered into force Jan. 3, 1976, signed by the U.S. Oct. 5, 1977). For information on how these treaties prohibit prisoner rape, *see* Just Detention International, Fact Sheet, Prisoner Rape is Torture Under International Law (2009).

10 Human Rights Watch, Ensure Access to Condoms in US Prisons and Jails 3 (March 2007) (citing C. Weinbaum et al., *Hepatitis B, Hepatitis C, and HIV in Correctional Populations: a Review of Epidemiology and Prevention*, 19(3) AIDS 41 (October 2005)).

11 *See, e.g.,* U.N. Office on Drugs and Crime, *supra* note 1, at 24; Nat'l Comm'n on Correctional Health Care, Position Statement, available at http://www.ncchc.org/resources/statements/admin_hiv2005.html (revised Oct. 2005) (last visited Jan. 22, 2009).

12 John P. May and Ernest L. Williams, *Acceptability of Condom Availability in a U.S. Jail*, 14 Supp. B AIDS Education & Prevention 85, 89 (2002).

13 United Nations Office on Drugs & Crime, World Health Organization, & Joint United Nations Programme on HIV/AIDS, HIV/AIDS Prevention, Care, Treatment and Support in Prison Settings: A Framework for an Effective National Response (2006); UNAIDS, Technical Update, Prison and AIDS (1997); World Health Organization, WHO Guidelines on HIV Infection and AIDS in Prisons (1993).

About Just Detention International (JDI)

Just 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 be treated with dignity. No matter what crime someone has committed, sexual violence must never be part of the penalty.

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