



## Sexual Abuse in U.S. Immigration Detention

**T**O THIS DAY, *the thought of what that immigration officer did to me makes me nauseous and fills me with fear, disgust and anger. It is difficult to comprehend how a federal employee who was supposed to maintain a secure environment for me while I was detained could abuse his authority in such a flagrant and appalling manner.*

— *Esmeralda Soto,*<sup>1</sup>  
*Survivor of sexual abuse  
in detention*

**O**VER THE course of a year, more than 310,000 people are held in the custody of the United States Immigration and Customs Enforcement (ICE).<sup>2</sup> Adults, unaccompanied minors, and sometimes entire families live in prison-like conditions, while the government determines their legal status in the U.S. and prepares to deport them. ICE runs few of its own facilities, instead contracting out the bulk of its detention responsibilities to county jails and private prison corporations.

Whether in an ICE detention center or a contracted facility, immigration detainees face the same dangers as inmates detained on criminal charges, including the risk of sexual abuse.

Unlike criminal defendants, immigration detainees have no right to an attorney. This lack of legal assistance makes it unlikely that survivors of sexual abuse in immigration detention have access to someone who is able to explain their rights and to advocate on their behalf.<sup>3</sup> In addition, after being traumatized by a sexual assault, non-citizen detainees often have difficulty speaking out due to cultural isolation, language barriers, and limited literacy.

Moreover, immigration detainees are unique in that they are held by the very entity seeking to deport them. Corrections departments that run prisons and

jails play no role in the prosecution and sentence of a criminal defendant. ICE, however, has complete control over a non-citizen's detention, immigration status, and possible deportation. As a result, fearing the possibility of retaliatory deportation, immigration detainees tend to be even less likely to challenge the conditions of their confinement than other inmates.

Similar to the dynamics of sexual violence in prisons, jails, and the community at-large, immigration detainees from marginalized populations are at greatest risk for sexual abuse. In particular, lesbian, gay, bisexual, transgender, and queer (LGBTQ) individuals,<sup>4</sup> youth,<sup>5</sup> and detainees living with mental illness or disabilities are disproportionately targeted.

Regardless of citizenship status, all detainees retain their basic human right to be free from sexual abuse. Sexual violence in immigration detention is a form of torture, prohibited by international treaties ratified by the U.S., such as the Convention Against Torture and Other Cruel, Inhuman and Degrading Treatment or Punishment (CAT) and the International Covenant on Civil and Political Rights (ICCPR).<sup>6</sup> In addition, non-citizens retain constitutional protections while in U.S. immigration detention, including the right not to be subject to cruel and unusual punishment, such as sexual violence.

*(over, please)*

The explosive growth of immigration detention has been accompanied by a worsening culture of secrecy at ICE. JDI believes that stronger policies, increased oversight, and greater transparency are urgently needed to improve safety in immigration detention and to ensure that ICE and contracted agencies are held accountable for the abuses that occur at their facilities.<sup>7</sup>

## Endnotes

- 1 Elimination of Prison Rape: Immigration Facilities and Personnel/Staffing/Labor Relations, Hearing before the National Prison Rape Elimination Commission (Dec. 13, 2006) (testimony of Mayra Soto). Since testifying before the Commission, Ms. Soto has changed her first name.
- 2 Immigration and Customs Enforcement, Office of Detention and Removal, Mortality Rates Fact Sheet (July 17, 2008), on-line at [http://www.ice.gov/pi/news/factsheets/detention\\_facilities\\_mortality\\_rates.htm](http://www.ice.gov/pi/news/factsheets/detention_facilities_mortality_rates.htm) (last accessed October 23, 2008)
- 3 Clay McCaslin, "My Jailor is My Judge:" *Kestutis Zadvydas and the Indefinite Imprisonment of Permanent Resident Aliens by the INS*, 75 TUL. L. REV. 193, 224 (2000).
- 4 For further discussion about the targeting of LGBTQ detainees, see Just Detention International, Fact Sheet, LGBTQ Detainees Chief Targets for Sexual Abuse in Detention (2009).
- 5 For more about the dangers for youth in detention, see Just Detention International, Fact Sheet, Incarcerated Youth at Extreme Risk of Sexual Abuse (2009).
- 6 For further information on international treaties addressing sexual assault in detention, see Just Detention International, Fact Sheet, Prisoner Rape is Torture Under International Law (2009).
- 7 To read more about sexual violence in immigration detention and JDI's recommendations, see STOP PRISONER RAPE, NO REFUGE HERE: A FIRST LOOK AT SEXUAL ABUSE IN IMMIGRATION DETENTION (2004).

## 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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