



In Our Experience

Recommendations by Prisoner Rape Survivors
to the National Prison Rape Elimination Commission



Stop Prisoner Rape

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Developed at Stop Prisoner Rape's
Prisoner Rape Survivor Summit
February 16-17, 2007
Los Angeles, California



STOP PRISONER RAPE



Stop Prisoner Rape (SPR) is a national human rights organization that seeks to put an end to sexual violence in all forms of detention. SPR works to: engender policies that ensure government accountability for prisoner rape; change flippant and ill-informed public attitudes toward sexual abuse behind bars; and promote access to services for survivors of this type of violence.

STOP PRISONER RAPE

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Cover: The portraits of the Survivor Summit participants were taken by photographer James Stenson. Left to right, top to bottom: Chino Hardin, Garrett Cunningham, Erica Hejnar, Thomas Clinton, Bryson Martel, Jason Lydon, Keith DeBlasio, Esmeralda Soto (large photo), Michael Williams (bottom left corner).

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Introduction

Since the passage of the Prison Rape Elimination Act (PREA) in 2003, Stop Prisoner Rape (SPR) has worked hard to ensure that survivors of sexual abuse in detention are actively involved in the implementation of the law. The National Prison Rape Elimination Commission (NPREC), which was established by PREA, is responsible for developing national standards to address prisoner rape. SPR believes that survivor input into the development of these standards is crucial to making them relevant, comprehensive, and effective.

On February 16-17, 2007, SPR brought together a diverse group of survivors from around the country for its first Prisoner Rape Survivor Summit, which was held in Los Angeles. These courageous individuals gathered to share their stories, to hone their public speaking and advocacy skills, and, perhaps most importantly, to develop their own set of recommendations for the NPREC. (Brief biographies of the survivor participants can be found in Appendix A.) Also attending the Survivor Summit were: SPR staff members; prisoner rape experts Terry Kupers, Robert Dumond, and Doris Dumond; Allison Parker of the Vera Institute

of Justice; journalist Christal Smith; and photographer James Stenson.

The recommendations below represent the viewpoints and ideas of the survivors themselves. While SPR staff and expert consultants served as facilitators, the Survivor Summit was designed to elicit input directly from the survivors to the NPREC. Several participants expressed how important it was for them to participate in the development of binding standards that will help to protect other inmates from sexual violence. The survivors appreciated greatly the NPREC's explicit commitment to taking their perspectives into account. Appendix B contains a statement of support ("Bipartisan Commission Applauds First-Ever Prison Rape Survivor Summit") issued by the NPREC just prior to the Survivor Summit.

The participants organized their recommendations around several key topics: classification and technology; screening and training; reporting and data; investigations and evidence protocols; and medical and mental health services. While all the survivors shared most of the views expressed in this document, there were differences of

opinion about some of the recommendations. This is not surprising given that the survivors represent a range of backgrounds, had vastly different experiences in custody, and attempted in just two days to devise solutions to a widespread and systemic human rights problem.

Highlights of the survivors' recommendations include:

- Corrections facilities should utilize a protocol for responding to instances of sexual assault that is standardized throughout the country.

- Staff training on sexual assault should be thorough and ongoing.
- Within 24 hours after a sexual assault medical exam, facility personnel should arrange for the survivor to have access to confidential mental health counseling by a rape crisis counselor or other mental health professional from outside the facility.
- The standard for forensic evidence collection and logging within corrections facilities should be the same as that applied by law enforcement agencies in the community.

The terms “prisoner rape,” “sexual violence,” and “sexual abuse” are used interchangeably in this document. Similarly, terms such as “inmate” and “corrections official” are intended to be inclusive and applicable to those detained within and working at all the facilities to which the Prison Rape Elimination Act applies, including federal and state prisons, jails, juvenile and immigration detention centers, police-lock-ups, and Native American facilities.

Survivor Recommendations

I. Classification and Technology

The survivors' primary concern was to ensure that inmates who are particularly vulnerable to sexual abuse are able to serve their time in a secure environment without being penalized or stigmatized. Vulnerable inmates include those who are: young; lesbian, gay, bisexual, transgender or queer (LGBTQ); small in stature; physically or mentally disabled; or lacking experience in the criminal justice system. The Survivor Summit participants emphasized that classification should be a dynamic process throughout a person's incarceration, and that housing decisions are particularly critical in the aftermath of a sexual assault. They felt that modern technology, such as cameras, should be used more effectively, including as a tool for classification.

A. Ensuring Safety from Sexual Violence in Housing Units

remove them from general population housing.

The survivors recommended that:

- All corrections systems should seek to decrease overcrowding, as too many people in too limited a space—especially when coupled with understaffing—creates opportunities for sexual predators.
- Corrections officials should identify likely sexual predators and promptly
- Whenever possible, inmates in the general population who are likely to be targeted for sexual abuse should be given the option of being housed in a single cell.
- All cells should have emergency call buttons.
- The movements of corrections officials should be tracked, by requiring them

to use magnetic scan cards to enter and leave common areas, cells, and dormitories.

- Corrections facilities should utilize designs that increase lines of sight and hearing in housing units.
- Facility administrators, including wardens and other senior executive staff, should make a point of walking through housing units and other parts of their facilities unannounced and actively engaging with the inmates.

B. Safe Housing Options for Vulnerable Inmates

The survivors recommended that:

- Classification should consist of careful screening to ensure that all vulnerable inmates are protected from potential sexual predators.
- Inmates who self-identify as, or may be perceived to be, LGBTQ should have the option of being housed in a non-punitive protective custody yard or “special needs” dorm separate from the general population. Other vulnerable inmates should also have this option.
- Housing assignments for transgender inmates should be determined on a case-by-case basis, rather than solely based on their birth gender. Whenever possible, transgender women should be given the option of being placed in women’s facilities, and transgender men in men’s facilities.
- Despite the general vulnerability of certain inmate groups, classification determinations should take into account each inmate’s propensity toward

violence and level of experience in the criminal justice system. For example, a gay inmate who has a history of predatory behavior or physical violence should not automatically be housed with other LGBTQ inmates who are considered a low security risk.

- Juveniles, including those adjudicated as adults, should not be housed with adults under any circumstances.
- Corrections officials should consult with outside organizations that have regular contact with vulnerable inmates, or that focus on the prevention of sexual assault and domestic violence, to obtain feedback on the content and practical implementation of classification procedures.
- Corrections officials should enable inmates to establish advisory councils that provide feedback on ways to improve the classification process. These inmates should also be allowed to provide orientation to new inmates.

C. Housing Determinations Following a Sexual Assault

The survivors recommended that:

- Once a sexual assault has occurred, corrections officials should evaluate whether the survivor and/or the assailant should be reclassified and moved.
- Housing for inmates who fear sexual assault or who have been assaulted should not involve isolation, punitive conditions or discrimination in the form of loss of privileges or programming, as these practices greatly deter inmates from reporting sexual assault.

- Corrections facilities should not automatically place inmates who report sexual abuse on suicide watch, which can be traumatizing and humiliating. Evaluation for placement on suicide watch should be done carefully on a case-by-case basis in consultation with mental health staff.
- When it is deemed necessary, placement in administrative segregation, protective custody or other restrictive housing units should occur in consultation with the survivor, and should last only as long as needed to protect him or her. Such placement should be reviewed every 24 hours to determine whether the survivor can be moved to a less restrictive unit.
- Assailants—not survivors—should be transferred to administrative segregation or other restrictive housing following an assault.
- Assailants placed in restrictive housing should not be placed in the protective custody or administrative segregation pods in which vulnerable inmates are housed.
- When the assailant is a staff member, he or she should be placed on leave or transferred to a position that does not involve contact with inmates while an investigation is conducted.
- Corrections authorities should maintain the survivor’s access to his or her normal activities as much as possible following an assault and avoid removing access to primary sources of emotional support, such as fellow workers or cellmates.

D. The Role of Technology in Making Facilities Safer

The survivors recommended that:

- Cameras should never be a substitute for well-trained staff, but should be used to improve classification processes and assist corrections officials in monitoring the safety of inmates. Modern technologies have the capacity to alert officials to high-risk areas within a facility and to staff who may be complicit in or fail to intervene in sexual abuse occurring on their watch.
- The use of cameras as a means of preventing sexual assault and facilitating investigations should be increased, particularly in areas known to have a high incidence of sexual assaults, such as housing units and recreation yards. Cameras should also be placed inside guard stations in each housing unit.
- Because cameras are ineffective unless they are properly monitored, all cameras should be observed both by corrections officials stationed in the units and by personnel in a central administrative office.
- Mapping systems (either in computerized or manual form) should be implemented in all corrections facilities in order to track incidents of sexual abuse and to maintain statistics on the number of assaults that occur in each area of a facility. Such statistics are important in determining instances when reclassification of inmates may be warranted.

II. Screening and Training

The survivors emphasized the importance of thoroughly screening all corrections staff as part of the recruitment process and of offering them regular mandatory sexual violence awareness training. They insisted that staff training should aim not only to impart information regarding policies and procedures but also to transform corrections culture, addressing in particular the “us vs. them” dynamic commonly found in detention settings. As one survivor stated, “we should take down the wall that dehumanizes prisoners.” While the importance of staff training constituted the bulk of the discussion, the survivors also emphasized the need for appropriate inmate training and orientation that addresses the problem of sexual violence.

The survivors recommended that:

- Applicants for employment involving inmate contact should be carefully screened, including a mental health screening and a criminal background check. In addition, steps should be taken to prevent nepotism in hiring.
- The U.S. Department of Justice should establish a national database of allegations and convictions of corrections personnel for sexual abuse in corrections facilities and in the community. The database should be searchable by the official’s name, be accessible only to corrections agencies, and must preserve the confidentiality of survivors and witnesses.
- Corrections agencies should send a clear message to staff that less serious forms of inappropriate conduct which often set the stage for sexual abuse to occur, such as the use of derogatory language, will not be tolerated.
- Corrections personnel who use sexualized language, including homophobic and sexist terminology, or who engage in other offensive or discriminatory behavior toward inmates, should be properly reprimanded after the first instance. If the behavior continues, the official should be terminated.
- Staff training on sexual assault should be thorough and ongoing. It should consist of an initial, comprehensive training, with subsequent refresher sessions on a regular basis, and culminate in mandatory closed-book exams. Staff who do not pass the exams should be required to undergo the training and exams again and, if the deficiency persists, face disciplinary measures.
- Basic sexual violence awareness training should include: a clear statement that sexual abuse of inmates is a crime; strategies for identifying and protecting vulnerable groups from abuse; and instruction on all related facility policies and procedures.
- Training programs should emphasize that corrections officials should use their power and authority over inmates responsibly. Specifically, training should include a focus on the importance of sensitivity and tolerance, particularly in working with inmates from diverse backgrounds, such as people of color, LGBTQ inmates, and the mentally ill.
- Staff training should emphasize the crucial role of “first responders” – the first person to whom an inmate discloses incidents or threats of sexual abuse. First responders should be prepared to handle reports of sexual abuse in a

compassionate and professional manner without improperly stepping into an investigatory role.

- Training should prepare first responders to carry out the critical initial steps of receiving reports of abuse: bringing these reports to the attention of the appropriate supervisory staff immediately; ensuring that any necessary emergency medical or mental health treatment is provided; and accurately informing the inmate about what will happen next.
- Staff should be made familiar with the wide range of common responses to sexual assault and the difficulty of reporting a sexual assault in detention, including the potential for re-traumatization.
- Staff training should incorporate the international human rights framework, highlighting the fundamental dignity of all inmates and their absolute right to be free from sexual violence.
- Training sessions should be conducted jointly with rape crisis counselors so that corrections officials understand how coordinated Sexual Assault Response Teams (SART) function.
- Former inmates who are survivors should be involved in trainings for corrections personnel, providing a first-hand perspective on what it is like to experience sexual abuse in prison and to navigate the corrections environment and grievance process. Survivors should only participate in trainings at facilities outside of the jurisdiction where they were incarcerated.
- Orientation should be provided for all inmates, emphasizing the human dignity of their fellow inmates, their inalienable human right not to be subjected to sexual assault or coercion, and how the system will respond to such abuse.

III. Reporting and Data

The survivors cautioned that PREA's zero-tolerance standard can only be realized if prisoners feel safe reporting abuse. Most cases of sexual violence in detention go unreported, allowing impunity to fester and leaving survivors of this type of violence without access to many of the services they need. The survivors attributed this serious underreporting to a profound lack of faith in the ability of corrections systems to address appropriately cases of rape and sexual abuse. In many instances, they said, those who do come forward with formal complaints find that they are not believed, that no valid investigation is undertaken or that the abuse is covered up. Several participants highlighted the fact that the internal complaint processes at the facilities in which they were held failed to ensure confidentiality and thus placed them at risk for retaliation and further abuse.

The survivors recommended that:

- Reports of sexual abuse or threats thereof should be handled in a truly confidential manner, such that only personnel who have an active role in an investigation have access to the information.
- Corrections agencies should take all appropriate steps to ensure that inmates who report sexual violence are protected from retaliation by staff members who may be involved or complicit in the abuse.
- Tamper-proof signs should be posted throughout every facility containing the following information: that the facility does not tolerate sexual coercion, harassment or abuse; that inmates have a right to confidential medical care and counseling if they have been victimized; and the various options for reporting sexual abuse confidentially.
- External oversight mechanisms are essential in addressing sexual violence in detention. Inmates who have been sexually assaulted should be able to take their complaints to an outside entity that is independent both of the facility and of the corrections agency that runs it.
- It should be clearly communicated to inmates that they have the option of reporting sexual abuse in a variety of ways and that they are not required to report to corrections staff or other internal officials before seeking assistance from law enforcement or external monitoring bodies. This message should be included in inmate handbooks and on signs posted in the facility.
- Inmates who choose to report their abuse to facility staff should be able to file a formal complaint to any staff member, bypassing the usual chain of command, so that nobody is faced with the unacceptable scenario of having to report an assault to the perpetrator.
- Survivors should never be forced to seek to resolve a sexual abuse-related grievance involving a corrections official by speaking with that official before being allowed to file a formal complaint.
- A private, secure line should be accessible to inmates from phones in each unit of every corrections facility to either an external law enforcement agency, such as the state police, or an external oversight body, such as an ombudsperson's or inspector general's office.
- Toll-free phone numbers for local rape crisis agencies should be available

and made clearly visible in each unit on mounted tamper-resistant plaques. Inmates should be allowed to dial these numbers with confidentiality and at no charge. Corrections facilities should seek to enter into memoranda of understanding with local agencies to memorialize this collaboration.

- Locked boxes for inmate grievances should be accessible to all inmates. Only senior investigative officials should have access to such boxes. In general population, they should be located in areas that inmates visit frequently. However, they should also be placed in areas like infirmaries and recreation yards to which inmates who are not housed among the general population have access. The locked boxes should be designated for receiving complaints about a variety of issues, not only sexual abuse.
- Corrections officials should ensure that the legal mail system is not subject to tampering or interference by corrections personnel.
- Corrections agencies should exempt grievances alleging sexual assault from any institutional filing deadlines.
- Corrections facilities should fully inform inmates of the need to fulfill administrative exhaustion requirements in order to pursue legal action for sexual abuse and other constitutional violations in detention.
- An inmate advisory council should be established to work with corrections officials to ensure that inmates feel safe filing formal complaints. The council members should encourage reporting by conducting orientation sessions, and by assisting inmates who need help navigating the procedures for reporting abuse and seeking specific remedies such as housing transfers.
- All allegations of sexual abuse should be entered into a national, publicly available and searchable database, omitting information that identifies survivors and witnesses.

IV. Investigations and Evidence Protocols

Many of the recommendations the survivors made regarding the handling of investigations of sexual abuse apply whether the assailant is an inmate or an official. However, the survivors were particularly concerned about the potential for conflict when corrections staff investigate allegations of abuse by their peers. They expressed frustration that investigations into sexual abuse in detention are not consistently handled according to the same standards as crimes in the community.

The survivors recommended that:

- Sexual assault investigations, particularly those of abuse by corrections personnel, should be handled by independent officials from outside the corrections agency that runs the facility where the assault occurred. The investigators should operate as a part of a coordinated Sexual Assault Response Team (SART), along with medical staff and an external rape crisis advocate.
- In corrections departments where allegations of sexual misconduct by employees are handled internally, an external, independent oversight agency should have the authority to conduct an independent review.
- The standard for forensic evidence collection and logging within corrections facilities should be the same as that applied by law enforcement agencies in the community, and should be standardized throughout the country.
- Whenever possible, corrections facilities should have a trained on-site crime scene expert who is responsible for evidence collection.
- Investigative officials should have the discretion to restrict staff access to inmate reports of sexual abuse—an important means of preventing retaliation by staff about whom an inmate has expressed concerns.
- When a staff person is alleged to have sexually abused an inmate, he or she should be put on leave during the investigation or moved to a position where he or she will have no inmate contact.
- Corrections agencies should hold accountable employees who fail to intervene in instances of sexual abuse or coercion by inmate assailants.
- Survivors of sexual assault should be provided a full overview of the investigation process. Officials in charge of the investigation should keep the survivor apprised of its status and outcome.
- Investigations of sexual abuse should focus on uncovering evidence of wrongdoing by the assailant. If the investigation uncovers a minor violation of institutional rules by the survivor, the infraction should be overlooked in the interest of addressing the reported sexual assault.
- Corrections facilities should collaborate with local prosecutors, supporting the prosecution of sexual assault cases.
- When appropriate, sexual assaults of LGBTQ inmates should be prosecuted as hate crimes.
- An inmate must never be required to participate in an investigation in order to make a formal report or to access medical or mental health services.

V. Medical and Mental Health Services

The survivors called for cases of sexual assault behind bars to be treated with the same level of urgency, professionalism, and concern for the survivor's well-being as has come to be expected in the community. In the aftermath of an assault, immediate access to medical services is essential, both to help survivors begin their recovery and to gather the kind of forensic evidence that is essential for the prosecution of this type of violence. In addition, the survivors emphasized that access to mental health care upon request is critical to long-term well-being after a sexual assault.

The survivors recommended that:

- Sexual assault exams and related evidence collection procedures should only be carried out with the survivor's informed, written consent, and should be conducted in conjunction with a Sexual Assault Response Team (SART) in order to ensure the integrity of the protocol and minimize the level of trauma for the victim.
- Corrections facilities should utilize a protocol for responding to instances of sexual assault that is standardized throughout the country.
- SART teams responding to cases of sexual assault in detention should include a rape crisis advocate, law enforcement representatives, and a Sexual Assault Nurse Examiner (SANE).
- Sexual assault survivors should never be required to make a report of sexual abuse or to fill out documentation of any sort in order to access medical and mental health counseling services.
- The determination of whether a rape kit is needed should be made by a SANE, and not by corrections personnel or law enforcement.
- In order to maintain transparency, sexual assault examinations should be performed off-site at an independent medical facility whenever possible.
- Corrections facilities that conduct sexual assault examinations on-site should have medical staff who are trained in treating survivors of sexual assault on call at all times, and have state-of-the-art rape kits available.
- A trained victim advocate from a local rape crisis center should be present during sexual assault exams and, whenever possible, corrections officials should be prohibited from entering the room during the examination.
- Within 24 hours after a sexual assault exam, facility personnel should arrange for the survivor to have access to confidential mental health counseling by a rape crisis counselor or other mental health professional from outside the facility.
- All facility mental health personnel should be trained in treating survivors of sexual assault and be allowed to offer confidential inmate counseling.
- Facility mental health staff should be alerted immediately when an instance of sexual abuse comes to light. A member of that staff should be on call around the clock.
- When an allegation of rape is made, medical staff should provide the survivor with information about sexually transmitted diseases (STDs), including HIV, and pregnancy options. The assailant

should also be given information about STDs, and should be asked to consent to HIV testing.

- HIV prophylactics and emergency contraception should be provided to survivors; testing for HIV and other STDs (along with treatment and counseling)

should be available to all inmates at any time upon request.

- As part of re-entry planning, corrections facilities should provide inmates with information about free or low-cost mental health care in the communities to which they are returning.

Appendix A

Survivor Participants

While in the custody of the California Department of Corrections and Rehabilitation, **Thomas Clinton** was sexually assaulted by another inmate. After filing a report and being rebuffed by corrections staff, he suffered various forms of retaliation as he attempted to navigate a difficult inmate grievance process. Since being released from custody, he has continued to fight for the rights of California inmates.

A corrections officer raped **Garrett Cunningham** while he was an inmate at a Texas state prison. Today, Mr. Cunningham runs a prison pen pal service and recently testified before the Texas Legislature at a hearing on a state law aimed at addressing sexual violence in Texas Department of Criminal Justice facilities.

Keith DeBlasio was repeatedly raped by a gang member while housed in a dormitory with 150 other inmates at a federal prison in Michigan. Although he had told prison officials of his assailant's threats, nothing was done to protect Mr. DeBlasio, who contracted HIV as a result of the rapes. He

has since become an advocate for prison reform and is the Executive Director of the non-profit organization AdvoCare, in West Virginia.

In her youth, **Chino Hardin** was the victim of an attempted rape by an older inmate while incarcerated in a New York adult corrections institution. Today, Ms. Hardin works as a Workshop Coordinator with the Prison Moratorium Project and is a leading activist on prison issues in New York state.

After being wrongfully arrested and taken to a Philadelphia lock-up, **Erica Hejnar** and her female friend were forced to perform sex acts on one another by a police officer. Although she faced tremendous barriers in her efforts to hold the Philadelphia Police Department accountable, a recent independent investigation substantiated her allegations and the police officer was fired.

Jason Lydon was arrested on a non-violent charge and placed in the custody of

the Federal Bureau of Prisons. He was subjected to a sexually abusive and humiliating strip search by a corrections officer. Since his release, Mr. Lydon has become an outspoken activist on behalf of LGBTQ prisoners and works as a pastor with the Community Church of Boston.

Bryson Martel was raped by more than 25 other inmates over the course of nine months during his incarceration at an Arkansas state prison. He contracted HIV as a result of the attacks. Although he reported the attacks, prison officials failed to provide Mr. Martel, who weighed only 123 pounds at the time, safe housing. He currently lives in Michigan.

An immigration official forced **Esmeralda Soto**, a transgender woman, to perform oral sex on him while she was in custody at an Immigration and Customs

Enforcement (ICE) detention facility in California. After reporting the abuse, Ms. Soto suffered various forms of retaliation and often feared for her life. The official later resigned and was sentenced to four months in jail. Ms. Soto, who came to the U.S. seeking asylum, had also been raped by a male inmate while detained at a jail in her native Mexico. She currently resides in Southern California.

Michael Williams was wrongfully convicted for the rape of his high school math tutor when he was 16 years old. He spent more than 24 years behind bars at the Louisiana State Penitentiary at Angola. On multiple occasions, corrections officers handcuffed Mr. Williams to the bars of his cell door, allowing other inmates to sexually assault him. Mr. Williams was exonerated in 2005 with the assistance of the Innocence Project.

Appendix B



For Immediate Release:
Crime/Justice/Prisons Reporters and Editors

February 15, 2007

Contact: Mark Glaze, 202-271-0982

BIPARTISAN COMMISSION APPLAUDS FIRST-EVER PRISON RAPE SURVIVOR SUMMIT

Federal Panel Anticipates Important Input from “Stop Prisoner Rape” Conference

Washington, D.C. – The National Prison Rape Elimination Commission (NPREC) today released the following statement lauding the Prison Rape Survivor Summit to be held in Los Angeles on February 16 and 17, 2007. The event was organized by Stop Prisoner Rape (SPR), a national human rights organization dedicated to ending sexual violence in detention.

“We commend Stop Prisoner Rape for their invaluable efforts to hear and understand the unique challenges faced by the survivors of sexual violence behind bars. SPR has been at the forefront of the national effort to prevent sexual assault in detention. We thank them and all the participants in this important Prison Rape Survivor Summit for their brave and tireless work, and for giving voices to the victims of this serious problem.

“Every year, 600,000 inmates are released into communities across the nation. Those who have been the victims of sexual assault – like all other victims of sexual abuse – will deal for the rest of their lives with its physical and psychological repercussions. Preventing prison rape, and helping those who have been victimized, must be a top priority in every detention facility in the United States. Zero tolerance is the only acceptable standard.

“We very much look forward to receiving the policy recommendations that will arise from this week’s event, and to continuing to work in partnership with SPR and others to ensure that our nation’s detention facilities protect the basic human dignity of all.”

The National Prison Rape Elimination Commission was created by the Prison Rape Elimination Act of 2003 and charged with developing zero-tolerance national standards for enhancing the detection, prevention, reduction, and punishment of sexual violence behind bars. Congress found that almost a million prisoners had been sexually assaulted in the twenty years prior to the passage of the Act. The prisoners most likely to be assaulted are first-time, non-violent juvenile offenders.

