



Powerless in Prison: Sexual Abuse Against Incarcerated Women

By Nicole Summer, RH Reality Check

Posted on January 15, 2008, Printed on January 17, 2008

<http://www.alternet.org/story/73784/>

"I am 7 months pregnant [and] I got pregnant here during a sexual assault. I have been sexually assaulted here numerous times! The jailers here are the ones doing it!"

-- excerpt from a letter from an inmate in a jail in Alabama to Stop Prisoner Rape.

Surviving a sexual assault and then navigating the health care system to receive adequate counseling and reproductive medical attention is daunting enough for those who walk freely on the outside. For women in prison, these hurdles can seem insurmountable. Unfortunately, sexual assault, particularly guard-on-prisoner sexual assault, is a fact of life for many incarcerated women, and the ensuing implications for their reproductive health are many.

The power dynamics in prison severely disadvantage the prisoner, who is at the absolute mercy of her guards and correctional officers, relying on them for necessities such as food and for the small privileges and luxuries such as cigarettes. Guards have unlimited access to prisoners and their living environment, including where they sleep and where they bathe. With such an imbalance of power, the likelihood of sexual assault increases. Sexual abuse in prison can range from forcible rape to the trading of sex for certain privileges. While the latter may seem consensual to some, the drastic power disparity makes the idea of "consent" almost laughable. In fact, all 50 states have laws that make any sexual contact between inmates and correctional officers illegal, "consensual" or not. "It's always unacceptable and illegal," says Lovisa Stannow, executive director of Stop Prisoner Rape.

While guard-on-prisoner sexual assault is common, putting a number on the instances is difficult because so many assaults are unreported. As with sexual assault on the outside, many survivors in prison are ashamed and embarrassed to come forward, fear that their claim will be hard to prove or fear that their attackers will retaliate. In prison the fear of retaliation is heightened, as the prisoner continues to live with her attacker controlling her daily life. And inmates who report a sexual assault are frequently put in segregated isolation, ostensibly to protect them from retaliation, but this isolation can be emotionally and physically draining, and well, terribly isolating. And many women in prison have been sexually abused in the past, before they were incarcerated, or are accustomed to using sex to get what they want, on the inside or the outside. "A lot of women don't view it as abuse," says Deborah Golden, staff attorney at the D.C. Prisoners' Project of the Washington Lawyers'

Committee for Civil Rights and Urban Affairs. About 80 percent of women inmates have already experienced some kind of sexual or physical abuse before prison, says Sarah From, director of public policy and communications at the Women's Prison Association.

Despite the widespread underreporting, some statistics exist. First, there are about 200,000 women incarcerated in the U.S. (in federal, state, local and immigration detention settings), a number that is growing exponentially and that makes up about 10 percent of the total prison population. Amnesty International reports that in 2004, a total of 2,298 allegations of staff sexual misconduct against both male and female inmates were made, and more than half of these cases involved women as victims, a much higher percentage than the 10 percent that women comprise of the total prison population. It can vary from institution to institution, but in the worst prison facilities, one in four female inmates are sexually abused in prison, says Stannow.

The risk of pregnancy as the result of a sexual assault is, of course, a concern for many survivors, incarcerated or not. But obtaining emergency contraception or an abortion, if one is desired, may be more difficult for women on the inside. Because many inmates do not report the sexual assault immediately (if at all), using emergency contraception is usually not possible, if it is even available. While prisoners' rights and reproductive rights organizations report hearing few complaints about emergency contraception being inaccessible to women in prison, they are unconvinced that it is widely available. Golden believes emergency contraception should be made readily available and should be on the prison's prescription formulary.

Unlike access to emergency contraception, access to abortion by inmates has seen its way through the courts. Crucially, women do not lose their right to decide to have an abortion just because they are in prison; rather, the issue is how the prison accommodates (or refuses to accommodate) her decision. "There are constitutional minimums," says Diana Kasdan, staff attorney with the ACLU's Reproductive Freedom Project. Although the details can vary from jurisdiction to jurisdiction, prisons must provide access to an abortion if one is desired. "Providing access" can range from providing transportation to an off-site medical facility, to allowing for a furlough or to providing abortions on-site, although Kasdan says she has not heard of the latter. A court in Arizona recently ruled that a court order to obtain transportation for an abortion cannot be required, and a federal court in Missouri ruled last year that a prison cannot refuse to pay for the transportation of inmates to receive abortions.

Paying for the abortion itself is yet another issue for women inmates, and it is a patchwork quilt of inconsistency throughout the states. Some state prison systems fund abortions, some states refuse to pay for what they consider "elective" abortions and some states simply have no official written policy, research by Rachel Roth has shown. Only two states specifically mention sexual assault in their prison abortion policies; both Minnesota and Wisconsin allow for government-subsidized abortions when the pregnancy results from a sexual assault. The federal Bureau of Prisons also pays for the abortion in the case of sexual assault.

In prison, the possibility of a coerced abortion can hang over an inmate who

discovers she is pregnant as the result of a sexual assault by a guard. In a letter to Stop Prisoner Rape, one inmate writes:

A rumor had spread through the facility that I was pregnant. I'm not sure how the rumor got started, but medical staff came to my cell and forced me to provide a urine sample that they could use to test for pregnancy. They did not ask me any questions, offer me any support, or seem at all concerned for my well-being. That same night, three guards, two female and one male, came into my cell, sprayed me in the face with mace, handcuffed me behind my back, threw me down on the ground, and said, "We hear you are pregnant by one of ours and we're gonna make sure you abort." The two female guards began to kick me as the male guard stood watch. The beating lasted about a minute, but it felt like ten or more. Afterwards, the male officer uncuffed me and they left.

The prisoner's rights as a mother, if she becomes pregnant and chooses not to terminate the pregnancy, are complicated, to say the least. Few jurisdictions allow women to keep their children in prison with them once they are born. Frequently, if there is no family member on the outside to take the child, the child will enter the foster care system, and the state will move to terminate the parental rights of the mother because she is absent. The parental rights of mothers in prison is a fraught and complicated issue, one that goes well beyond the particular problem of sexual assault by guards.

Access to counseling after a sexual assault in prison is virtually nonexistent. An inmate cannot simply call a hotline, since all calls are monitored and she has no privacy. When one inmate sought mental health care from prison services after a sexual assault, she was offered sleeping pills, says Golden. "There's no capacity in prisons for talk therapy," she says. And any counseling inside the prison is not confidential. Some community therapists will come in on visiting days to counsel an inmate, but usually only at the behest of a lawyer, says Golden.

Despite the overwhelming power imbalance, guard-on-prisoner sexual assault is preventable, insists Stannow. Efforts such as making sure the staff is well trained, educating the prisoners about their rights, eliminating impunity for guards and following up on reports of sexual abuse would go a long way toward prevention, she says. Congress had similar goals in mind when it unanimously passed the Prison Rape Elimination Act (PREA) in 2003. PREA aims to establish zero-tolerance standards of sexual assaults, to increase data and information on the occurrence of prison sexual assault and to develop and implement national standards for the detection, prevention, reduction and punishment of prison sexual assault. "PREA has been enormously important in ending sexual violence in detention," said Stannow. "Congress made clear that it's a problem that must be addressed." Perhaps most excitingly, PREA created a federal commission to generate binding national standards regarding sexual violence in detention. But "the existence of the law doesn't mean the problem is gone," Stannow continues. "Now we need to make sure that we build on the momentum of the law to make every corrections system in the country acknowledge that sexual violence in detention is a major problem, and does everything it can to end it."

One of the largest obstacles to eliminating prison sexual assault is the "social invisibility" of prisons. The general public neither knows nor cares about the plight of the incarcerated, and thus cannot demand that its government properly protect prisoners' bodily integrity and rights. Perhaps PREA is the beginning of the end of this social invisibility.

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