



Preventing and Addressing Sexual Violence in Correctional Facilities

Research on the Prison Rape Elimination Act

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May 2021

Sexual violence in US correctional facilities is a long-standing problem that has gained increased attention in recent years. Many advocacy, human rights, and research organizations have called for action on this issue for decades, and in 2003, Congress took federal action by passing the Prison Rape Elimination Act (PREA). PREA requires nationwide data collection and research about sexual violence in federal, state, and local correctional facilities, and established the National Prison Rape Elimination Commission to develop national standards for addressing this issue. Despite PREA's enactment, PREA standards established in 2012, and growing national discourse about sexual violence in correctional facilities, many challenges persist.

As of 2017, 31 states had not yet fully complied with the established PREA standards. Further, survivors of sexual violence, people with behavioral health needs, and people who identify as lesbian, gay, bisexual, transgender, and/or queer (LGBTQ+) continue to disproportionately experience sexual violence in correctional facilities. Research about PREA's impact and outcomes, survivors' experiences with PREA reporting and investigation processes, and experiences with victim services is limited and should specifically examine the experiences of survivors with marginalized identities. Further research on this issue is needed and must incorporate strong protections for participating incarcerated people and participatory approaches that center their experiences and expertise.

BOX 1

Statement about Language

Given the complex nature of sexual violence, particularly in correctional facilities, it is important that we explain the language we use in this brief. First, we use the term “sexual violence” to describe various categories and forms of nonconsensual sexual activity, including rape, sexual assault, sexual victimization, sexual misconduct, and sexual harassment. When we use other terms like “rape” or “sexual assault,” we use them either for specificity (for instance, rape is a specific form of sexual violence) or to reflect the language used in a referenced source. We also use “survivor” rather than “victim” to refer to someone who has experienced sexual violence, though we recognize that people may prefer and identify with either term.

In addition, we sometimes refer to certain survivors as “female survivors” and “male survivors.” We recognize that many do not identify as female or male or as women or men, and that people who are transgender often are not recognized as the sex or gender with which they identify. Further, survivors who identify as men, transgender, gender nonconforming, genderqueer, and/or nonbinary have been overlooked in research and policy about sexual violence. Though we use “female” and “male,” and “women” and “men,” we strive to recognize and be inclusive of survivors of all sexual and gender identities.

Lastly, we cite statistics about rates of sexual violence and describe them as the percentage of people who have “experienced” sexual violence. Importantly, most people who experience sexual violence are unlikely to seek help and report their experiences to law enforcement or to administrators in correctional facilities. Though survivors are more likely to report their experiences to researchers than to officials, we do not know how many survivors will not tell anyone about their experiences. Therefore, even though we use “experienced,” we recognize that more people have experienced sexual violence than have disclosed it. Though we do not discredit the statistics we use, we recognize that they reflect what survivors were willing to share and believe it is important to underscore that sexual violence is underreported in the United States.

Problem Statement

Sexual Violence in the United States

Sexual violence is pervasive in the United States, both inside and outside of correctional facilities. While state criminal statutes define rape, sexual assault, sexual harassment, and other forms of sexual violence differently, the Rape, Abuse & Incest National Network (RAINN) defines sexual assault or violence as any sexual contact or behavior that occurs without a person’s explicit consent. Forms of sexual violence include rape (penetration of a person’s body), attempted rape, fondling or unwanted sexual touching, and forcing someone to engage in sexual acts without their consent.¹ Moreover, though definitions of consent also differ between state laws, consent is an informed, voluntary, and continuous agreement between participants to engage in sexual activity that can be withdrawn at any time.² Sexual activity without consent is considered sexual violence.

Sexual violence in the United States is particularly prevalent among women and people who are younger than 25 years old. The country’s overall rate of sexual violence (rape or sexual assault) has

increased in recent years after declining for more than a decade. From 1995 to 2010, the estimated annual rate of female rape or sexual assault victimizations declined by 58 percent, from 5.0 to 2.1 per 1,000 female adults and youth ages 12 or older (Planty et al. 2013).³ The rate of rape or sexual assault increased from 1.6 victimizations per 1,000 people ages 12 or older in 2015 to 2.7 victimizations in 2018, and then decreased to 1.7 victimizations in 2019 (Morgan and Oudekerk 2019; Morgan and Truman 2020). Twenty-one percent of women and 3 percent of men in the United States report having been raped, and 81 percent of female survivors and 71 percent of male survivors report having experienced such victimization before the age of 25 (Smith et al. 2018).

People of color experience sexual violence at higher rates than white people. For instance, Breiding and coauthors (2014) found that approximately 32 percent of multiracial women, 28 percent of American Indian/Alaska Native women, 21 percent of Black women, 21 percent of white women, and 14 percent of Hispanic women have experienced rape.⁴ Moreover, they found that 40 percent of multiracial men, 27 percent of Hispanic men, 25 percent of American Indian/Alaska Native men, 24 percent of Black men, 22 percent of white men, and 16 percent of Asian or Pacific Islander men have experienced sexual violence other than rape.

Sexual violence against Black women, specifically, is rooted in the United States' history of slavery (Davis 1981) and in historical and current structural racism, including 19th-century laws that considered only white women to be victims of rape and deep-seated racial bias in the legal and justice systems (West and Johnson 2013). In addition, intersecting racial, ethnic, and socioeconomic inequities likely contribute to racial and ethnic disparities in the incidence of sexual violence. For instance, women living in households in lower income brackets experience rape or sexual assault at higher rates than women in higher income brackets, and as a result of the racial pay gap and other structural inequities, Black and Hispanic households, on average, have lower median incomes than white households (Planty et al. 2013; Semega et al. 2020).

In addition, people who identify as LGBTQ+ experience higher rates of sexual violence than people who do not. They also face higher rates of poverty, stigma, hate-motivated violence, and marginalization, which increase the risk of experiencing sexual violence.⁵ Approximately 46 percent of lesbian women and 75 percent of bisexual women have experienced sexual violence other than rape, compared with 43 percent of heterosexual women; approximately 40 percent of gay men and 47 percent of bisexual men have experienced sexual violence other than rape, compared with 21 percent of heterosexual men (Walters, Chen, and Breiding 2013). Moreover, 47 percent of transgender people have experienced sexual assault (James et al. 2016).

People with disabilities also experience higher rates of sexual violence than people without disabilities. People with different disabilities face different challenges, and some face risks of sexual violence, including reliance on someone for assistance who may abuse their power, barriers to reporting and disbelief when they do so, and lack of information about what constitutes abuse.⁶ From 2011 to 2015, the rate of rape or sexual assault victimizations was 2.1 per 1,000 people ages 12 or older with disabilities, compared with 0.6 per 1,000 people ages 12 or older without disabilities (Harrell 2017).

Survivors of sexual violence can experience significant emotional, physical, and economic consequences. Experiencing sexual violence is associated with adverse behavioral health effects, including significantly increased risk and severity of anxiety, depression, post-traumatic stress disorder, substance use disorder, obsessive compulsive disorder, bipolar disorder, and suicidality (suicidal ideation, suicide plans, and/or suicide attempts) (Dworkin et al. 2017). In addition, the estimated economic cost of rape is more than \$100,000 over each adult survivor’s lifetime, totaling nearly \$3.1 trillion over all survivors’ lifetimes (Peterson et al. 2017).

Further research is needed to better understand and address sexual violence in the United States. In 2019, 34 percent of rape or sexual assault victimizations reported to researchers were reported to authorities, and survivors of violent crime (including rape or sexual assault) received assistance from a victim service agency for only 8 percent of victimization experiences (Morgan and Oudekerk 2020). Survivors of crime decide not to report for various reasons, including fear of retaliation from the people who caused them harm, from the people to whom they report, and from others; fear that law enforcement cannot help; and the preference to respond to the crime in a different way (Matei, Marcellin, and Harvell 2020).⁷ Men are even less likely to disclose experiences of sexual violence than women, and most extant research focuses on female survivors, overlooking male survivors in research about and responses to sexual violence in United States (Stemple and Meyer 2014).⁸ As a result of attitudes and stereotypes about men and masculinity, many men do not disclose experiences of sexual violence for fear of facing judgment or disbelief.⁹ To address sexual violence inside and outside of correctional facilities, it is critical to recognize the experiences of all survivors—regardless of gender, race, ethnicity, sexual orientation, ability, and willingness to disclose—and the disparate experiences of people of color, LGBTQ+ people, and people with disabilities.

Sexual Violence in US Correctional Facilities

Correctional facilities represent a unique context in which people can experience sexual violence.¹⁰ The closed community, the inability for incarcerated people to have freedom of movement, and the inherent power structures in correctional facilities contribute to increased vulnerability to sexual violence. Many people experience sexual violence while incarcerated in correctional facilities by other incarcerated people, correctional staff,¹¹ or both. The Bureau of Justice Statistics categorizes sexual victimization by other incarcerated people into nonconsensual sexual acts (i.e., rape or penetration) and abusive sexual contact (i.e., intentional sexual touching). It categorizes sexual victimization by correctional staff into staff sexual misconduct (i.e., intentional sexual touching; sexual acts; indecent exposure, invasion of privacy, or voyeurism; and/or romantic relationships between staff and incarcerated people) and staff sexual harassment (i.e., demeaning references to gender, sexually suggestive or derogatory comments, and/or profane or obscene language or gestures) (Rantala 2018). Importantly, according to federal law, all sexual relations between staff and incarcerated people are illegal and considered abuse; therefore, consent cannot be a legal defense for correctional staff who engage in sexual activity with incarcerated people.¹² Since correctional staff are in positions of control over the people in their custody (Just Detention International 2018c), the power dynamics and imbalances inherent to correctional facilities

prevent incarcerated people from having the capacity, or legal ability, to consent to sexual activity with correctional staff.¹³

The number of allegations of sexual victimization is rising in adult correctional facilities each year, potentially because violence is increasing but likely in part because reporting is increasing. Research shows that an increased institutional focus on sexual violence—like the efforts resulting from PREA—is associated with increased reporting (Boyle, Barr, and Clay-Warner 2017). Based on administrative data published in 2018, the number of allegations per year nearly tripled from 2011 to 2015, increasing by 180 percent and at all types of adult correctional facilities. Allegations of sexual victimization of incarcerated people by staff increased by 191 percent, accounting for 63 percent of the total increase in allegations. In 2015, more than half of allegations (58 percent) involved victimization of incarcerated people by staff, while 42 percent involved victimization of incarcerated people by other incarcerated people. Roughly 8 percent (1,473) of the allegations in 2015 were substantiated based on completed investigations,¹⁴ an increase of 63 percent from the 902 substantiated allegations in 2011. Of the substantiated incidents in 2015, 58 percent involved victimization of incarcerated people by other incarcerated people, and 42 percent involved victimization of incarcerated people by staff, notably an inverse of the percentages of allegations overall (Rantala 2018).

Research shows that some groups of people experience disproportionate rates of sexual violence in correctional facilities, including survivors of prior sexual violence, people with behavioral health needs, and LGBTQ+ people. Many incarcerated people are survivors of sexual violence and are more likely to experience sexual victimization again while in correctional facilities. Survivors of prior sexual violence may believe that they should expect or tolerate violence and that staff will not help if they report (Just Detention International 2018b). Beck and coauthors (2013) found that among incarcerated people who had experienced sexual victimization before entering a facility, 12 percent reported being sexually victimized by another incarcerated person and 7 percent reported being victimized by correctional staff. Among people who had not experienced prior sexual victimization, less than 1 percent reported being sexually victimized by another incarcerated person and 2 percent reported being victimized by staff.

Moreover, people with behavioral health needs are overrepresented in correctional facilities (Hull and Samuels 2020) and are also more likely to experience sexual violence while incarcerated. Beck and coauthors (2013) found that rates of sexual victimization by other incarcerated people were two to three times higher for people who were taking prescription medications for mental health needs than for people who were not, and that rates of sexual victimization were three to four times higher for incarcerated people who had received mental health counseling or treatment than for people who had not. Correctional staff without the skills and training to respond to people with mental illness may be more likely to dismiss their reports of sexual violence. Research also shows that sexual violence is often repeated—80 percent of incarcerated people with mental illnesses who experience sexual victimization are victimized repeatedly (Just Detention International 2018b).

In addition, incarcerated people who identify as LGBTQ+ experience considerably higher rates of sexual victimization than people who identify as heterosexual. Gender stereotypes, homophobia, and

placement of transgender women in men's facilities contribute to LGBTQ+ people's increased risk of experiencing sexual violence in correctional facilities (Just Detention International 2018b). Among incarcerated people who identify as LGBTQ+, 12 percent reported having been sexually victimized by another incarcerated person and 5 percent reported having been sexually victimized by correctional staff. Among incarcerated people who identify as heterosexual, 1 percent reported having been victimized by another incarcerated person and 2 percent reported having been victimized by staff (Beck et al. 2013). In addition, nearly 40 percent of incarcerated people who identify as transgender experienced sexual victimization while incarcerated, and Black, Latina and mixed race transgender women are particularly likely to experience victimization while incarcerated (Reisner et al. 2014).¹⁵

Inside and outside of correctional facilities, survivors of sexual violence can experience a range of behavioral health consequences. Many incarcerated people who are survivors of sexual violence experience anxiety, depression, post-traumatic stress disorder, rape trauma syndrome, and suicidal ideation (Zweig et al. 2006). Further, given the unique context of incarceration, the effects of experiencing sexual violence in prison may be more significant for incarcerated people than for people outside of prison (Dumond 2001, as cited in Zweig et al. 2006). Though experiencing sexual violence is traumatic no matter the situation, experiencing sexual violence in institutions of total control can be particularly devastating given limited access to family and social supports, medical and mental health care, and victim services.

Research and policy change are critical to understanding and addressing sexual violence in correctional facilities. However, there are many barriers to preventing and addressing sexual violence in facilities. First and foremost, sexual violence in correctional facilities is underreported to administrators and staff, preventing practitioners from responding to incidents of sexual violence. Moreover, people who report sexual violence face a risk of retaliation: correctional staff and other incarcerated people can target and further abuse people who report through violence, punishment, or lost privileges (Just Detention International 2018c; Zweig et al. 2006). Further, staff often respond to allegations by placing survivors in solitary confinement, which is shown to cause debilitating mental health outcomes (Just Detention International 2018c). In addition to barriers to understanding sexual violence inside correctional facilities, the field of prison research has overlooked the experiences of incarcerated women. Researchers understand even less about incarcerated women's experiences of sexual violence, as the core knowledge about sexual violence in correctional facilities derives from research about men (Fleisher and Krienert 2006). Overall, correctional facilities are closed institutions that lack transparency, which presents challenges to researchers studying them and to survivors seeking accountability.

PREA as a National Response to Prevent and Address Sexual Violence in Correctional Facilities

To address sexual violence in US correctional facilities, Congress passed the Prison Rape Elimination Act with unanimous, bipartisan support in 2003. PREA established a mandate for data collection and research about the incidence and effects of sexual violence in federal, state, and local correctional

facilities; provided funding to many state correctional, juvenile detention, community corrections, and jail systems to work to prevent sexual violence; and created and charged the National Prison Rape Elimination Commission with developing standards to eliminate prison rape, which took effect in August 2012.¹⁶ PREA authorized grants through the Bureau of Justice Assistance and National Institute of Justice to several states to fund personnel, training, technical assistance, data collection, and equipment related to PREA implementation.¹⁷

PREA's enactment made researching and eliminating sexual violence in correctional facilities a national priority. Before the legislation, the extent to which state departments of corrections (DOCs) were systematically addressing sexual violence was unclear, as were their prevention, investigation, and victim service strategies. In fact, in 2001, Human Rights Watch found that most state DOCs had no sexual violence prevention program. PREA's national mandate for data collection and elimination of sexual violence moved DOCs across the country to develop or improve their approaches to responding to sexual violence (Zweig et al. 2006).

Data collection resulting from PREA has confirmed the prevalence of sexual violence in correctional facilities, and PREA reporting has further revealed that sexual violence is widespread in some facilities and less common in others. To examine this finding, PREA established the Review Panel on Prison Rape to review the policies and practices of correctional facilities with the highest and lowest rates of sexual violence (Just Detention International 2018a). The panel's report identified the following common themes based on hearings with federal and state prisons: the importance of recognizing common characteristics of incarcerated people who are vulnerable to sexual violence, understanding common differences between women's and men's facilities, staff using professional language to establish a safe environment and institutional culture, recognizing the vulnerability of LGBTQ+ people to sexual violence and their need for proper treatment, strengthening the integrity of the entire reporting and investigation process, providing effective victim services, and equipping staff to effectively respond to sexual violence (Review Panel on Prison Rape 2012).

Developed by the National Prison Rape Elimination Commission, the final PREA standards cover several categories: prevention planning, responsive planning, training and education, screening for risk of sexual victimization and abusiveness, reporting, official response following a report, investigations, discipline, medical and mental care, data collection and review, audits, auditing and corrective action, and state compliance.¹⁸ The standards require correctional facilities to establish zero-tolerance policies for sexual violence, train correctional staff on prevention and response, offer survivors multiple ways to report, provide proper medical and mental health care to survivors, and ensure incarcerated people have access to confidential communication with community-based victim advocates and service providers. If fully implemented, the PREA standards could substantially reduce sexual violence in correctional facilities (Just Detention International 2018a). Though the enactment of PREA and the standards were momentous steps toward eliminating sexual violence in correctional facilities, more work needs to be done to advance effective implementation, prevent violence, and support survivors.

Literature Review

Implementation

State DOCs have developed and implemented new or modified policies and procedures in response to PREA. Even before the PREA standards took effect in 2012, 31 of 45 surveyed DOCs either identified PREA as the primary reason they had developed specific policies and procedures to address sexual violence, or expressed that PREA's enactment prompted a department-wide review of policies and procedures related to sexual violence (Zweig et al. 2006). However, some DOCs experienced difficulties in fulfilling PREA's reporting requirements because they were challenging to understand and could be expensive to implement without additional resources (Zweig et al. 2006). Another study conducted before the standards were developed found that the 29 participating adult correctional systems (including the Federal Bureau of Prisons) appeared to have policies that complied with the spirit and language of PREA according to eight key policy dimensions,¹⁹ but several states refused to provide policy documentation for that study or had not yet developed policies and procedures to address sexual violence in correctional facilities (Thompson, Nored, and Dial 2008).

Since the standards took effect in 2012, states have continued working to implement and comply with PREA. As of FY 2017, 19 states had certified that they were in full compliance, 29 had submitted assurances to work toward achieving full compliance (3 of which requested that the attorney general hold the 5 percent of impacted grant funds in abeyance), and 2 had not submitted a certification or assurance (BJA 2017).

Challenges with implementing PREA have persisted not only at the state level, but also at the federal level. The PREA standards were supposed to be final by July 2006, but challenges in appointing, funding, and staffing the National Prison Rape Elimination Commission and in publishing surveys and research delayed the development and publication of the standards (Smith 2008). Further, in a 2014 report, the Office of Inspector General identified several issues and challenges with the Department of Justice's and its organizations' implementation of PREA, particularly related to auditing and assessing PREA compliance.

Impact and Implications for Transparency and Accountability

Though most states are not yet in full compliance with PREA, it has still affected states' efforts to prevent and address sexual violence in correctional facilities. For example, according to a survey conducted before PREA was enacted, most prison wardens viewed their facilities' sexual violence policies as considerably less effective than other mechanisms to prevent sexual violence, including staff training and increased supervision (Hensley et al. 2002, as cited in Moster and Jeglic 2009). After PREA was enacted, Moster and Jeglic (2009) replicated Hensley and coauthors' study and found that a higher percentage of wardens surveyed believed that institutional policies and procedures could be completely effective at preventing sexual violence in correctional facilities. Though few studies examine PREA's impact, that study indicates that prison wardens may have more faith in the effectiveness of PREA policies than in that of sexual violence policies before PREA. Further, the PREA standards have changed

the culture around sexual violence in correctional facilities. Because of the standards, correctional staff across the country receive training about preventing and responding to sexual violence in their facilities, and job descriptions for high-ranking corrections officials and officers explicitly include ensuring incarcerated people's safety from sexual violence (Just Detention International 2018c).

PREA-mandated data collection indicates that incidents of sexual violence are reported more often now than before the PREA standards took effect. Rather than reflecting significantly rising rates of sexual violence in correctional facilities, this increase in reporting suggests that incarcerated people may be increasingly likely to report incidents of sexual violence because they may be beginning to trust the system of PREA policies and procedures.²⁰ A recent study examined incarcerated women's awareness of and experiences with sexual victimization, barriers to reporting, and incarcerated women's experiences with mandated PREA changes. The study identified barriers to reporting as stigma and gossip by incarcerated people and correctional staff, a correctional officer "culture of brotherhood" that covered up sexual victimization, and fear of retaliation, and identified changes resulting from PREA as physical changes to correctional facilities and attitudinal changes among correctional staff (Surrell and Johnson 2020). However, most other extant research has not centered incarcerated people's experiences with PREA's reporting and investigation processes to confirm the perceptions of those most affected.

Though PREA has advanced a national conversation about sexual violence in correctional facilities, its implications for transparency and accountability are limited in many states. For the 19 states that had certified that they were in full compliance with PREA as of FY 2017, there is no external oversight of governors' certifications of compliance.²¹ The 31 states that had not yet fully complied with PREA face financial penalties that constitute a relatively small percentage of state corrections budgets and have done little to compel compliance. Further, local jails and privately operated facilities do not face financial penalties for noncompliance with PREA standards (BJA 2017).²² The PREA amendment of the Justice for All Reauthorization Act of 2016 made several changes to how PREA implementation is documented and enforced. The amendment allows governors who are unable to certify full compliance to request that the attorney general hold 5 percent of impacted Department of Justice grant funds in abeyance rather than submit an assurance to work toward compliance, and establishes a "sunset" date of December 16, 2022 for full compliance. However, only two Department of Justice grant programs are subject to a 5 percent reallocation or reduction if states fail to comply with PREA, and eligible states can submit emergency assurances for two years after the 2022 sunset date. States have until 2022—10 years after the enactment of the PREA standards—and eligible states have until 2024 to comply with the standards (BJA 2019). Overall, because most states do not yet comply with PREA and face minimal penalties for noncompliance, PREA's impact on transparency and accountability in many US correctional facilities is inadequate.

Opportunities for Knowledge Development and Policy Change

PREA's Implementation and Impact

As outlined in the previous section, research about PREA's implementation and impact is limited. Only a few studies evaluate sexual violence in correctional facilities after PREA's enactment, and fewer studies examine this issue after its standards took effect. Further, some of these studies do not center the perspectives of incarcerated people who are most impacted by sexual violence in correctional facilities.

Researchers should assess the implementation, impact, and efficacy of key categories of the PREA standards. It is critical that researchers systematically evaluate and better understand how effectively correctional facilities prevent sexual violence, respond to incidents of sexual violence, train staff and incarcerated people and inform them of their rights and options under PREA, screen people at risk of causing or experiencing violence, and provide necessary medical and mental health care to survivors. Researchers should not only examine department-wide and facility-specific policies and procedures, but should also explore PREA's potential connections to state and local policy changes related to sexual violence. In assessing the impact of PREA, researchers should center the experiences of people who are incarcerated, particularly those who are survivors of sexual violence.

(Under)reporting and Investigation

Outside of correctional facilities, most incidents of sexual violence are not reported to authorities for various reasons, and men who are survivors are less likely than women to disclose. Importantly, survivors are more likely to disclose their experiences to researchers in response to behaviorally specific questions that describe specific incidents of sexual trauma without labels than to general questions that include labels such as "rape" or "abuse" (Craner et al. 2015). Though it is likely that similar barriers and hesitations exist within correctional facilities—and these barriers may be worse given the power imbalances inherent to incarceration and the disproportionate number of men, who are less likely to report, in facilities—the extent to which underreporting limits responses to sexual violence in correctional facilities is unknown. To better understand the extent of underreporting, researchers could compare reporting while people are incarcerated with reporting after people return to their communities. Researchers could also engage with people while they are incarcerated and survivors upon reentry to study their experiences with and perceptions of the PREA reporting process.

In addition, limited extant research examines the PREA investigation process, which in 2015 substantiated only 8 percent of allegations (Rantala 2018). People's experiences with and perceptions of the PREA investigation process have implications for their willingness to report incidents of sexual violence and the accuracy of the administrative data collected and reported under PREA. Researchers could engage with incarcerated people and correctional staff to better understand how the investigation process works, the extent to which correctional staff in different facilities comply with

PREA in investigating sexual violence, how incarcerated people and staff perceive the process (and how experiences and perceptions may differ across and within each group), and how staff in different correctional facilities determine whether an allegation is substantiated, unsubstantiated, or unfounded.

Services and Response

In addition to reporting and investigation, more research is needed to understand survivors' experiences with and perceptions of medical and mental health care, communication with community-based victim advocates and service providers, and other services while incarcerated. Further, though investigation and other responses often focus on the person who caused harm, this research should center survivors and whether they receive the care and services they need to address the harms they experienced, from physical harm to behavioral health needs.

It is also unknown whether survivors who are incarcerated, like many other survivors, may prefer to address sexual violence through models such as procedural justice, restorative justice, and transitional justice, and it is unknown what the implementation and impact of those models would involve in correctional facilities (Love et al. 2018).

People with Marginalized Identities

Another critical gap in extant research is evaluation of the experiences of survivors with marginalized identities. Outside of correctional facilities, people of color, LGBTQ+ people, and people with disabilities are disproportionately likely to experience sexual violence, and survivors of prior sexual violence, people with behavioral health needs, and LGBTQ+ people experience disproportionate rates of sexual violence inside correctional facilities. Further, research suggests that incarcerated people who identify as transgender or gender nonconforming have experienced negative impacts from policies that were created to comply with PREA and that punish gender and sexual expression.²³ Research should specifically explore the experiences of survivors with marginalized identities with reporting, investigation, and victim services in correctional facilities to examine whether they also have disparate experiences with PREA processes and services. This research should move beyond documenting incidence and disparities to engage with and understand the unique, intersecting experiences of incarcerated people with marginalized identities who are survivors of sexual violence.

Considerations for Future Research

There are critical considerations and challenges for future research about PREA and sexual violence in correctional facilities. First, researchers need to ensure human subjects protections for participants, particularly those who are both incarcerated and survivors of sexual violence. The three ethical principles for human subjects research—autonomy, beneficence, and justice—are critical to protect during research with people who are confined in correctional facilities with severely limited autonomy. Because incarcerated people are considered a vulnerable population, researchers must adhere to additional regulations to ensure their participation in research is not coerced.²⁴

Researchers should also recognize that correctional staff hold positions of power and control over the people in their custody, which reinforces power dynamics and imbalances between staff and incarcerated people and among incarcerated people who may have more or less power relative to one another. Given these power imbalances, researchers must ensure confidentiality and protections for incarcerated people against retaliation for disclosing and reporting experiences of sexual violence. Protections may include affirming that participation is voluntary and ensuring that people's participation and the information they provide remain confidential (unless they plan to commit a crime or harm themselves) by asking people to sit with the research team even if they do not participate so that engaging with the research team will not signal participation, and by not recording names in researchers' notes.

Research involving survivors of trauma also necessitates protections to avoid retraumatization and ensure people's emotional and physical safety. The US Substance Abuse and Mental Health Services Association recommends applying six core principles in conducting trauma-informed research with survivors: (1) safety; (2) trustworthiness and transparency; (3) peer support and mutual self-help; (4) collaboration and mutuality; (5) empowerment, voice, and choice; and (6) cultural, historical, and gender issues (Murray n.d.). Because people who are incarcerated and people who are survivors of trauma—and particularly people who are both—may be particularly vulnerable to coercion or retraumatization, for example, conducting research with this population requires additional considerations and protections.

Moreover, researchers should take a participatory approach to research involving survivors who are incarcerated in correctional facilities. Though there are many types of participatory research approaches, participatory research incorporates participants as research partners who guide the research team through research design as experts on their own communities and experiences (Farrell, Young, and Willison 2021). In researching and developing policy about sexual violence in correctional facilities, it is critical to directly engage and partner with the people who have direct experience—people who have experienced sexual violence in facilities. Importantly, the National Prison Rape Elimination Commission did not use a fully participatory approach in developing the PREA standards. Though it established expert committees to guide the development of the draft standards,²⁵ allowed professional organizations and associations such as the American Correctional Association and corrections labor unions to provide significant input, invited testimony from survivors in public hearings (National Prison Rape Elimination Commission 2009), and solicited public comments on the proposed standards,²⁶ PREA and its standards were not designed in true partnership with people confined in or working in correctional facilities. Researchers should center the perspectives, needs, and ideas of people with lived experience to effectively prevent and address sexual violence in correctional facilities.

Lastly, it is important to acknowledge the difficulty in researching sexual violence, particularly in correctional environments. Sexual violence is deeply nuanced, and intersecting identities such as race, ethnicity, gender, sexual orientation, and ability shape the incidence and experiences of trauma. The unique experiences and power imbalances inherent to correctional facilities introduce added complexity and challenges to researching and responding to sexual violence. People who are incarcerated are more likely to have behavioral health needs and histories of trauma than people who

are not, placing them at even higher risk of sexual violence and retraumatization, and identities such as sexual orientation also affect the risk of sexual violence. The identities and experiences of survivors need to be centered by people researching and addressing sexual violence, and substantial resources and time—beyond those provided under PREA—are required to address their needs.

Conclusion

Sexual violence is a pervasive problem that disproportionately affects women, young people, people of color, LGBTQ+ people, and people with disabilities across the United States. Within correctional facilities, sexual violence is also prevalent and can be particularly traumatic. The enactment of PREA and its standards were key steps toward recognizing and responding to this issue at the national level. However, five years after they took effect in 2012, most states had not complied with the PREA standards. States have until 2022—10 years after the enactment of the PREA standards—to comply with the standards, and eligible states can submit emergency assurances until 2024. In continuing to enforce PREA implementation and develop policies to address sexual violence in correctional facilities, it is critical that policymakers, practitioners, and researchers better understand PREA’s impact and outcomes, survivors’ experiences with PREA’s reporting and investigation processes, survivors’ experiences with victim services, and the lived experiences of people with marginalized identities. Further, researchers should protect, center, and safely partner with incarcerated people who have experienced sexual violence in correctional facilities. To effectively prevent, respond to, and address sexual violence in correctional facilities, decisionmakers must confront facilities’ many power imbalances and injustices and, to the fullest extent possible, empower survivors who are confined there.

Notes

- ¹ “Sexual Assault,” Rape, Abuse, & Incest National Network, accessed March 24, 2021, <https://www.rainn.org/articles/sexual-assault>.
- ² “What Consent Looks Like,” Rape, Abuse, & Incest National Network, accessed March 24, 2021, <https://www.rainn.org/articles/what-is-consent>.
- ³ It is important to note that Planty and coauthors (2013) only include trends in the rates of completed or attempted rape or sexual assault of “females.”
- ⁴ We use the term “Hispanic” rather than Latinx, Latina, or Latino to reflect the language in Breiding and coauthors (2014) and other sources. According to Breiding and coauthors (2014), the case counts of other racial and ethnic groups of women were too small to report statistically reliable estimates.
- ⁵ “Sexual Assault and the LGBTQ Community,” Human Rights Campaign, accessed March 24, 2021, <https://www.hrc.org/resources/sexual-assault-and-the-lgbt-community>.
- ⁶ “Sexual Abuse of People with Disabilities,” Rape, Abuse, & Incest National Network (RAINN), accessed March 24, 2021, <https://www.rainn.org/articles/sexual-abuse-people-disabilities>.
- ⁷ “Nearly 3.4 Million Violent Crimes Per Year Went Unreported to Police from 2006 to 2010,” Bureau of Justice Statistics, August 9, 2012, <https://www.bjs.gov/content/pub/press/vnpr0610pr.cfm>.
- ⁸ “The 1 in 6 Statistic,” 1in6, accessed March 24, 2021, <https://1in6.org/get-information/the-1-in-6-statistic>.

- ⁹ “Sexual Assault of Men and Boys,” Rape, Abuse, & Incest National Network, accessed March 24, 2021, <https://www.rainn.org/articles/sexual-assault-men-and-boys>.
- ¹⁰ We use “correctional facilities” to refer to adult federal and state prisons, facilities operated by the US military and Immigration and Customs Enforcement, jail jurisdictions, privately operated jails and prisons, and jails in Indian Country. However, we primarily focus on adult prisons in this brief.
- ¹¹ We use “correctional staff” to refer to all people included in the Bureau of Justice Statistics’ definition of staff in Rantala (2018): “An employee, volunteer, contractor, official visitor, or other agency representative. Family, friends, and other visitors are excluded.”
- ¹² “Deterring Staff Sexual Abuse of Federal Inmates,” Office of Inspector General, April 2005, <https://oig.justice.gov/special/0504/index.htm#:~:text=It%20is%20important%20to%20note,and%20inmates%20are%20considered%20abuse.&text=As%20a%20result%2C%20staff%20sexual%20relations%20with%20inmates%20is%20always%20illegal>.
- ¹³ “Legal Role of Consent,” Rape, Abuse, & Incest National Network (RAINN), March 24, 2021, <https://www.rainn.org/articles/legal-role-consent>.
- ¹⁴ According to the Bureau of Justice Statistics, an allegation is substantiated if the incident was investigated and was determined to have occurred based on a preponderance of the evidence. An allegation is unfounded if the investigation determined that the incident did not occur, and an allegation is unsubstantiated if the investigation concluded that evidence was insufficient to determine whether or not the incident occurred.
- ¹⁵ Bureau of Justice Statistics, “National Inmate Survey,” 2007, 2008–2009, 2011–2012, accessed May 11, 2021, <https://www.bjs.gov/index.cfm?ty=dcdetail&iid=278>.
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- ¹⁸ National Standards to Prevent, Detect, and Respond to Prison Rape, 28 CFR 115 (2012). <https://www.prearesourcecenter.org/sites/default/files/library/2012-12427.pdf>.
- ¹⁹ The eight temporally relevant dimensions of PREA identified in Thompson, Nored, and Dial (2008) include: staff training, education for incarcerated people, classification at intake, zero tolerance, reporting procedures, investigative protocol, mandatory separation, and survivor aftercare.
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Acknowledgments

This brief was funded by Arnold Ventures. We are grateful to them and to all our funders, who make it possible for Urban to advance its mission.

The views expressed are those of the authors and should not be attributed to the Urban Institute, its trustees, or its funders. Funders do not determine research findings or the insights and recommendations of Urban experts. Further information on the Urban Institute's funding principles is available at urban.org/fundingprinciples.

The authors would like to thank our colleagues, Janine Zweig and Will Engelhardt, and Prison Research and Innovation Initiative advisory board member, Mateo de la Torre, for their valuable assistance throughout this project.



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