

## **Inmate Sexual Assault**

An Overview of Selected  
Print and Electronic Resources

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### ***Background***

On June 13, 2002, the "Prison Rape Reduction Act of 2002" (Senate Bill 2619 and H.R. 4943) was introduced in the U.S. Congress. The bill calls for:

- the Bureau of Justice Statistics to conduct an annual review of the incidence of prison rape involving a random sample of at least 10 percent of inmates in federal, state, and local facilities.
- the Attorney General to collect complaints from inmates regarding prison rape and to assist appropriate state, local, and municipal authorities investigate cases, punish perpetrators, and establish rape prevention measures.
- the Attorney General to provide grants to improve rape prevention programs, rape investigations, and measures to punishment perpetrators.
- establishment of a National Rape Reduction Commission, with administrative support from the Attorney General, to study prison rape, recommend standards for reducing rape, and make recommendations for investigating rape and treating victims.
- the Attorney General to establish standards based on Commission recommendations that address detection, prevention, reduction, and punishment of prison rape. Standards compliance would be required by the Federal Bureau of Prisons and compliance would be required by states to receive full grant funding authorized under the Act. Accreditation organizations would also have to comply with standards to receive to receive Federal grants.

The "Prison Rape Reduction Act of 2002" can be viewed online at <http://www.thomas.loc.gov/>. Due to the increased interest on the issue, the NIC Information Center has prepared the following overview of research and information sources dealing with prison rape.

## ***Overview of Research***

At least three recent publications have provided summaries of past research on prison sex, including sexual assault.

Christopher Hensley (Editor). *Prison Sex: Practice and Policy*, Lynne Rienner Publishers, Inc., Boulder, CO, 2002.

This book contains ten chapters by various authors dealing with a range of topics including prison sexual hierarchy, treatment of victims, staff attitudes towards prison sex and assault, HIV, and conjugal visitation. Chapter 3, “Nonconsensual Sexual Behavior,” by Julie Kunselman, Richard Tewksbury, Robert W. Dumond, and Doris A. Dumond, provides a summary of research on sexual assault in male prisons between 1930 and 1989, research between 1990 and 2000, and sexual assault research in women’s prisons.

The authors are of the opinion that some early research has limitations due to the selection and sample size of inmates studied, failure to clearly define or distinguish types of sexual behavior, and reluctance to acknowledge low reporting rates. Some early studies reported relative low rates of sexual assault on male inmates (between 1 and 14 percent). Some studies indicate that the fear of rape is a “central defining characteristic” of the prison experience, sex in prison was associated with increased health risks, and that some correctional officers were not responsive to the problem.

The chapter cites:

- a 1969 study that reported 3 percent of inmates in custody of the Philadelphia jail were sexually assaulted;
- a 1978 study federal inmates that reported 0.6 percent of inmates were victims;
- a 1979 study that reported higher rates of gang rapes in prisons compared to the community;
- 1977 and 1979 studies that raised the issue of racial compositions of victims and assaulters;
- a 1980 study that analyzed motives for sexual assault in prison cultures;
- a 1982 study that reported 14 percent of inmates in a California prison were victims of sexual assault and 52 percent had been pressured into sexual contacts;
- a 1983-84 survey of federal inmates indicating relatively low levels of victimization; and
- a 1989 study of Ohio inmates where 150 inmates reported no rapes, but over 14 percent were approached for sex with force.

Studies of prison sex during the 1990s were also limited, according to the authors, but focused more on issues related to HIV and assaultive behavior.

The authors cite:

- a 1995 study of a state prison in which inmates believed more sexual assaults occurred than they actually knew about or observed;
- a 1996 study which estimated that 20 percent of male inmates in a state prison were coerced into having sex, usually more than once; and
- a 2000 study that showed 16 percent of male inmates from seven prisons were sexually coerced during their incarceration, varying from 4 to 21 percent by facility.

The authors report only three studies of sexual coercion of female inmates. A study found that 7 percent of women in three prisons reported incidents of forced sex. Another study found that rape was not as common as other sexual behavior in women's prisons, but involved multiple perpetrators. Studies also indicate an under reporting of sexual assault.

Richard Tewksbury and Angela West. "Research on Sex in Prison During the Late 1980s and early 1990s," *Prison Journal*, Sage Periodicals Press, Thousand Oaks, CA, December, 2000.

The authors highlight the need for more study on this issue because of its importance to understand prison cultures, deal with health issues, and better understand and control prison violence. They cite studies that were valuable in documenting HIV in prisons, but did not focus on behaviors that contribute to spread of the disease.

Authors provide summaries of research that:

- studied the incidence and dynamics of sexual assault;
- reported 1 in 12 inmates in an Ohio study reported aggressive or assaultive sexual encounters;
- concluded that studies up to the mid 1990s had been "inconsistent and inconclusive;"
- identified the characteristics of inmates who may be likely victims or perpetrators of sexual assault;
- emphasized the importance of the threat of victimization (regardless of actual rates of assaults) in prison culture;
- analyzed the different attitudes held by staff in responding to reported rapes;
- reviewed the researchers on the topic (most were not tenured academics), indicating a lack of support in "mainstream academic and research circles."

Authors conclude that little is known about inmates sexual before incarceration as compared to behavior in confinement or relationships of criminal behavior to sexual behavior. Most of the limited research has focused on male inmates, with even less known about female inmates. Authors also raise the issue of exploring possible sexual manipulation or victimization by correctional staff. While acknowledging that quality research is seriously lacking, the authors see little incentive, encouragement, or support for a topic perceived as distasteful and marginally important.

Christopher Hensley and Richard Tewksbury. "Inmate-to-Inmate Prison Sexuality," *Trauma, Violence, & Abuse*, Sage Publications, Thousand Oaks, CA, July, 2002.

The earliest studies of same-sex sexual behavior among inmates was in 1913 and focused on consensual relations between black and white females in juvenile facilities. Much of the research that followed in the 1930s through 1970s also looked at sexual behavior of female inmates. Authors found that the earliest study of coerced sex of female inmates occurred in 1996, in which 3 of 42 female inmates reported they were forced or pressured into sexual activity. A study in 2000 of 263 inmates in three prisons found that sexual victimization rates varied at each facility (6%, 7%, 19%), but nearly one-half of the perpetrators were prison staff. The most recent study of coerced sex in women's prisons found that 4.5 percent of 245 inmates surveyed reported being victims of forced sex, while 2 percent admitted to be perpetrators.

Most research on male inmate same sex behavior began in the 1980s, although a pioneering study was conducted in 1968 in Philadelphia's jail. That study included the use of polygraphs, which has not been repeated. The study reported that 4.7 percent of male inmates were sexually assaulted, but the researcher also believed the assaults were under-reported. A 1980 report of 107 male inmates in New York reported that 28 percent were targets of sexual coercion, but only one report be the victim of a completed assault. A 1977 study of 400 inmates in six North Carolina prisons found the reported rates of sexual assaults at 2.4 percent per year.

Also, a 1977 study reported that 75 percent of assaults involved a black perpetrator and white victim. Some researchers proposed racist motives, while others explained the victimization to more associated with vulnerability. Findings in the 1979 book *Men Who Rape*, showed that 80 percent of male rapes in prison were gang rapes compared to 32 percent in the community. A 1982 study of a California prison found a victimization rate of sexual coercion of 14 percent. A 1983-84 study of 330 federal inmates reported only 2 being forced to perform sexual acts and one was raped. Several studies were cited that analyzed the fear of assault and posturing to limit risks by male inmates.

The authors found four studies conducted since 1990. One of the studies conducted in Nebraska in 1996 surveyed 474 male inmates and reported that 22 percent had been pressured or forced to have sex against their will. Victims reported an average of nine assaults. Most victims were white and had been incarcerated for sex offenses. A 1998 study of 1,788 male inmates in seven midwestern facilities found that 16 percent of the inmates had been victimized in their current facility and 21 percent had been coerced into sexual activity since being incarcerated. The most recent study, in 2002, involved 174 male inmates in three Oklahoma prisons. The study found only two inmates reported to have been raped, while 13.8 percent reported they were recipients of sexual threats.

The authors recommend that future research focus on the dynamics of consensual and forced sexual activity, and that policies and practices be improved to prevent assaults, to provide healthier outlets for sexual release, and to provide better health education for inmates.

## *Selected Resources*

The following references include citations for some studies mentioned above, as well as other publications.

- “Prison Sexuality, Part I,” *The Prison Journal*, Spring-Summer, 1989.  
(Includes articles on inmates’ fear of rape, AIDS, and descriptive studies of sexual assault.)
- “Prison Sexuality, Part II,” *The Prison Journal*, Fall-Winter, 1989.  
(Includes articles on AIDS, correctional officers’ attitudes towards rape in prison, and status hierarchy of prison inmates.)
- Michael C. Braswell, Reid H. Montgomery, Jr, Lucien X. Lombardo. *Prison Violence in America*, Anderson Publishing Co., Cincinnati, OH, 1994.  
(Includes a chapter that deals with attitudes of Texas correctional officers in intervening or responding to inmate sexual assaults.)
- Cindy Struckman-Johnson, et al. “Sexual Coercion Reported by Men and Women in Prison,” *The Journal of Sex Research*, Vol. 33, No. 1, 1996.  
(Survey of 1,800 male and female inmates in a Midwestern state found that 22 percent of men and 7 percent of women had been forced into at least one incident of sexual contact.)
- Gordon James Knowles. “Male Prison Rape: A Search for Causation and Prevention,” *The Howard Journal*, August 1999.  
(Discusses the racial differences of victims and perpetrators, structure of prison sexual subculture, preventive measures such as classification changes, conjugal visits, and home furloughs.)
- Special Issue: Prison Sexuality, *Prison Journal*, December 2000.  
(In addition to the previously referenced article, the issue address correctional officer perceptions of prison rape.)
- Christopher D. Man and John P. Cronan. “Forecasting Sexual Abuse in Prison: The Prison Subculture of Masculinity as a Backdrop for “Deliberate Indifference,” *The Journal of Criminal Law and Criminology*, Fall 2001/Winter 2002.  
(Article highlights research that profiles likely victims and discusses court cases that have found staff of correctional agencies to demonstrate “deliberate indifference” for failure to take measures to protect at-risk inmates or investigate and punish perpetrators.)
- *No Escape: Male Rape in U.S. Prisons*, Human Rights Watch, New York, NY, April 2001.  
(Report includes case studies of assaults, discussions of systemic problems, and examples of agency policies and preventive efforts.)

*Other Notes*

- The organization “Stop Prisoner Rape” has a Website at <http://www.spr.org>.
- The National Prison Project of the American Civil Liberties Union initiated a project to bring lawsuits on behalf of inmates who were sexually assaulted in correctional facilities.

107<sup>TH</sup> CONGRESS  
2<sup>D</sup> SESSION

# S. 2619

To provide for the analysis of the incidence and effects of prison rape in Federal, State, and local institutions and to provide information, resources, recommendations, and funding to protect individuals from prison rape.

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IN THE SENATE OF THE UNITED STATES

JUNE 13, 2002

Mr. KENNEDY (for himself and Mr. SESSIONS) introduced the following bill;  
which was read twice and referred to the Committee on the Judiciary

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## A BILL

To provide for the analysis of the incidence and effects of prison rape in Federal, State, and local institutions and to provide information, resources, recommendations, and funding to protect individuals from prison rape.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

3       **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

4       (a) SHORT TITLE.—This Act may be cited as the  
5       “Prison Rape Reduction Act of 2002”.

6       (b) TABLE OF CONTENTS.—The table of contents of  
7       this Act is as follows:

Sec. 1. Short title; table of contents.

- Sec. 2. National prison rape statistics, data, and research.  
 Sec. 3. Prison rape prevention and prosecution.  
 Sec. 4. Prison rape prevention and prosecution grants.  
 Sec. 5. National Prison Rape Reduction Commission.  
 Sec. 6. Adoption and effect of national standards.  
 Sec. 7. Model standards for acute post-trauma treatment.  
 Sec. 8. Requirement that accreditation organizations adopt accreditation standards.  
 Sec. 9. Attorney General designation of grant programs for funding reduction.  
 Sec. 10. Definitions.

1 **SEC. 2. NATIONAL PRISON RAPE STATISTICS, DATA, AND**  
 2 **RESEARCH.**

3 (a) ANNUAL COMPREHENSIVE STATISTICAL RE-  
 4 VIEW.—

5 (1) IN GENERAL.—The Bureau of Justice Sta-  
 6 tistics of the Department of Justice (in this section  
 7 referred to as the “Bureau”) shall carry out, for  
 8 each calendar year, a comprehensive statistical re-  
 9 view and analysis of the incidence and effects of  
 10 prison rape. The statistical review and analysis shall  
 11 include, but not be limited to the identification of  
 12 the common characteristics of—

13 (A) inmates who have been involved with  
 14 prison rape, both victims and perpetrators; and

15 (B) prisons and prison systems with a high  
 16 incidence of prison rape.

17 (2) SAMPLING TECHNIQUES.—The analysis  
 18 under paragraph (1) shall be based on a random  
 19 sample, or other scientifically appropriate sample, of  
 20 not less than 10 percent of all Federal, State, and



1 county prisons, and a representative sample of mu-  
2 nicipal prisons. The selection of facilities for sam-  
3 pling shall be made at the latest practicable date  
4 prior to conducting the surveys and shall not be dis-  
5 closed to any facility or prison system official prior  
6 to the time period studied in the survey. Selection of  
7 a facility for sampling during any year shall not pre-  
8 clude its selection for sampling in any subsequent  
9 year.

10 (3) SURVEYS.—In carrying out the review re-  
11 quired by this subsection, the Bureau shall, in addi-  
12 tion to such other methods as the Bureau considers  
13 appropriate, use surveys and other statistical studies  
14 of current and former inmates from a sample of  
15 Federal, State, county, and municipal prisons. The  
16 Bureau shall ensure the confidentiality of each sur-  
17 vey participant.

18 (b) REVIEW PANEL ON PRISON RAPE.—

19 (1) ESTABLISHMENT.—To assist the Bureau in  
20 carrying out the review and analysis under sub-  
21 section (a), there is established, within the Bureau,  
22 the Review Panel on Prison Rape (in this section re-  
23 ferred to as the “Panel”).

24 (2) MEMBERSHIP.—

1           (A) COMPOSITION.—The Panel shall be  
2 composed of 3 members, each of whom shall be  
3 appointed by the Attorney General, in consulta-  
4 tion with the Secretary of Health and Human  
5 Services.

6           (B) QUALIFICATIONS.—Members of the  
7 Panel shall be selected from among individuals  
8 with knowledge or expertise in matters to be  
9 studied by the Panel.

10       (3) PUBLIC HEARINGS.—

11           (A) IN GENERAL.—The duty of the Panel  
12 shall be to carry out, for each calendar year,  
13 public hearings concerning the operation of  
14 each entity identified in a report under clause  
15 (ii) or (iii) of subsection (c)(2)(B). The purpose  
16 of these hearings shall be to collect evidence to  
17 aid in the identification of common characteris-  
18 tics of inmates who have been involved in prison  
19 rape, both victims and perpetrators, and the  
20 identification of common characteristics of pris-  
21 ons and prison systems with a high incidence of  
22 prison rape.

23           (B) TESTIMONY AT HEARINGS.—

24           (i) PUBLIC OFFICIALS.—In carrying  
25 out the hearings required under subpara-

1 graph (A), the Panel shall request the pub-  
2 lic testimony of Federal, State, and local  
3 officials (and organizations that represent  
4 such officials), including the warden or di-  
5 rector of each prison and the head of the  
6 prison system encompassing such prison,  
7 who bear responsibility for the prevention,  
8 detection, and punishment of prison rape  
9 at each entity.

10 (ii) VICTIMS.—The Panel may request  
11 the testimony of prison rape victims, orga-  
12 nizations representing such victims, and  
13 other appropriate individuals and organiza-  
14 tions.

15 (C) FAILURE TO TESTIFY.—If, after re-  
16 ceiving a request by the Panel under subpara-  
17 graph (B)(i), a State or local official declines to  
18 testify at a reasonably designated time, the  
19 Federal funds provided to the entity rep-  
20 resented by that official pursuant to the grant  
21 programs designated by the Attorney General  
22 under section 9 shall be reduced by 20 percent  
23 and reallocated to other entities. This reduction  
24 shall be in addition to any other reduction pro-  
25 vided under this Act.

1 (c) REPORTS.—

2 (1) IN GENERAL.—Not later than March 30 of  
3 each year, the Bureau shall submit a report on the  
4 activities of the Bureau (including the Review  
5 Panel), with respect to prison rape, for the pre-  
6 ceding calendar year to—

7 (A) Congress;

8 (B) the Attorney General; and

9 (C) the Secretary of Health and Human  
10 Services.

11 (2) CONTENTS.—The report required under  
12 paragraph (1) shall include—

13 (A) with respect to the effects of prison  
14 rape, statistical, sociological, and psychological  
15 data; and

16 (B) with respect to the incidence of prison  
17 rape—

18 (i) statistical data aggregated at the  
19 Federal, State, prison system, and prison  
20 levels;

21 (ii) an identification of the Federal  
22 Government, if applicable, and each State  
23 and local government (and each prison sys-  
24 tem and institution in the representative  
25 sample) where the incidence of prison rape

1 exceeds the national median level by not  
2 less than 30 percent; and

3 (iii) an identification of jail and police  
4 lockup systems in the representative sam-  
5 ple where the incidence of prison rape is  
6 significantly avoidable.

7 (3) DATA ADJUSTMENTS.—In preparing the in-  
8 formation specified in paragraph (2), the Bureau  
9 shall, not later than the second year in which sur-  
10 veys are conducted under this Act, use established  
11 statistical methods to adjust the data as necessary  
12 to account for exogenous factors, outside of the con-  
13 trol of the State, prison system, or prison, which  
14 have demonstrably contributed to the incidence of  
15 prison rape. For each such adjustment made, the  
16 Bureau shall identify and explain such adjustment  
17 in the report.

18 (d) CONTRACTS AND GRANTS.—In carrying out its  
19 duties under this section, the Bureau may—

20 (1) contract with the National Research Council  
21 of the National Academy of Sciences; and

22 (2) provide grants for research through the Na-  
23 tional Science Foundation or the National Institute  
24 of Justice.

1 (e) AUTHORIZATION OF APPROPRIATIONS.—There  
2 are authorized to be appropriated \$15,000,000 for each  
3 fiscal year to carry out the purposes of this section, which  
4 shall remain available until expended.

5 **SEC. 3. PRISON RAPE PREVENTION AND PROSECUTION.**

6 (a) COMPLAINT COLLECTION AND REVIEW.—

7 (1) IN GENERAL.—The Attorney General shall  
8 carry out a program to—

9 (A) collect complaints of prison rape from  
10 inmates;

11 (B) transmit those complaints to the ap-  
12 propriate Federal, State, or local authorities;  
13 and

14 (C) provide for periodic reviews of the re-  
15 sponse of Federal, State, and local authorities  
16 to such complaints.

17 (2) CONFIDENTIALITY.—The Attorney General  
18 shall ensure the confidentiality of each complainant.

19 (b) INFORMATION AND ASSISTANCE.—

20 (1) NATIONAL CLEARINGHOUSE.—The Attorney  
21 General shall establish a national clearinghouse for  
22 the provision of information and assistance to Fed-  
23 eral, State, and local authorities responsible for the  
24 prevention, investigation, and punishment of in-  
25 stances of prison rape.

1           (2) TRAINING AND EDUCATION.—The Attorney  
2           General shall conduct periodic training and edu-  
3           cation programs for Federal, State, and local au-  
4           thorities responsible for the prevention, investiga-  
5           tion, and punishment of instances of prison rape.

6           (c) REPORTS.—

7           (1) IN GENERAL.—Not later than February 15  
8           of each year, the Attorney General shall submit a re-  
9           port to Congress and the Secretary of Health and  
10          Human Services. This report shall be available to  
11          the Director of the Bureau of Justice Statistics.

12          (2) CONTENTS.—The report required under  
13          paragraph (1) shall summarize—

14                (A) the activities of the Department of  
15                Justice regarding prison rape abatement and  
16                prosecution for the preceding calendar year;

17                (B) the complaints collected by the Depart-  
18                ment of Justice; and

19                (C) the actions taken by the Department  
20                of Justice with respect to the complaints sum-  
21                marized under subparagraph (B).

22          (d) AUTHORIZATION OF APPROPRIATIONS.—There  
23          are authorized to be appropriated \$5,000,000 for each fis-  
24          cal year to carry out the purposes of this section, which  
25          shall remain available until expended.

1 **SEC. 4. PRISON RAPE PREVENTION AND PROSECUTION**  
2 **GRANTS.**

3 (a) ENHANCED RESPONSE TO PRISON RAPE  
4 GRANTS.—

5 (1) GRANTS AUTHORIZED.—The Attorney Gen-  
6 eral shall make 1-year grants to States, units of  
7 local government, prisons, and prison systems.

8 (2) USE OF FUNDS.—Grants awarded under  
9 paragraph (1) shall only be used to—

10 (A) undertake more effective efforts to pre-  
11 vent prison rape;

12 (B) investigate such incidents; and

13 (C) punish the perpetrators.

14 (3) MATCHING REQUIREMENT.—The Federal fi-  
15 nancial assistance provided under this subsection  
16 may not exceed 50 percent of the total costs of the  
17 program being funded.

18 (4) MAXIMUM AMOUNT.—The Attorney General  
19 shall not award a grant under this subsection in an  
20 amount which exceeds \$1,000,000.

21 (5) APPLICATIONS.—

22 (A) IN GENERAL.—To request a grant  
23 under this subsection, the chief executive of a  
24 State or unit of local government shall submit  
25 an application to the Attorney General at such  
26 time, in such manner, and accompanied by such



1 information as the Attorney General may re-  
2 quire.

3 (B) CONTENTS.—Each application re-  
4 quired by subparagraph (A) shall—

5 (i) include the certification of the  
6 chief executive that the State receiving  
7 such grant (or the State encompassing the  
8 unit of local government receiving such  
9 grant) has adopted all national prison rape  
10 standards that have been promulgated  
11 under this Act; and

12 (ii) specify with particularity the addi-  
13 tional preventative, prosecutorial, or ad-  
14 ministrative actions to be taken by the  
15 State or unit of local government to pre-  
16 vent prison rape and to respond to inci-  
17 dents of prison rape that occur.

18 (6) REPORT BY GRANTEE.—

19 (A) IN GENERAL.—The Attorney General  
20 shall require each grantee to submit, not later  
21 than December 31 of the year following the re-  
22 ceipt of a grant under this section—

23 (i) a report on the activities carried  
24 out with grant amounts during the pre-  
25 ceding Federal fiscal year; and

1 (ii) an evaluation of the impact of  
2 such activities on the incidence of prison  
3 rape and the grantee's response to such in-  
4 cidents.

5 (B) DISSEMINATION.—The Attorney Gen-  
6 eral shall provide a copy of each report sub-  
7 mitted under subparagraph (A) to the National  
8 Prison Rape Reduction Commission until such  
9 Commission is terminated.

10 (b) AUTHORIZATION OF APPROPRIATIONS.—There  
11 are authorized to be appropriated \$40,000,000 for each  
12 fiscal year to fund the grants authorized under subsection  
13 (a), which shall remain available until expended.

14 **SEC. 5. NATIONAL PRISON RAPE REDUCTION COMMISSION.**

15 (a) ESTABLISHMENT.—There is established a com-  
16 mission to be known as the National Prison Rape Reduc-  
17 tion Commission (in this section referred to as the “Com-  
18 mission”).

19 (b) MEMBERS.—

20 (1) IN GENERAL.—The Commission shall be  
21 composed of 9 members, of whom—

22 (A) 3 shall be appointed by the President;

23 (B) 2 shall be appointed by the Speaker of  
24 the House of Representatives, unless the Speak-  
25 er is of the same party as the President, in

1           which case 1 shall be appointed by the Speaker  
2           of the House of Representatives and 1 shall be  
3           appointed by the minority leader of the House  
4           of Representatives;

5           (C) 1 shall be appointed by the minority  
6           leader of the House of Representatives (in addi-  
7           tion to any appointment made under subpara-  
8           graph (B));

9           (D) 2 shall be appointed by the majority  
10          leader of the Senate, unless the majority leader  
11          is of the same party as the President, in which  
12          case 1 shall be appointed by the majority leader  
13          of the Senate and 1 shall be appointed by the  
14          minority leader of the Senate; and

15          (E) 1 member appointed by the minority  
16          leader of the Senate (in addition to any ap-  
17          pointment made under subparagraph (D)).

18          (2) PERSONS ELIGIBLE.—Each member of the  
19          Commission shall be an individual who has knowl-  
20          edge or expertise in matters to be studied by the  
21          Commission.

22          (3) CONSULTATION REQUIRED.—The President,  
23          the Speaker and minority leader of the House of  
24          Representatives, and the majority leader and minor-  
25          ity leader of the Senate shall consult with one an-

1 other prior to the appointment of the members of  
2 the Commission to achieve, to the maximum extent  
3 possible, fair and equitable representation of various  
4 points of view with respect to the matters to be  
5 studied by the Commission.

6 (4) TERM.—Each member shall be appointed  
7 for the life of the Commission.

8 (5) TIME FOR INITIAL APPOINTMENTS.—The  
9 appointment of the members shall be completed not  
10 later than 60 days after the date of enactment of  
11 this Act.

12 (6) VACANCIES.—A vacancy in the Commission  
13 shall be filled in the manner in which the original  
14 appointment was made, and shall be completed not  
15 later than 60 days after the date on which the va-  
16 cancy occurred.

17 (c) OPERATION.—

18 (1) CHAIRPERSON.—

19 (A) APPOINTMENT.—Not later than 15  
20 days after the initial appointment of the mem-  
21 bers is completed, the President, the Speaker of  
22 the House of Representatives, and the majority  
23 leader of the Senate shall jointly appoint a  
24 chairperson for the Commission from among  
25 the members of the Commission.

1 (B) MAJORITY VOTE.—If the designation  
2 of a chairperson does not occur by the date  
3 specified in subparagraph (A), the chairperson  
4 shall be appointed by the majority vote of the  
5 President, the Speaker and minority leader of  
6 the House of Representatives, and the majority  
7 leader and minority leader of the Senate.

8 (2) MEETINGS.—The Commission shall meet at  
9 the call of the chairperson. The initial meeting of the  
10 Commission shall take place not later than 30 days  
11 after the initial appointment of the members is com-  
12 pleted.

13 (3) QUORUM.—A majority of the members of  
14 the Commission shall constitute a quorum to con-  
15 duct business, but the Commission may establish a  
16 lesser quorum for conducting hearings scheduled by  
17 the Commission.

18 (4) RULES.—Each member of the Commission  
19 shall have 1 vote. The Commission may establish by  
20 majority vote any other rules for the conduct of  
21 Commission business, if such rules are not incon-  
22 sistent with this Act or other applicable law.

23 (d) COMPREHENSIVE STUDY OF THE IMPACTS OF  
24 PRISON RAPE.—

1           (1) IN GENERAL.—The Commission shall carry  
2 out a comprehensive legal and factual study of the  
3 penalogical, physical, mental, medical, social, and  
4 economic impacts of prison rape in the United  
5 States on—

6                   (A) Federal, State, and local governments;  
7 and

8                   (B) communities and social institutions  
9 generally, including individuals, families, and  
10 businesses within such communities and social  
11 institutions.

12           (2) MATTERS INCLUDED.—The study under  
13 paragraph (1) shall include—

14                   (A) a review of existing Federal, State,  
15 and local government policies and practices with  
16 respect to the prevention, detection, and punish-  
17 ment of prison rape;

18                   (B) an assessment of the relationship be-  
19 tween prison rape and prison conditions, and of  
20 existing monitoring, regulatory, and enforce-  
21 ment practices that are intended to address any  
22 such relationship;

23                   (C) an assessment of pathological or social  
24 causes of prison rape;

1           (D) an assessment of the extent to which  
2 the incidence of prison rape contributes to the  
3 spread of sexually transmitted diseases and to  
4 the transmission of HIV;

5           (E) an assessment of the characteristics of  
6 inmates most likely to commit prison rape and  
7 the effectiveness of various types of treatment  
8 or programs to reduce such likelihood;

9           (F) an assessment of the characteristics of  
10 inmates most likely to be victims of prison rape  
11 and the effectiveness of various types of treat-  
12 ment or programs to reduce such likelihood;

13           (G) an assessment of the impacts of prison  
14 rape on individuals, families, social institutions  
15 and the economy generally, including an assess-  
16 ment of the extent to which the incidence of  
17 prison rape contributes to recidivism and to in-  
18 creased incidence of sexual assault;

19           (H) an examination of the feasibility and  
20 cost of conducting surveillance, undercover ac-  
21 tivities, or both, to reduce the incidence of pris-  
22 on rape;

23           (I) an assessment of the safety and secu-  
24 rity of prison facilities and the relationship of

1 prison facility construction and design to the in-  
2 cidence of prison rape;

3 (J) an assessment of the feasibility and  
4 cost of any particular proposals for prison re-  
5 form;

6 (K) an identification of the need for addi-  
7 tional scientific and social science research on  
8 the prevalence of prison rape in Federal, State,  
9 and local prisons;

10 (L) an assessment of the general relation-  
11 ship between prison rape and prison violence;  
12 and

13 (M) an assessment of the relationship be-  
14 tween prison rape and levels of training, super-  
15 vision, and discipline of prison staff.

16 (3) REPORT.—

17 (A) DISTRIBUTION.—Not later than 24  
18 months after the date of the initial meeting of  
19 the Commission, the Commission shall submit a  
20 report on the study carried out under this sub-  
21 section to—

22 (i) the President;

23 (ii) the Committees on the Judiciary  
24 of the Senate and the House of Represent-  
25 atives;



- 1 (iii) the Attorney General;
- 2 (iv) the Secretary of Health and
- 3 Human Services;
- 4 (v) the Director of the Federal Bu-
- 5 reau of Prisons; and
- 6 (vi) the chief executive of each State.

7 (B) CONTENTS.—The report under sub-

8 paragraph (A) shall include—

- 9 (i) the findings and conclusions of the
- 10 Commission;
- 11 (ii) recommended national standards
- 12 for reducing prison rape;
- 13 (iii) recommended protocols for pre-
- 14 serving evidence and treating victims of
- 15 prison rape; and
- 16 (iv) a summary of the materials relied
- 17 on by the Commission in the preparation
- 18 of the report.

19 (e) RECOMMENDATIONS.—

20 (1) IN GENERAL.—In conjunction with the re-

21 port submitted under subsection (d)(3), the Commis-

22 sion shall provide the Attorney General and the Sec-

23 retary of Health and Human Services with rec-

24 ommended national standards for enhancing the de-

1       tection, prevention, reduction, and punishment of  
2       prison rape.

3           (2) MATTERS INCLUDED.—The information  
4       provided under paragraph (1) shall include rec-  
5       ommended national standards relating to—

6           (A) the classification and assignment of  
7       prisoners, using proven standardized instru-  
8       ments and protocols, in a manner that limits  
9       the occurrence of prison rape;

10          (B) the investigation and resolution of rape  
11       complaints by responsible prison authorities,  
12       local and State police, and Federal and State  
13       prosecution authorities;

14          (C) the preservation of physical and testi-  
15       monial evidence for use in an investigation of  
16       the circumstances relating to the rape;

17          (D) acute-term trauma care for rape vic-  
18       tims, including standards relating to—

19           (i) the manner and extent of physical  
20       examination and treatment to be provided  
21       to any rape victim; and

22           (ii) the manner and extent of any psy-  
23       chological examination, psychiatric care,  
24       medication, and mental health counseling  
25       to be provided to any rape victim;

1 (E) referrals for long-term continuity of  
2 care for rape victims;

3 (F) educational and medical testing meas-  
4 ures for reducing the incidence of HIV trans-  
5 mission due to prison rape;

6 (G) post-rape prophylactic medical meas-  
7 ures for reducing the incidence of transmission  
8 of sexual diseases due to prison rape;

9 (H) the training of correctional staff suffi-  
10 cient to ensure that they understand and appre-  
11 ciate the significance of prison rape and the ne-  
12 cessity of its eradication;

13 (I) the timely and comprehensive investiga-  
14 tion of staff sexual misconduct involving rape or  
15 other sexual assault on inmates;

16 (J) ensuring the confidentiality of prison  
17 rape complaints and protecting inmates who  
18 make complaints of prison rape;

19 (K) data collection and reporting of—

20 (i) prison rape;

21 (ii) prison staff sexual misconduct;

22 and

23 (iii) the resolution of prison rape com-  
24 plaints by prison officials and Federal,

1 State, and local investigation and prosecu-  
2 tion authorities; and

3 (L) such other matters as may reasonably  
4 be related to the detection, prevention, reduc-  
5 tion, and punishment of prison rape.

6 (3) LIMITATION.—The Commission shall not  
7 propose a recommended standard that would impose  
8 substantial additional costs compared to the costs  
9 presently expended by Federal, State, and local pris-  
10 on authorities.

11 (f) HEARINGS.—

12 (1) IN GENERAL.—The Commission shall hold  
13 public hearings. The Commission may hold such  
14 hearings, sit and act at such times and places, ad-  
15 minister such oaths, take such testimony, and re-  
16 ceive such evidence as the Commission considers ad-  
17 visable to carry out its duties under this section.

18 (2) WITNESS EXPENSES.—Witnesses requested  
19 to appear before the Commission shall be paid the  
20 same fees as are paid to witnesses under section  
21 1821 of title 28, United State Code. The per diem  
22 and mileage allowances for witnesses shall be paid  
23 from funds appropriated to the Commission.

24 (g) INFORMATION FROM FEDERAL OR STATE AGEN-  
25 CIES.—The Commission may secure directly from any

1 Federal department or agency such information as the  
2 Commission considers necessary to carry out its duties  
3 under this section. The Commission may request the head  
4 of any State or local department or agency to furnish such  
5 information to the Commission.

6 (h) PERSONNEL MATTERS.—

7 (1) TRAVEL EXPENSES.—The members of the  
8 Commission shall be allowed travel expenses, includ-  
9 ing per diem in lieu of subsistence, at rates author-  
10 ized for employees of agencies under subchapter I of  
11 chapter 57 of title 5, United States Code, while  
12 away from their homes or regular places of business  
13 in the performance of service for the Commission.

14 (2) DETAIL OF FEDERAL EMPLOYEES.—With  
15 the affirmative vote of  $\frac{2}{3}$  of the Commission, any  
16 Federal Government employee, with the approval of  
17 the head of the appropriate Federal agency, may be  
18 detailed to the Commission without reimbursement,  
19 and such detail shall be without interruption or loss  
20 of civil service status, benefits, or privileges.

21 (3) PROCUREMENT OF TEMPORARY AND INTER-  
22 MITTENT SERVICES.—Upon the request of the Com-  
23 mission, the Attorney General shall provide reason-  
24 able and appropriate office space, supplies, and ad-  
25 ministrative assistance.

1 (i) CONTRACTS FOR RESEARCH.—

2 (1) NATIONAL RESEARCH COUNCIL.—With a  $\frac{2}{3}$   
3 affirmative vote, the Commission may select non-  
4 governmental researchers and experts to assist the  
5 Commission in carrying out its duties under this  
6 Act. The National Research Council of the National  
7 Academy of Sciences shall contract with the re-  
8 searchers and experts selected by the Commission to  
9 provide funding in exchange for their services.

10 (2) OTHER ORGANIZATIONS.—Nothing in this  
11 subsection shall be construed to limit the ability of  
12 the Commission to enter into contracts with other  
13 entities or organizations for research necessary to  
14 carry out the duties of the Commission under this  
15 section.

16 (j) SUBPOENAS.—

17 (1) ISSUANCE.—The Commission may issue  
18 subpoenas for the attendance of witnesses and the  
19 production of written or other matter.

20 (2) ENFORCEMENT.—In the case of contumacy  
21 or refusal to obey a subpoena, the Attorney General  
22 may in a Federal court of appropriate jurisdiction  
23 obtain an appropriate order to enforce the subpoena.

24 (3) CONFIDENTIALITY OF DOCUMENTARY EVI-  
25 DENCE.—Documents provided to the Commission

1       pursuant to a subpoena issued under this subsection  
2       shall not be released publicly without the affirmative  
3       vote of  $\frac{2}{3}$  of the Commission.

4       (k) AUTHORIZATION OF APPROPRIATIONS.—There  
5       are authorized to be appropriated to the National Acad-  
6       emy of Sciences such sums as may be necessary to carry  
7       out the purposes of this section. Any sums appropriated  
8       shall remain available, without fiscal year limitation, until  
9       expended.

10       (l) TERMINATION.—The Commission shall terminate  
11       on the date that is 60 days after the date on which the  
12       Commission submits the reports required by this section.

13       (m) EXEMPTION.—The Commission shall be exempt  
14       from the Federal Advisory Committee Act.

15       **SEC. 6. ADOPTION AND EFFECT OF NATIONAL STANDARDS.**

16       (a) PUBLICATION OF PROPOSED STANDARDS.—

17               (1) IN GENERAL.—Not later than 180 days  
18       after receiving the report required under section  
19       5(d)(3) from the National Prison Rape Reduction  
20       Commission, the Attorney General shall publish a  
21       notice of proposed rulemaking for the adoption of  
22       national standards for the detection, prevention, re-  
23       duction, and punishment of prison rape.

24               (2) INDEPENDENT JUDGMENT.—The standards  
25       referred to in paragraph (1) shall be based upon the

1 independent judgment of the Attorney General, after  
2 giving due consideration to the recommended na-  
3 tional standards provided by the Commission under  
4 section 5(e), and being informed by such data, opin-  
5 ions, and proposals that the Attorney General deter-  
6 mines to be appropriate to consider.

7 (3) LIMITATION.—The Attorney General shall  
8 not establish a national standard under this section  
9 that would impose substantial additional costs com-  
10 pared to the costs presently expended by Federal,  
11 State, and local prison authorities.

12 (4) FINAL RULE.—Not later than 1 year after  
13 receiving the report specified in paragraph (1), the  
14 Attorney General shall publish a final rule adopting  
15 national standards for the detection, prevention, re-  
16 duction, and punishment of prison rape.

17 (5) TRANSMISSION TO STATES.—Upon pub-  
18 lishing the final rule under paragraph (4), the Attor-  
19 ney General shall transmit the national standards  
20 adopted under such paragraph to the chief executive  
21 of each State.

22 (b) APPLICABILITY TO FEDERAL BUREAU OF PRIS-  
23 ONS.—The national standards referred to in subsection  
24 (a) shall apply to the Federal Bureau of Prisons imme-



1 diately upon adoption of the final rule under subsection  
2 (a)(2).

3 (c) FUNDING REDUCTION.—

4 (1) STATE ADOPTION OF NATIONAL STAND-  
5 ARDS.—The Attorney General shall reduce by 20  
6 percent a State’s allocation of the Federal grant  
7 funding designated under section 9 (and reallocate  
8 such funding to other States) unless the State en-  
9 acts a statute that expressly—

10 (A) adopts the national standards received  
11 by the State under subsection (a)(5), as appli-  
12 cable to that State; or

13 (B) declines to adopt such national stand-  
14 ards, as applicable to that State.

15 (2) EFFECTIVE DATE.—The funding reduction  
16 under paragraph (1) shall not occur until 1 year  
17 after the transmission of the national standards  
18 under subsection (a)(5), or the date of the expiration  
19 of the first regular legislative session of the State  
20 beginning after the date of such transmission,  
21 whichever occurs later.

22 **SEC. 7. MODEL STANDARDS FOR ACUTE POST-TRAUMA**  
23 **TREATMENT.**

24 (a) REVIEW OF MODEL PROGRAMS AND PROTO-  
25 COLS.—Not later than 1 year after the date of enactment

1 of this Act, the Secretary of Health and Human Services,  
2 in consultation with the Attorney General, shall complete  
3 a review of model programs and protocols for the response  
4 to and treatment of acute trauma for male and female  
5 rape victims within prisons and jails.

6 (b) MODEL STANDARDS.—

7 (1) IN GENERAL.—Upon completion of the re-  
8 view required by subsection (a), the Secretary shall  
9 establish model standards relating to—

10 (A) the preservation of physical and testi-  
11 monial evidence for use in an investigation of  
12 the circumstances relating to the rape;

13 (B) the manner and extent of physical ex-  
14 amination and treatment to be provided to any  
15 rape victim;

16 (C) the manner and extent of any psycho-  
17 logical examination, psychiatric care (including,  
18 if appropriate, medication), and mental health  
19 counseling to be provided to any rape victim;

20 (D) the preservation of the confidentiality  
21 of information relating to prison rape victims;  
22 and

23 (E) the production and dissemination with-  
24 in a prison system of model response protocols

1           and programs for the treatment of, investiga-  
2           tion of, and response to prison rape.

3           (2) LIMITATION.—The Secretary shall not es-  
4           tablish a model standard that would impose substan-  
5           tial additional costs compared to the costs presently  
6           expended by Federal, State, and local prison au-  
7           thorities.

8           (c) SUMMARY.—

9           (1) IN GENERAL.—Upon completion of the re-  
10          view required by subsection (a) and the establish-  
11          ment of model standards required by subsection (b),  
12          the Secretary shall submit a summary of the results  
13          of the review and the model standards to the Na-  
14          tional Prison Rape Reduction Commission.

15          (2) CONTENTS.—The summary shall include,  
16          for each model standard, the estimated costs for im-  
17          plementation of such standard and the basis for  
18          such estimates.

19 **SEC. 8. REQUIREMENT THAT ACCREDITATION ORGANIZA-**  
20 **TIONS ADOPT ACCREDITATION STANDARDS.**

21          (a) ELIGIBILITY FOR FEDERAL GRANTS.—Notwith-  
22          standing any other provision of law, an organization re-  
23          sponsible for the accreditation of Federal, State, local, or  
24          private prisons, jails, or other penal facilities may not ben-  
25          efit from any Federal grants during any period in which

1 such organization fails to meet any of the requirements  
2 of subsection (b).

3 (b) REQUIREMENTS.—To be eligible to receive Fed-  
4 eral grants, an accreditation organization referred to in  
5 subsection (a) must meet the following requirements:

6 (1) At all times after 90 days after the date of  
7 enactment of this Act, the organization shall have in  
8 effect, for each facility that it is responsible for ac-  
9 crediting, accreditation standards for the detection,  
10 prevention, reduction, and punishment of prison  
11 rape.

12 (2) At all times after 1 year after the date of  
13 the adoption of the final rule under section 6(a)(4),  
14 the organization shall, in addition to any other such  
15 standards that it may promulgate relevant to the de-  
16 tection, prevention, reduction, and punishment of  
17 prison rape, adopt accreditation standards consistent  
18 with the national standards adopted pursuant to  
19 such final rule.

20 **SEC. 9. ATTORNEY GENERAL DESIGNATION OF GRANT PRO-**  
21 **GRAMS FOR FUNDING REDUCTION.**

22 (a) IN GENERAL.—Not later than 120 days after the  
23 date of enactment of this Act, and each year thereafter,  
24 the Attorney General shall designate an existing grant

1 program or programs to which the funding reductions  
2 specified in this Act shall apply.

3 (b) CRITERIA.—The grant program or programs des-  
4 ignated under subsection (a) shall be the existing grant  
5 programs—

6 (1) that, in the judgment of the Attorney Gen-  
7 eral, are most compromised by failure to adopt poli-  
8 cies that reduce the incidence of prison rape; and

9 (2) for which aggregate annual Federal appro-  
10 priations exceed \$1,000,000,000.

11 **SEC. 10. DEFINITIONS.**

12 In this Act, the following definitions shall apply:

13 (1) CARNAL KNOWLEDGE.—The term “carnal  
14 knowledge” means contact between the penis and  
15 the vulva or the penis and the anus, including pene-  
16 tration of any sort, however slight.

17 (2) INMATE.—The term “inmate” means any  
18 person incarcerated or detained in any facility who  
19 is accused of, convicted of, sentenced for, or adju-  
20 dicated delinquent for, violations of criminal law or  
21 the terms and conditions of parole, probation, pre-  
22 trial release, or diversionary program.

23 (3) JAIL.—The term “jail” means a confine-  
24 ment facility of a Federal, State, or local law en-  
25 forcement agency to hold—

1 (A) persons pending adjudication of crimi-  
2 nal charges; or

3 (B) persons committed to confinement  
4 after adjudication of criminal charges for sen-  
5 tences of 1 year or less.

6 (4) HIV.—The term “HIV” means the human  
7 immunodeficiency virus.

8 (5) ORAL SODOMY.—The term “oral sodomy”  
9 means contact between the mouth and the penis, the  
10 mouth and the vulva, or the mouth and the anus.

11 (6) POLICE LOCKUP.—The term “police lock-  
12 up” means a temporary holding facility of a Federal,  
13 State, or local law enforcement agency to hold—

14 (A) inmates pending bail or transport to  
15 jail;

16 (B) inebriates until ready for release; or

17 (C) juveniles pending parental custody or  
18 shelter placement.

19 (7) PRISON.—The term “prison” means any  
20 confinement facility of a Federal, State, or local gov-  
21 ernment, whether administered by such government  
22 or by a private organization on behalf of such gov-  
23 ernment, and includes—

24 (A) any local jail or police lockup; and

1 (B) any juvenile facility used for the cus-  
2 tody or care of juvenile inmates.

3 (8) PRISON RAPE.—The term “prison rape” in-  
4 cludes the rape of an inmate in the actual or con-  
5 structive control of prison officials.

6 (9) RAPE.—The term “rape” means—

7 (A) the carnal knowledge, oral sodomy,  
8 sexual assault with an object, or sexual fondling  
9 of a person, forcibly or against that person’s  
10 will;

11 (B) the carnal knowledge, oral sodomy,  
12 sexual assault with an object, or sexual fondling  
13 of a person not forcibly or against the person’s  
14 will, where the victim is incapable of giving con-  
15 sent because of his or her youth or his or her  
16 temporary or permanent mental or physical in-  
17 capacity; or

18 (C) the carnal knowledge, oral sodomy,  
19 sexual assault with an object, or sexual fondling  
20 of a person achieved through the exploitation of  
21 the fear or threat of physical violence or bodily  
22 injury.

23 (10) SEXUAL ASSAULT WITH AN OBJECT.—The  
24 term “sexual assault with an object” means the use  
25 of any hand, finger, object, or other instrument to

1       penetrate, however slightly, the genital or anal open-  
2       ing of the body of another person.

3               (11) SEXUAL FONDLING.—The term “sexual  
4       fondling” means the touching of the private body  
5       parts of another person (including the genitalia,  
6       anus, groin, breast, inner thigh, or buttocks) for the  
7       purpose of sexual gratification.

○