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.


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 assailants;
- 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.


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.
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 being 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 by 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.


- 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.
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.

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

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 RESEARCH.

(a) ANNUAL COMPREHENSIVE STATISTICAL REVIEW.—

(1) IN GENERAL.—The Bureau of Justice Statistics of the Department of Justice (in this section referred to as the “Bureau”) shall carry out, for each calendar year, a comprehensive statistical review and analysis of the incidence and effects of prison rape. The statistical review and analysis shall include, but not be limited to the identification of the common characteristics of—

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

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

(2) SAMPLING TECHNIQUES.—The analysis under paragraph (1) shall be based on a random sample, or other scientifically appropriate sample, of not less than 10 percent of all Federal, State, and
county prisons, and a representative sample of municipal prisons. The selection of facilities for sampling shall be made at the latest practicable date prior to conducting the surveys and shall not be disclosed to any facility or prison system official prior to the time period studied in the survey. Selection of a facility for sampling during any year shall not preclude its selection for sampling in any subsequent year.

(3) SURVEYS.—In carrying out the review required by this subsection, the Bureau shall, in addition to such other methods as the Bureau considers appropriate, use surveys and other statistical studies of current and former inmates from a sample of Federal, State, county, and municipal prisons. The Bureau shall ensure the confidentiality of each survey participant.

(b) REVIEW PANEL ON PRISON RAPE.—

(1) ESTABLISHMENT.—To assist the Bureau in carrying out the review and analysis under subsection (a), there is established, within the Bureau, the Review Panel on Prison Rape (in this section referred to as the “Panel”).

(2) MEMBERSHIP.—
(A) COMPOSITION.—The Panel shall be composed of 3 members, each of whom shall be appointed by the Attorney General, in consultation with the Secretary of Health and Human Services.

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

(3) PUBLIC HEARINGS.—

(A) IN GENERAL.—The duty of the Panel shall be to carry out, for each calendar year, public hearings concerning the operation of each entity identified in a report under clause (ii) or (iii) of subsection (c)(2)(B). The purpose of these hearings shall be to collect evidence to aid in the identification of common characteristics of inmates who have been involved in prison rape, both victims and perpetrators, and the identification of common characteristics of prisons and prison systems with a high incidence of prison rape.

(B) TESTIMONY AT HEARINGS.—

(i) PUBLIC OFFICIALS.—In carrying out the hearings required under subpara-
graph (A), the Panel shall request the public testimony of Federal, State, and local officials (and organizations that represent such officials), including the warden or director of each prison and the head of the prison system encompassing such prison, who bear responsibility for the prevention, detection, and punishment of prison rape at each entity.

(ii) VICTIMS.—The Panel may request the testimony of prison rape victims, organizations representing such victims, and other appropriate individuals and organizations.

(C) FAILURE TO TESTIFY.—If, after receiving a request by the Panel under subparagraph (B)(i), a State or local official declines to testify at a reasonably designated time, the Federal funds provided to the entity represented by that official pursuant to the grant programs designated by the Attorney General under section 9 shall be reduced by 20 percent and reallocated to other entities. This reduction shall be in addition to any other reduction provided under this Act.
(c) REPORTS.—

(1) IN GENERAL.—Not later than March 30 of each year, the Bureau shall submit a report on the activities of the Bureau (including the Review Panel), with respect to prison rape, for the preceding calendar year to—

(A) Congress;

(B) the Attorney General; and

(C) the Secretary of Health and Human Services.

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

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

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

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

(ii) an identification of the Federal Government, if applicable, and each State and local government (and each prison system and institution in the representative sample) where the incidence of prison rape
exceeds the national median level by not less than 30 percent; and

(iii) an identification of jail and police lockup systems in the representative sample where the incidence of prison rape is significantly avoidable.

(3) DATA ADJUSTMENTS.—In preparing the information specified in paragraph (2), the Bureau shall, not later than the second year in which surveys are conducted under this Act, use established statistical methods to adjust the data as necessary to account for exogenous factors, outside of the control of the State, prison system, or prison, which have demonstrably contributed to the incidence of prison rape. For each such adjustment made, the Bureau shall identify and explain such adjustment in the report.

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

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

(2) provide grants for research through the National Science Foundation or the National Institute of Justice.
(c) Authorization of Appropriations.—There are authorized to be appropriated $15,000,000 for each fiscal year to carry out the purposes of this section, which shall remain available until expended.

SEC. 3. PRISON RAPE PREVENTION AND PROSECUTION.

(a) Complaint Collection and Review.—

(1) In General.—The Attorney General shall carry out a program to—

(A) collect complaints of prison rape from inmates;

(B) transmit those complaints to the appropriate Federal, State, or local authorities; and

(C) provide for periodic reviews of the response of Federal, State, and local authorities to such complaints.

(2) Confidentiality.—The Attorney General shall ensure the confidentiality of each complainant.

(b) Information and Assistance.—

(1) National Clearinghouse.—The Attorney General shall establish a national clearinghouse for the provision of information and assistance to Federal, State, and local authorities responsible for the prevention, investigation, and punishment of instances of prison rape.
(2) TRAINING AND EDUCATION.—The Attorney General shall conduct periodic training and education programs for Federal, State, and local authorities responsible for the prevention, investigation, and punishment of instances of prison rape.

(c) REPORTS.—

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

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

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

(B) the complaints collected by the Department of Justice; and

(C) the actions taken by the Department of Justice with respect to the complaints summarized under subparagraph (B).

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $5,000,000 for each fiscal year to carry out the purposes of this section, which shall remain available until expended.
(1) Grants Authorized.—The Attorney General shall make 1-year grants to States, units of local government, prisons, and prison systems.

(2) Use of Funds.—Grants awarded under paragraph (1) shall only be used to—

(A) undertake more effective efforts to prevent prison rape;

(B) investigate such incidents; and

(C) punish the perpetrators.

(3) Matching Requirement.—The Federal financial assistance provided under this subsection may not exceed 50 percent of the total costs of the program being funded.

(4) Maximum Amount.—The Attorney General shall not award a grant under this subsection in an amount which exceeds $1,000,000.

(5) Applications.—

(A) In General.—To request a grant under this subsection, the chief executive of a State or unit of local government shall submit an application to the Attorney General at such time, in such manner, and accompanied by such
information as the Attorney General may re-
require.

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

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

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

(6) REPORT BY GRANTEE.—

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

(i) a report on the activities carried
out with grant amounts during the pre-
ceding Federal fiscal year; and
(ii) an evaluation of the impact of such activities on the incidence of prison rape and the grantee’s response to such incidents.

(B) DISSEMINATION.—The Attorney General shall provide a copy of each report submitted under subparagraph (A) to the National Prison Rape Reduction Commission until such Commission is terminated.

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

SEC. 5. NATIONAL PRISON RAPE REDUCTION COMMISSION.

(a) ESTABLISHMENT.—There is established a commission to be known as the National Prison Rape Reduction Commission (in this section referred to as the “Commission”).

(b) MEMBERS.—

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

(A) 3 shall be appointed by the President;

(B) 2 shall be appointed by the Speaker of the House of Representatives, unless the Speaker is of the same party as the President, in
which case 1 shall be appointed by the Speaker of the House of Representatives and 1 shall be appointed by the minority leader of the House of Representatives;

(C) 1 shall be appointed by the minority leader of the House of Representatives (in addition to any appointment made under subparagraph (B));

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

(E) 1 member appointed by the minority leader of the Senate (in addition to any appointment made under subparagraph (D)).

(2) PERSONS ELIGIBLE.—Each member of the Commission shall be an individual who has knowledge or expertise in matters to be studied by the Commission.

(3) CONSULTATION REQUIRED.—The President, the Speaker and minority leader of the House of Representatives, and the majority leader and minority leader of the Senate shall consult with one an-
other prior to the appointment of the members of
the Commission to achieve, to the maximum extent
possible, fair and equitable representation of various
points of view with respect to the matters to be
studied by the Commission.

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

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

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

(c) OPERATION.—

(1) CHAIRPERSON.—

(A) APPOINTMENT.—Not later than 15
days after the initial appointment of the mem-
ers is completed, the President, the Speaker of
the House of Representatives, and the majority
leader of the Senate shall jointly appoint a
chairperson for the Commission from among
the members of the Commission.
(B) MAJORITY VOTE.—If the designation of a chairperson does not occur by the date specified in subparagraph (A), the chairperson shall be appointed by the majority vote of the President, the Speaker and minority leader of the House of Representatives, and the majority leader and minority leader of the Senate.

(2) MEETINGS.—The Commission shall meet at the call of the chairperson. The initial meeting of the Commission shall take place not later than 30 days after the initial appointment of the members is completed.

(3) QUORUM.—A majority of the members of the Commission shall constitute a quorum to conduct business, but the Commission may establish a lesser quorum for conducting hearings scheduled by the Commission.

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

(d) COMPREHENSIVE STUDY OF THE IMPACTS OF PRISON RAPE.—
(1) IN GENERAL.—The Commission shall carry out a comprehensive legal and factual study of the penalogical, physical, mental, medical, social, and economic impacts of prison rape in the United States on—

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

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

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

(A) a review of existing Federal, State, and local government policies and practices with respect to the prevention, detection, and punishment of prison rape;

(B) an assessment of the relationship between prison rape and prison conditions, and of existing monitoring, regulatory, and enforcement practices that are intended to address any such relationship;

(C) an assessment of pathological or social causes of prison rape;
(D) an assessment of the extent to which the incidence of prison rape contributes to the spread of sexually transmitted diseases and to the transmission of HIV;

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

(F) an assessment of the characteristics of inmates most likely to be victims of prison rape and the effectiveness of various types of treatment or programs to reduce such likelihood;

(G) an assessment of the impacts of prison rape on individuals, families, social institutions and the economy generally, including an assessment of the extent to which the incidence of prison rape contributes to recidivism and to increased incidence of sexual assault;

(H) an examination of the feasibility and cost of conducting surveillance, undercover activities, or both, to reduce the incidence of prison rape;

(I) an assessment of the safety and security of prison facilities and the relationship of
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prison facility construction and design to the incidence of prison rape;

(J) an assessment of the feasibility and cost of any particular proposals for prison reform;

(K) an identification of the need for additional scientific and social science research on the prevalence of prison rape in Federal, State, and local prisons;

(L) an assessment of the general relationship between prison rape and prison violence; and

(M) an assessment of the relationship between prison rape and levels of training, supervision, and discipline of prison staff.

(3) REPORT.—

(A) DISTRIBUTION.—Not later than 24 months after the date of the initial meeting of the Commission, the Commission shall submit a report on the study carried out under this subsection to—

(i) the President;

(ii) the Committees on the Judiciary of the Senate and the House of Represent-
(iii) the Attorney General;

(iv) the Secretary of Health and Human Services;

(v) the Director of the Federal Bureau of Prisons; and

(vi) the chief executive of each State.

(B) CONTENTS.—The report under subparagraph (A) shall include—

(i) the findings and conclusions of the Commission;

(ii) recommended national standards for reducing prison rape;

(iii) recommended protocols for preserving evidence and treating victims of prison rape; and

(iv) a summary of the materials relied on by the Commission in the preparation of the report.

(c) RECOMMENDATIONS.—

(1) IN GENERAL.—In conjunction with the report submitted under subsection (d)(3), the Commission shall provide the Attorney General and the Secretary of Health and Human Services with recommended national standards for enhancing the de-
tection, prevention, reduction, and punishment of prison rape.

(2) MATTERS INCLUDED.—The information provided under paragraph (1) shall include recommended national standards relating to—

(A) the classification and assignment of prisoners, using proven standardized instruments and protocols, in a manner that limits the occurrence of prison rape;

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

(C) the preservation of physical and testimonial evidence for use in an investigation of the circumstances relating to the rape;

(D) acute-term trauma care for rape victims, including standards relating to—

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

(ii) the manner and extent of any psychological examination, psychiatric care, medication, and mental health counseling to be provided to any rape victim;
(E) referrals for long-term continuity of care for rape victims;

(F) educational and medical testing measures for reducing the incidence of HIV transmission due to prison rape;

(G) post-rape prophylactic medical measures for reducing the incidence of transmission of sexual diseases due to prison rape;

(H) the training of correctional staff sufficient to ensure that they understand and appreciate the significance of prison rape and the necessity of its eradication;

(I) the timely and comprehensive investigation of staff sexual misconduct involving rape or other sexual assault on inmates;

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

(K) data collection and reporting of—

   (i) prison rape;

   (ii) prison staff sexual misconduct;

   and

   (iii) the resolution of prison rape complaints by prison officials and Federal,
State, and local investigation and prosecu-
tion authorities; and

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

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

(f) HEARINGS.—

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

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

(g) INFORMATION FROM FEDERAL OR STATE AGEN-
cies.—The Commission may secure directly from any
Federal department or agency such information as the Commission considers necessary to carry out its duties under this section. The Commission may request the head of any State or local department or agency to furnish such information to the Commission.

(h) PERSONNEL MATTERS.—

(1) TRAVEL EXPENSES.—The members of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular places of business in the performance of service for the Commission.

(2) DETAIL OF FEDERAL EMPLOYEES.—With the affirmative vote of 2/3 of the Commission, any Federal Government employee, with the approval of the head of the appropriate Federal agency, may be detailed to the Commission without reimbursement, and such detail shall be without interruption or loss of civil service status, benefits, or privileges.

(3) PROCUREMENT OF TEMPORARY AND INTERMITTENT SERVICES.—Upon the request of the Commission, the Attorney General shall provide reasonable and appropriate office space, supplies, and administrative assistance.
(i) Contracts for Research.—

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

(2) Other Organizations.—Nothing in this subsection shall be construed to limit the ability of the Commission to enter into contracts with other entities or organizations for research necessary to carry out the duties of the Commission under this section.

(j) Subpoenas.—

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

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

(3) Confidentiality of Documentary Evidence.—Documents provided to the Commission
pursuant to a subpoena issued under this subsection shall not be released publicly without the affirmative vote of 2/3 of the Commission.

(k) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the National Academy of Sciences such sums as may be necessary to carry out the purposes of this section. Any sums appropriated shall remain available, without fiscal year limitation, until expended.

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

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

SEC. 6. ADOPTION AND EFFECT OF NATIONAL STANDARDS.

(a) PUBLICATION OF PROPOSED STANDARDS.—

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

(2) INDEPENDENT JUDGMENT.—The standards referred to in paragraph (1) shall be based upon the
independent judgment of the Attorney General, after giving due consideration to the recommended national standards provided by the Commission under section 5(e), and being informed by such data, opinions, and proposals that the Attorney General determines to be appropriate to consider.

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

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

(5) TRANSMISSION TO STATES.—Upon publishing the final rule under paragraph (4), the Attorney General shall transmit the national standards adopted under such paragraph to the chief executive of each State.

(b) APPLICABILITY TO FEDERAL BUREAU OF PRISONS.—The national standards referred to in subsection (a) shall apply to the Federal Bureau of Prisons imme-
diately upon adoption of the final rule under subsection (a)(2).

(c) **Funding Reduction.**—

(1) **State adoption of national standards.**—The Attorney General shall reduce by 20 percent a State’s allocation of the Federal grant funding designated under section 9 (and reallocate such funding to other States) unless the State enacts a statute that expressly—

(A) adopts the national standards received by the State under subsection (a)(5), as applicable to that State; or

(B) declines to adopt such national standards, as applicable to that State.

(2) **Effective date.**—The funding reduction under paragraph (1) shall not occur until 1 year after the transmission of the national standards under subsection (a)(5), or the date of the expiration of the first regular legislative session of the State beginning after the date of such transmission, whichever occurs later.

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

(a) **Review of model programs and protocols.**—Not later than 1 year after the date of enactment
of this Act, the Secretary of Health and Human Services, in consultation with the Attorney General, shall complete a review of model programs and protocols for the response to and treatment of acute trauma for male and female rape victims within prisons and jails.

(b) Model Standards.—

(1) In general.—Upon completion of the review required by subsection (a), the Secretary shall establish model standards relating to—

(A) the preservation of physical and testimonial evidence for use in an investigation of the circumstances relating to the rape;

(B) the manner and extent of physical examination and treatment to be provided to any rape victim;

(C) the manner and extent of any psychological examination, psychiatric care (including, if appropriate, medication), and mental health counseling to be provided to any rape victim;

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

(E) the production and dissemination within a prison system of model response protocols
and programs for the treatment of, investigation of, and response to prison rape.

(2) LIMITATION.—The Secretary shall not establish a model standard that would impose substantial additional costs compared to the costs presently expended by Federal, State, and local prison authorities.

(c) SUMMARY.—

(1) IN GENERAL.—Upon completion of the review required by subsection (a) and the establishment of model standards required by subsection (b), the Secretary shall submit a summary of the results of the review and the model standards to the National Prison Rape Reduction Commission.

(2) CONTENTS.—The summary shall include, for each model standard, the estimated costs for implementation of such standard and the basis for such estimates.

SEC. 8. REQUIREMENT THAT ACCREDITATION ORGANIZATIONS ADOPT ACCREDITATION STANDARDS.

(a) ELIGIBILITY FOR FEDERAL GRANTS.—Notwithstanding any other provision of law, an organization responsible for the accreditations of Federal, State, local, or private prisons, jails, or other penal facilities may not benefit from any Federal grants during any period in which
such organization fails to meet any of the requirements of subsection (b).

(b) REQUIREMENTS.—To be eligible to receive Federal grants, an accreditation organization referred to in subsection (a) must meet the following requirements:

(1) At all times after 90 days after the date of enactment of this Act, the organization shall have in effect, for each facility that it is responsible for accrediting, accreditation standards for the detection, prevention, reduction, and punishment of prison rape.

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

SEC. 9. ATTORNEY GENERAL DESIGNATION OF GRANT PROGRAMS FOR FUNDING REDUCTION.

(a) IN GENERAL.—Not later than 120 days after the date of enactment of this Act, and each year thereafter, the Attorney General shall designate an existing grant
program or programs to which the funding reductions
specified in this Act shall apply.

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

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

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

SEC. 10. DEFINITIONS.

In this Act, the following definitions shall apply:

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

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

(3) JAIL.—The term “jail” means a confine-
ment facility of a Federal, State, or local law en-
forcement agency to hold—
(A) persons pending adjudication of criminal charges; or

(B) persons committed to confinement after adjudication of criminal charges for sentences of 1 year or less.

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

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

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

(A) inmates pending bail or transport to jail;

(B) inebriates until ready for release; or

(C) juveniles pending parental custody or shelter placement.

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

(A) any local jail or police lockup; and
(B) any juvenile facility used for the custody or care of juvenile inmates.

(8) Prison Rape.—The term “prison rape” includes the rape of an inmate in the actual or constructive control of prison officials.

(9) Rape.—The term “rape” means—

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

(B) the carnal knowledge, oral sodomy, sexual assault with an object, or sexual fondling of a person not forcibly or against the person’s will, where the victim is incapable of giving consent because of his or her youth or his or her temporary or permanent mental or physical incapacity; or

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

(10) Sexual Assault with an Object.—The term “sexual assault with an object” means the use of any hand, finger, object, or other instrument to
penetrate, however slightly, the genital or anal opening of the body of another person.

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