

No Refuge Here



A First Look at Sexual Abuse in Immigration Detention

Stop Prisoner Rape

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2004

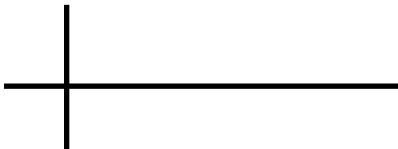
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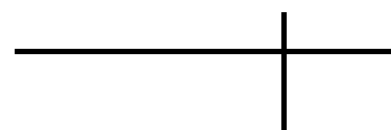
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Overview

This report calls attention to the problem of sexual abuse in immigration detention centers in the United States, focusing on three central issues: (1) the considerable and troubling reported record of sexual abuse of detainees, (2) the lack of substantive policies and procedures in place to address such abuse, and (3) immigration officials' refusal to allow independent monitoring of conditions for detainees. Through this report, Stop Prisoner Rape (SPR) calls on U.S. Immigration and Customs Enforcement (ICE) to implement more detailed and comprehensive standards for the prevention and treatment of sexual assault in facilities that hold immigration detainees.

No systematic research has ever been undertaken to examine sexual abuse in immigration detention centers, and no statistics about its frequency have been collected. Compiled in these pages, however, are accounts that attest to ongoing abuse, including cases in which detainees have been raped, sexually assaulted, forced to trade sex for favors, and sexually harassed. SPR reviews the most well known of these cases, and discusses a number of additional abusive situations discovered through contacts with detainees and with other nonprofit agencies. Second, this report documents SPR's efforts to speak directly with detainees about their experiences and the distressing stonewalling from immigration officials that was the response to these efforts. This is followed by an in-depth analysis of the ICE's policy on the handling of detainees. The analysis concludes that there are serious shortcomings in the agency's approach to sexual assault and sexual misconduct. SPR suggests specific policy changes that can help the ICE create safer, more humane facilities for detainees. Throughout the report, presented as case studies, are the stories of individual detainees' encounters with forms of sexual violence. SPR hopes that this publication will serve as a first step toward acknowledging and addressing sexual abuse in immigration detention, a problem that, whatever its scope, shatters the lives of those who endure it.



About Stop Prisoner Rape

Stop Prisoner Rape is a national human rights organization that works to end sexual violence against men, women, and youth in all forms of detention.

SPR offers hope in these three ways: by pushing for policies that ensure institutional accountability, by changing society's attitudes toward prisoner rape, and by promoting access to resources for survivors of sexual assault behind bars.

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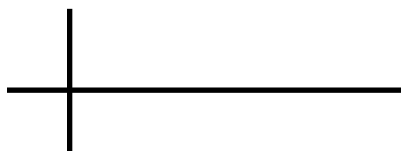
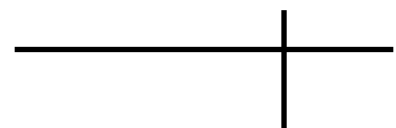


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Introduction

United States Immigration officials detain over 200,000 individuals annually.¹ Men, women, children, and sometimes even entire families are held in prison-like conditions, often awaiting decisions that will play a critical role in determining their futures. Some may be in the process of removal from the U.S. due to their conviction of a crime. Others may be economic migrants who have overstayed their visas while working to earn a better livelihood. Still others may be asylum seekers who have fled their home countries to escape discrimination, torture, or threats of death. Unfortunately, some of those who are held in detention are sexually victimized.

The Degree of Harm

Immigration officials have raped detainees² and have abused their authority by exchanging goods and privileges for sex.³ Threats of violence and deportation have been used by immigration staff to coerce detainees into performing sex acts.⁴ Staff members have watched female detainees when they are dressing, showering, or using the toilet,⁵ and some regularly engage in verbal degradation and harassment of detainees.⁶ Detainees have also reported groping and other sexual abuse by staff during pat frisks and searches.⁷

The ramifications of sexual violence against both men and women in immigration detention can be quite severe. Following an incident of rape, victims may experience vaginal or rectal bleeding, soreness and bruising (and much worse in the case of violent attacks), insomnia, nausea, shock, disbelief, withdrawal, anger, shame, guilt, and humiliation. Long-term consequences may include post-traumatic stress disorder, rape trauma syndrome, ongoing fear, nightmares, flashbacks, self-hatred, substance abuse, anxiety, depression, and suicide.⁸

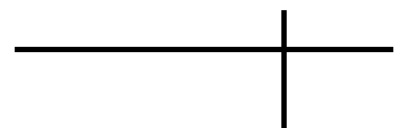
The threat of HIV exposure makes forced sex in detention facilities, where prevention methods are virtually nonexistent, a deadly proposition.⁹ In addition to the possibility of disease exposure that both male and female rape victims experience, female detainees have been impregnated as a result of staff sexual misconduct.¹⁰

Barriers to Addressing the Problem

Many of the individuals in immigration detention are desperate to remain in the U.S., and many cannot speak English. When a tragedy as demoralizing and dehumanizing as sexual abuse strikes, and when it happens in an unfamiliar culture within the walls of a formidable institution, detainees often have difficulty speaking out.

Another barrier to addressing sexual abuse in detention is the fact that U.S. law does not give detainees the right to government-appointed counsel,¹¹ contributing to this population's lack of contact with those who might advocate on their behalf. In fact, 78 percent of immigration detainees do not receive legal representation.¹²

The former Immigration and Naturalization Service (INS) had long been criticized from all sides of the political spectrum for its impenetrable bureaucracy.¹³ Many critics complained that the agency was unresponsive, often obstructing attempts to obtain assistance by non-citizens



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genuinely in need of help. As discussed below, the INS has been restructured within U.S. Immigration and Customs Enforcement (ICE), a division of the Department of Homeland Security. This change, however, has not made the United States' system of immigration detention more sensitive to the vulnerabilities of detainees.

The Political Context

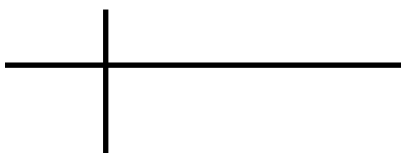
In the last several years, rates of detention have soared. In 2001, there were approximately 20,000 non-citizens being detained daily, compared with 6,700 in 1995.¹⁴ Stays in detention range from a few days to many years, with an average stay of about one month.¹⁵ Immigration officials attribute the increase in immigration detention to the passage of the Illegal Immigration Reform and Immigrant Responsibility Act ("IIRIRA") of 1996. IIRIRA expanded the number of crimes for which individuals are subject to removal from the U.S. and eliminated immigration officials' discretion to release certain non-citizens from detention by requiring that virtually any non-citizen subject to removal for a criminal conviction (as well as certain categories of non-criminals) be held in detention without bond.¹⁶

Officials assert that IIRIRA has resulted in the detention of "a much larger number of people" and describe "the need for significantly more detention space."¹⁷ To house these growing numbers, the federal government spends more than \$600 million dollars on detention each year.¹⁸

In addition to IIRIRA, the effect of the terrorist attacks of September 11, 2001 on the United States political climate has been profound. In 2002, in the wake of those attacks, Congress passed the Homeland Security Act, transferring the functions of the INS to the Department of Homeland Security. As of March 1, 2003, the investigative and enforcement functions of the former INS - including the detention of non-citizens - were reorganized under U.S. Immigration and Customs Enforcement (ICE).¹⁹ An increasingly forceful attitude towards non-citizens has developed along with this restructuring, with U.S. Attorney General John Ashcroft calling for "aggressive arrest and detention tactics in the war on terror."²⁰

In some cases, the civil liberties of detainees have suffered as a result of this more aggressive attitude. The U.S. Department of Justice issued a report in 2003 criticizing the treatment of 762 people detained on immigration charges in the wake of September 11. Mostly Arab and Muslim men, none of those included in the report were ultimately charged with aiding or engaging in terrorism. Nevertheless, according to the Justice Department, immigration laws were misused to establish a system to detain - rather than issue credible charges against - these individuals, sometimes in unusually harsh settings. The detentions were often supported by flimsy evidence, and most of those held were deported, some after long periods of unwarranted detention.²¹

This first look at sexual abuse in immigration detention centers therefore occurs in the context of increasing rates of detention and amplified anti-immigrant sentiment. Survivors of sexual abuse in detention may be more hesitant than ever to make charges of abuse. And when immigration officials refuse to allow outside observers, including Stop Prisoner Rape, to enter the facilities they manage, they send the dangerous message to staff members that their facilities operate without scrutiny. This is a climate ripe for sexual assault.



Sexual Abuse of Detainees as a Legal Issue

Despite the increasing push to detain and deport non-citizens, individuals who are detained by the ICE are not without legal protections - particularly when it comes to sexual abuse. The following is a summary of the rights of detainees to be free from such treatment.

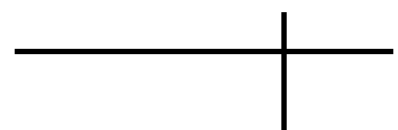
Rape is a degrading and dehumanizing abuse that has been classified as a form of torture by several international legal bodies.²² When committed in detention, in an environment of near-total state control, sexual violence can meet the definition of torture in the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, which has been ratified by the United States. The convention defines torture as the intentional infliction of severe physical or mental pain or suffering for an illicit purpose and committed, consented, or acquiesced to by public officials.²³

The right to protection from rape and sexual violence is guaranteed by other international human rights instruments, including the International Covenant on Civil and Political Rights ("ICCPR"), which the U.S. has ratified. Rape in detention violates the ICCPR's protection of the right to security of person,²⁴ the right to be free from cruel, inhumane, or degrading treatment or punishment,²⁵ the right of those deprived of liberty to be treated with respect for the inherent dignity of the human person,²⁶ and, in extreme cases, the right to life.²⁷

The Eighth Amendment to the U.S. constitution, which prohibits cruel and unusual punishment, does not apply to immigration removal proceedings. These proceedings are civil in nature, and the Eighth Amendment applies only to prisoners incarcerated for criminal convictions.²⁸

However, non-citizens have a due process right to not be subjected to government conduct that shocks the conscience or interferes with rights implicit in the concept of ordered liberty.²⁹ The Fifth and Fourteenth Amendments bar the government from torturing aliens³⁰ and from exposing detainees to inhumane and punitive conditions of confinement.³¹

Commentators have asserted that some courts have been overly deferential to the "plenary power" of the federal government's political branches. The plenary power doctrine seeks to ensure that the U.S. government preserves its right to self-determination concerning immigration matters. However, such deference to the political branches' claims of national interest should not, it has been argued, prohibit constitutional due process challenges by non-citizens who have suffered inhumane treatment while detained in the U.S. The federal government cannot legitimately claim that its national interest is advanced by the cruel treatment of detainees.³²



Sexual Abuse in Immigration Detention: The Reported Record

There is a considerable record of sexual abuse in U.S. immigration detention. The following survey of that record illustrates the variety of forms such abuse may take - from sexual harassment and coercion to instances of violent rape and sexual assault. This survey begins with a discussion of four of the detention sites that have experienced systemic problems with sexual abuse and then discusses other specific situations where problems have occurred. These reports underscore the need for the ICE to develop more substantive policies on preventing and responding to sexual abuse in detention.

Krome Detention Center

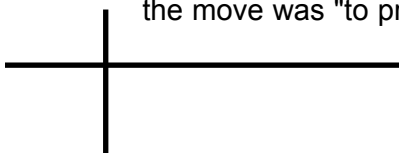
The Krome Avenue Detention Center in Miami, Florida is notorious for its abusive detention conditions. The center opened in 1980,³³ and detainees began to report rape by other detainees in 1983.³⁴ Other charges included one against an INS officer who reportedly sexually harassed a male detainee by making derogatory comments about his genitals to other detainees.³⁵

It was in 1990, however, when attention to Krome escalated in the wake of rape charges against INS officers by several Haitian women released from Krome. Cheryl Little, a lawyer at the Haitian Refugee Center, explained, "A lot of women at Krome don't feel they can question sexual demands by guards. Basically, they are at the mercy of their offenders."³⁶ The charges led to an investigation by the FBI, and in 1991 Miami Mayor Xavier Suarez joined other politicians and advocates in unsuccessfully calling for the closure of Krome due to the rampant abuse.³⁷

Still, officials were unresponsive to evident problems. One officer repeatedly entered a detainee's room at night and propositioned her. Despite her requests to be left alone, she would awaken to find him next to her bed. She reported the incidents to the Florida Immigration Advocacy Center (FIAC), which reported it to the INS. The officer who was assigned the investigation from the INS Office of Internal Audit told the FIAC that the woman "was just another person making false accusations against Immigration." No disciplinary action was taken, and when the incident was mentioned at a meeting with the FIAC, one supervisory official began to laugh.³⁸

In September 2000, the Department of Justice began another investigation into a new set of allegations made by women detained at Krome. Roughly ten percent of the female detainees came forward with complaints of sexual misconduct by INS officers, including sexual harassment, fondling during searches, and assault. Two women were impregnated by officers while at Krome.³⁹ The Women's Commission for Refugee Women and Children reported that some INS officers promised to release female detainees if they consented to sex, and others repeatedly threatened to deport women who refused sexual advances. Some of the officers who were targets of the 2000 investigation had been investigated in previous Justice Department probes.⁴⁰

In the fall of 2000, several of the women who had made allegations of sexual abuse were transferred from INS detention to a maximum security prison where they were placed in isolation (solitary confinement). Although isolation is a difficult-to-endure form of housing that was designed to punish inmates convicted of criminal offenses, the INS claimed that the purpose of the move was "to protect the detainees."⁴¹



Later that year, in another move to "protect" Krome detainees, the INS moved 90 women to a jail in Miami-Dade County, the Turner Guilford Knight Correctional Center (TGK).⁴² In a letter to Amnesty International, one detainee wrote, "We were moved [because] there was sexual harassment towards the female population and it was for our own protection. My question is whose protection?"⁴³

And yet, sexual harassment and abuse continued at TGK.⁴⁴ Just days after their arrival, reports emerged that one woman was followed into a room and fondled by a male prisoner,⁴⁵ and a male trustee⁴⁶ from the prison population exposed himself to female detainees.⁴⁷ Rather than placing restrictions on the movements of potential offenders within the facility, TGK responded to the situation by further restricting the women and placing them in lockdown whenever a man was in the cell unit.⁴⁸ The women housed at the prison also complained of frequent and unnecessary strip searches, with as many as four prison officials conducting a strip search of one person.⁴⁹

Two rapes were committed by an INS officer against Christina Madrazo, a pre-operative transgender detainee at Krome (see Case Study, right). Despite reports to the captain on duty, the center psychiatrist, and a visitor from the Mexican consulate after the first incident, the perpetrator was allowed back into her cell where he raped her again.⁵⁰

Varick Street Immigration Detention Center

Located in New York City, the Varick Street Immigration Detention Center opened in 1984 in response to a lawsuit alleging inhumane conditions at another INS facility. The American Civil Liberties Union and the New York Civil Liberties Union received similar complaints from detainees at the

Case Study: Christina Madrazo

Christina Madrazo, a Mexican national and a preoperative transsexual, was raped twice by a guard at Krome Detention Center in Miami, Florida. The officer who attacked her, Lemar Smith, was the same man responsible for bringing her meals and watching over her cellblock.

Madrazo was initially placed in solitary confinement when she arrived at Krome, because center officials were unsure whether to house her with men or women. She felt isolated and afraid of Smith, who was much larger than she was.

Smith attacked Madrazo in her cell, attempting to force her to perform oral sex on him. He then sodomized her until he heard another person approaching.^{C1}

"My fear was incredible," Madrazo recalls. "I didn't know if anybody would help me or protect me. Nobody had given me simple human treatment since they took me there."

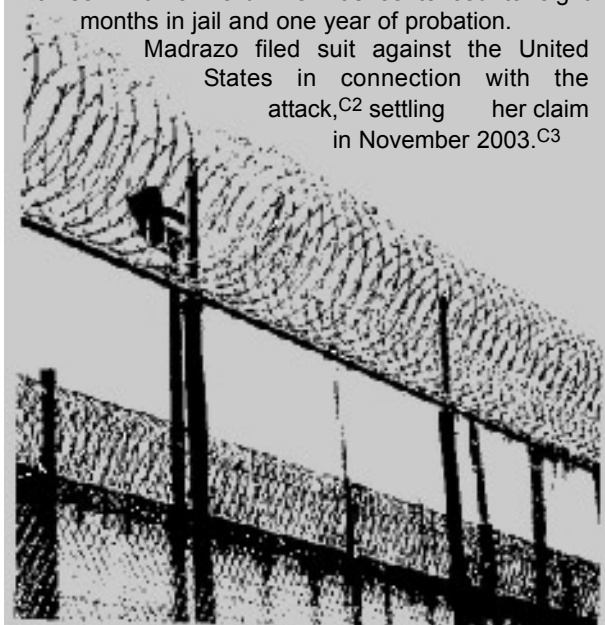
After speaking with a psychiatrist at the center and a visitor from the Mexican consulate, Madrazo decided to report the rape.

The night after she filed the report, Smith was allowed back into Madrazo's cell to serve her dinner. Later, he returned and raped her a second time.

"I wanted to scream, but I couldn't," Madrazo recalled. "He told me if I say anything, I'm gonna pay. I felt so angry, so impotent. He called me a bitch and said I deserved it, like he was glad."

Madrazo was sent to a psychiatric hospital for several weeks before being released from custody. One month after her release, Smith was indicted on two counts of felony rape and two counts of sex with a ward. He was sentenced to eight months in jail and one year of probation.

Madrazo filed suit against the United States in connection with the attack,^{C2} settling her claim in November 2003.^{C3}



new Varick Street facility a few years after it opened and launched a two-year investigation, culminating in the report, *Justice Detained: Conditions at the Varick Street Immigration Detention Center*.⁵¹

The report covered conditions at the detention center broadly and included incidents of sexual harassment. One male detainee reported that INS officers repeatedly exposed themselves to him when he was in solitary confinement.⁵² A female detainee reported being verbally and sexually harassed so badly that she requested to be placed in a segregation cell for her own protection.⁵³ The investigators also found that there were no shower curtains and that detainees had to walk through the showers to get to the toilets. As a result, detainees were often nude, in full view, and within reach of others.⁵⁴

Esmor Contract Detention Facility and Union County Jail

The INS contracted the privately-owned Esmor Corporation (now known as Corrections Service Corporation)⁵⁵ to run its 300-bed facility in Elizabeth, New Jersey in 1993.⁵⁶ The INS contracts gave Esmor control of medical care, food services, laundry services, and selection of staff to run

Officers at Esmor used strip searches along with taunts and sexual comments as a means of degrading detainees.

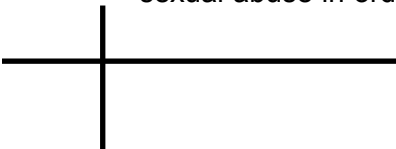
the facility and guard detainees. For several years, the INS left Esmor largely free from oversight.⁵⁷ Esmor went to great lengths to keep costs down and profits up, resulting in harmful, substandard conditions.⁵⁸ Officers at the understaffed⁵⁹ facility were often inadequately trained⁶⁰ and

insufficiently supervised.⁶¹ Described by one Congressional observer as the worst immigration detention center in the nation,⁶² Esmor's food was spoiled, its medical care was inadequate, and the cells smelled of human waste - while beatings were doled out to those who requested cleaning supplies.⁶³

Sexual abuse of detainees by officers was rampant. Strip searches were conducted arbitrarily.⁶⁴ Officers used these searches along with taunts and sexual comments as a means of degrading detainees.⁶⁵ After a riot at Esmor in June 1995 which forced the facility's closure, 25 detainees were transferred to the Union County Jail, where they faced physical and sexual assault at the hands of a group of two dozen officers.⁶⁶ The officers used pliers to remove a detainee's pubic hair during a strip search,⁶⁷ forced detainees to put their heads in toilets,⁶⁸ encouraged the detainees to engage in homosexual activity and to touch each others' genitals,⁶⁹ and forced detainees to kneel on the floor nude and chant, "American is number one."⁷⁰

Soon after the 1995 riot, the INS issued a report confirming detainee allegations of abuse and decided not to re-open the Esmor facility.⁷¹ Subsequently, several civil lawsuits were filed against Esmor and its employees,⁷² and criminal charges were filed against the corrections officers who attacked detainees in the Union County Jail.⁷³ Some of the officers involved in the case pled guilty to criminal abuse charges and received jail sentences.⁷⁴

In *Jama v. U.S. INS*, 20 asylum seekers who had been housed at Esmor sued over the sexual, physical, and mental abuses they suffered.⁷⁵ Detailed in the suit were accounts of officers pulling on the genitals of male detainees to inflict pain and of officers forcing detainees to submit to sexual abuse in order to have access to their lawyers.⁷⁶



Port Isabel Service Processing Center

Pervasive sexual abuse and sexual harassment of detainees at the Port Isabel Service Processing Center in Los Fresnos, Texas is extensively described in Tony Hefner's 2002 book, *Between the Fences: Inside a U.S. Immigration Camp*. Employed by a private security service, Hefner worked as a security guard at the camp. Between the late 1980s and 1990, he encountered a wide range of abusive situations including: (1) the rape by detention officers of a mentally ill Mexican detainee,⁷⁷ (2) the attempted rape of a juvenile detainee by other detainees,⁷⁸ and (3) numerous instances of detention officers trading favors and privileges for sex with detainees or coercing detainees into sex.⁷⁹ Some of the individuals involved in sexually abusing detainees neither lost their employment nor faced criminal charges despite numerous attempts by Hefner and others to expose the abuse.⁸⁰

Other Sexual Abuse in Immigration Detention Centers

Though the cases described above are some of the most prominent examples of facility-wide abuse, many other detainees have experienced similar human rights violations in detention. The Lesbian and Gay Immigration Rights Task Force reported that in one facility a gay Colombian man was repeatedly raped by other detainees.⁸¹

In January 2004, a naturalized American doctor reported having been sodomized with the handle of a toilet plunger by detention officers when he was mistakenly detained in 2002 through a paperwork error. After the incident, the doctor said immigration officers promised to make his life "a living hell" if he reported what happened.⁸²

A detainee in the Wicomico County

Case Study: Aminata

Senegalese national Aminata^{C4} was detained at Washington Dulles Airport in November 2003 on the way to visit her husband. Though she had a valid visa, immigration officials decided that she looked like a male terrorist dressed as a woman.

Aminata was forced to submit to a strip search. Her breasts and genitals were groped by female detention officers in what was characterized as an attempt to determine her gender.

A volunteer attorney who spoke with Aminata after the incident reported that the woman is petite, with long, braided hair. "Having seen her for myself," the attorney said, "I can honestly say that in my opinion she looked nothing like a man."^{C5}



Case Study: Fadjar

Fadjar,^{C6} a gay Indonesian male, was sexually harassed and singled out because of his sexuality while being detained at the El Paso Service Processing Center in El Paso, Texas, where he was awaiting a decision on his application for asylum.

Fadjar was told by officers at the processing center to "walk straight" because "this is not a beauty salon, but a jail."

Officers on multiple occasions called Fadjar "puto," a pejorative Spanish slang term.

He was also sexually badgered by an officer. The officer, Pedro Rodriguez, spoke to Fadjar as Fadjar was walking from the cafeteria to his barracks, saying "Hey Puto, how much for a blow job?"^{C7}

Detention Center in Salisbury, Maryland, had trouble understanding the questions posed by the INS officials who processed her and mistakenly conveyed that she was suicidal. She was placed in an isolation cell without clothes, underwear, shoes, a toothbrush, or soap for five days.⁸³ In a letter she wrote to the Women's Commission for Refugee Women and Children, she stated, "A dog has more value than us immigrants who are in this prison."⁸⁴

Sexual Abuse Outside of Detention Centers

The Immigration Law Enforcement Monitoring Project monitors the actions of the Border Patrol and detention enforcement officials. In 1997, 13.3% of the cases they monitored involved improper search tactics, including strip searches conducted without reasonable suspicion.⁸⁵

In some cases, abuse by Border Patrol agents has been more severe. In August 2000, Border Patrol Agent Matthew J. Hemmer was arrested on charges of kidnapping and sexually assaulting an undocumented woman in Arizona before allowing her to return to Mexico. He pled guilty to charges of aggravated assault and was sentenced to 3 years' probation.⁸⁶ In April 2002, Border Patrol Agent Dennis Johnson was sentenced to seven years in prison for kidnapping and sexually assaulting a female El Salvadoran immigrant in the Arizona desert.⁸⁷

Due to overcrowding in immigration detention facilities, some detainees are housed in prisons or local jails where sexual abuse can also occur. In 2000, female detainees housed at the Hillsborough County Jail in New Hampshire were reportedly sexually abused by some of the facility's officers. In the wake of the incidents, over 250 detainees were removed from the jail to protect their safety.⁸⁸



In September 2003, a 21-year-old Turkish female detainee was raped by an ICE agent in an Arkansas motel. The agent, who was supposed to have taken the detainee to the doctor, was subsequently arrested and charged with felony sexual assault.⁸⁹

Other incidents in prisons and jails have included the creation of a sexually uncomfortable or threatening climate for detainees. Amnesty International reported that a female detainee held in a county jail was forced to sleep on the floor for two months, where she feared sexual assault by those held in the jail for criminal purposes.⁹⁰ According to the Women's Commission for Refugee Women and Children, female detainees held in the York County Prison in Pennsylvania reported frequent and unnecessary pat downs and strip searches.⁹¹ Finally, women detained by the INS at the Piedmont Regional Jail were forced to stand before a video camera and strip, while male officers outside the cellblock watched the video feed.⁹²

Minors in Immigration Custody

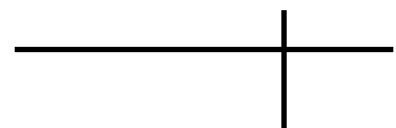
Like their adult counterparts, juveniles in detention face a wide range of abuse, and juveniles are particularly vulnerable to abuse in situations where they do not have an adult to supervise them or advocate on their behalf. In 2001, for example, 5,385 children were detained in the U.S. because they arrived without a parent or guardian and without the appropriate documentation.⁹³

In June 2003, Amnesty International's report, *Why Am I Here? Children in Immigration Detention*, noted that 61 percent of the secure detention facilities that were surveyed for the report used strip-searches on the children in their care.⁹⁴ The report also documented instances of problematic cross-gender guarding of juvenile detainees, including a San Diego facility that permitted male guards to view a girls' toilet and shower area through a nearby glass window.⁹⁵

Other groups have reported abuses as well. The Immigration Law Enforcement Monitoring Project reported that a 16-year-old girl held in a Corpus Christi, Texas detention center was molested by Border Patrol agents who put their hands inside her bra and pants. Her cellmate reported similar abuse.⁹⁶ According to Human Rights Watch, children at the Berks County Youth Center in Leesport, Pennsylvania are strip searched by officers,⁹⁷ are forced to use toilet stalls with no doors, and are supervised by staff in the showers.⁹⁸

In the 1997 case *U.S. v. Akram*, Ali Akram, a detention officer at the Travelers' and Immigrant Aid Center juvenile detention facility in Chicago fondled the breasts and genitals of a 15-year-old detainee,⁹⁹ and attempted to coerce a 17-year-old detainee into performing sex acts with him.¹⁰⁰ The girls spoke only Hindi, and Akram, who also spoke Hindi, used their dependence on his translation skills to take advantage of them. Akram used promises of marriage and threats of deportation in an attempt to persuade the older girl into complying with his demands.¹⁰¹

Akram was charged with five counts of abusive sexual contact. Despite videotape evidence of Akram moving his arms around the bedclothes of the older girl during a night visit to her room, a jury acquitted Akram of three charges and was unable to reach a verdict on the remaining two. Akram was subsequently convicted of perjury for giving false testimony during his trial, including lying about his motive for entering the older girl's room.¹⁰²



SPR's Investigation And Stonewalling by Immigration Officials

In an effort to better understand conditions in detention facilities for the purpose of compiling this report, SPR made a concerted attempt to visit immigration detention facilities throughout Southern California. SPR hoped to speak with immigration officials and detainees about their perspective on the problem of sexual assault and to get an understanding of what steps facilities have taken to ensure detainee safety.

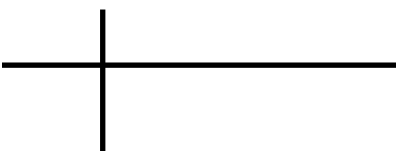
The results of these outreach efforts were distressing. Of the eight facilities SPR contacted, only three - the Casa de San Juan and Casa San Diego juvenile facilities in San Diego and the Mira Loma Contract Detention Facility in Lancaster - allowed site visits, and those visits were restricted to meetings with staff. Despite repeated requests, SPR was not allowed to speak with any detainees in the course of the three site visits.

In the majority of the cases, even this low level of access was denied. Institutions that refused to allow a visit of any sort included:

- The San Pedro Service Processing Center, San Pedro
- The El Centro Service Processing Center, El Centro
- The contract detention facility run by the Corrections Corporation of America, San Diego
- Los Padrinos Juvenile Hall, Downey
- Central Juvenile Hall, Los Angeles

Officials in several cases cited increased security regulations, connected with the terrorist attacks of September 11, 2001, as a factor in turning down SPR's request to make a site visit. Officials at the INS District Office in Los Angeles, however, told SPR that they were simply not comfortable with this type of visit,¹⁰³ and the INS District Office in San Diego stated, "As a result of the responsibility the visit would require in ensuring the safety and security of the . . . researchers . . . it has been determined that your request, unfortunately, cannot be approved."¹⁰⁴

Regardless of the rhetoric used to justify such restrictions, the hostility of immigration officials toward even a modest degree of outside observation is troubling. In several of the documented cases of egregious abuse toward detainees, isolation and lack of accountability at detention facilities has been a factor contributing to the breakdown of responsibility. Investigators into the Esmor detention facility fiasco in New Jersey, for example, pointed out that Esmor administrator Willard Stovall frequently referred to his facility as "my house," and was hostile toward suggestions of outside monitoring or oversight.¹⁰⁵ The results of the insular climate that developed at that particular center - abuse of detainees, rioting, the criminal conviction of guards, and the closure of Esmor - should be instructive to any responsible detention facility administrator.



Weaknesses in ICE Standards

The documented sexual abuse of immigration detainees, like the abuse of individuals in jails and prisons, has taken place in part because laws and policies for preventing this type of human rights abuse have been lacking. U.S. Immigration and Customs Enforcement, which oversees standards for detention facilities, uses an operations manual that makes only passing reference to sexual assault and includes no information on appropriate classification of detainees, proper medical and psychological treatment of sexual assault victims, screening of employees, or other important elements of a thoughtful policy on sexual assault. Given the reported record of abuse in immigration detention facilities, Stop Prisoner Rape believes it is essential for the ICE to make substantive improvements to its policies in this area.

Understanding the Regulatory Framework

The set of regulations which governs conditions in ICE detention varies by facility. Though the ICE maintains standards for its own detention centers,¹⁰⁶ additional state and local standards may apply if another municipal or private agency is the operator of a facility.

The ICE has long used the standards established by the American Correctional Association (ACA), which govern topics such as recreation, grievance procedures, and capacity, as "the benchmark for its facilities."¹⁰⁷ And, the ICE urges its service processing centers and contract detention facilities to seek accreditation from the ACA.¹⁰⁸ Critics have asserted, however, that the ACA standards, designed for prison inmates, are not appropriate for ICE detainees, many of whom have not been charged with any crime, and some of whom are seeking asylum from persecution abroad.¹⁰⁹

When the ICE contracts with another agency for the operation of a detention center, state and local laws add another layer of regulation. For example, the Mira Loma Detention Center in Lancaster, California is a contract detention facility operated by the Los Angeles County Sheriff's Department and it therefore must comply with the ICE standards.

In addition, Mira Loma must comply with the "minimum standards" set forth in Title 15 of the California Code of Regulations, which applies to all public or private local detention facilities for adults.¹¹⁰ Title 15 also codifies the California Penal Code, rendering relevant sections of the Penal Code applicable to institutions run by corrections agencies.¹¹¹ Mira Loma must therefore comply with all of the above standards.

Finally, some ICE detention centers are run by private, for-profit corporations such as Wackenhut and the Corrections Corporation of America. These corporations maintain that they impose their own corporate standards in addition to those imposed by law.¹¹²

ICE Detention Standards: The Detention Operations Manual

The Detention Operations Manual, originally published by the INS in November of 2000, is described as the document that "establishes uniform policies and procedures for the safe, secure and humane treatment of foreign nationals in INS custody."¹¹³ Though the manual makes mention of the potential existence of sexual assault in detention, it fails to deal with the issue in

Case Study: Bernadette

Bernadette,^{C8} a Haitian immigrant, lived in the United States since she was a child. After a criminal conviction, she was scheduled to be deported to Haiti and was being held at Krome Detention Center in Miami, Florida.

At the detention center, an officer pressured Bernadette for sex. At first, Bernadette said she would cooperate with the officer, but she later changed her mind and resisted his advances. The officer, angered by her resistance, grabbed Bernadette by the throat and shoved her against a wall.

After this, the officer began to call Bernadette derogatory names, including "whore." Another officer, who had also unsuccessfully pressured Bernadette for sex, repeatedly called her "lollipop," a term intended to suggest that Bernadette was a lesbian.

The abuse culminated with an incident in a bathroom at the center, where a male officer ordered Bernadette to take off her shirt and bra, fondled her, and masturbated in front of her and another detainee. The officer also forced the second detainee to perform a lap dance, giving money to both women.

"The whole thing made me feel dirty," Bernadette recalled. "I had to see this guy every day."^{C9}



a substantive and comprehensive manner. Compared to the standards recently developed by other federal agencies, such as the Federal Bureau of Prisons and the National Institute of Corrections, and even in comparison to standards developed by some state and local agencies,¹¹⁴ the ICE's treatment of this important issue is outdated and cursory.

The following is a description of the basic components of the Detention Operations Manual, with a discussion (in bold type) of specific areas where the consideration of sexual assault should be included.

A. Detainee Handbook

Under the terms of the Detention Operations Manual, every ICE facility is required to provide a handbook which spells out the policies of the facility, offers information on service providers, and describes programs for each detainee upon admission.¹¹⁵ The handbook must list detainee rights and responsibilities, list and classify prohibited actions and behaviors, describe disciplinary procedures and sanctions, and outline grievance and appeal procedures.¹¹⁶

The manual also contains a sample detainee handbook¹¹⁷ that lists six items that must be included in reference to grievances, such as a policy against retribution or retaliation for filing legitimate complaints, and an address for sending complaints of officer misconduct to the Department of Justice.¹¹⁸

The detainee handbook is an ideal place to familiarize detainees with the risk of sexual assault and the avenues for responding to threats or attacks. This approach is followed by institutions such as the Federal Bureau of Prisons¹¹⁹ and the California Department of Corrections.¹²⁰ The ICE guidelines, however, fail to suggest that sexual abuse should be included in the handbook, and the sample handbook is silent on the topic.¹²¹

B. Classification System

The ICE Detention Operations Manual states that detainees should be given different classifications, based on a review of the detainees' records, using only objective information.¹²² Housing is segregated based on these classifications, and no detainee with "a history of assaultive or combative behavior" is to be housed with a detainee in the lowest risk classification.¹²³ Similarly, any detainees that "pose an immediate and serious threat of violence to staff or other detainees" shall be housed in one-person cells if the facility is so equipped.¹²⁴

The manual's approach to classification does not take into consideration factors that contribute to a risk of being sexually victimized. Research shows that victims of sexual assault in detention are often physically small, nonviolent offenders who are unfamiliar with life in detention. Men who are gay, transgender, or effeminate (or are perceived to be so) are at increased risk for victimization.¹²⁵ Young and mentally ill women are also particularly vulnerable.¹²⁶ Appropriate classification of potential victims has been characterized by one state corrections department as possibly "the most effective method of preventing sexual victimization available to correctional personnel."¹²⁷ A classification and housing approach that takes into account a detainee's history (if any) of sexual predation will also improve facility safety.

C. Administrative Segregation

The manual defines "administrative segregation" as a "non-punitive form of separation from the general population used when the continued presence of the detainee in the general population would pose a threat to self, staff, other detainees, property, or the security or orderly operation

Case Study: Eddie Pierre Paul

At Krome Detention Center, Eddy Pierre Paul was awaiting deportation to Haiti for a drug conviction.

While being held at Krome, Paul met a computer analyst who worked at the center. The analyst gave Paul a piece of candy and asked him to expose himself, a request Paul rejected.

Later, though, the analyst asked Paul to come to the bathroom with him. Paul agreed, allowing the analyst to perform oral sex on him.

Paul explained that he engaged in the act because he hoped the analyst would be able to influence his deportation officer.

"I had let him . . . out of sheer desperation," Paul recalled. "I thought that by giving him this sexual favor he would do something for my case as he had promised."

"I was so ashamed and disgusted with myself," Paul recalled.^{C10}



of the facility."¹²⁸ One form of administrative segregation is protective custody (PC), which may be initiated at a detainee's request or may be ordered to protect a detainee from harm.¹²⁹

The manual requires that detainees in administrative segregation receive "the same general privileges as detainees in the general population," taking into account the resources and security of the facility.¹³⁰

The standards do not explicitly prohibit sexual contact between ICE officials and detainees.

Examples of detainees who require protection include: "[v]ictims of detainee assaults," "[d]etainees who appear to be in danger of bodily harm," and "[d]etainees who have been pressured by other detainees to participate in sexual activity."¹³¹

SPR disagrees with the policy of placing victims of sexual assault in segregation unless the victim himself or herself requests it. Isolation following an assault can be extremely difficult to endure. It effectively punishes victims and discourages reports of abuse. Alternatives to segregation, such as moving a suspected aggressor to another housing area, are far less likely to have a chilling effect on the reporting of abuse.

D. Disciplinary Policy

Prohibited acts, sanctions, and the "disciplinary severity scale" are to be posted in "English, Spanish, and/or other languages spoken by significant numbers of detainees."¹³² The disciplinary severity scale sets up the following categories for offenses committed inside detention: greatest, high, high moderate, and low moderate.¹³³ Offenses relating to sexual assault include: "[a]ssaulting any person (includes sexual assault),"¹³⁴ "[e]ngaging in sexual acts," "[m]aking sexual proposals or threats,"¹³⁵ "[i]ndecent exposure,"¹³⁶ and "[u]sing abusive or obscene language."¹³⁷

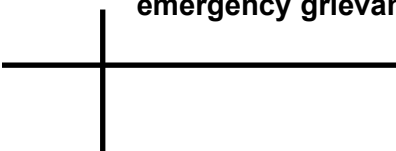
The manual does not explicitly prohibit sexual contact between ICE staff members and detainees and fails to state that officer-detainee sexual contact is never appropriate, even if both parties consider such contact "consensual."

E. Detainee Grievance Procedures

The manual establishes that each facility must develop its own system for detainee grievances, to include both informal (oral) and formal (written) grievances.¹³⁸ The procedures must set reasonable time limits for each stage of the process, provide for emergency grievances, and "include guarantees against reprisal."¹³⁹ The manual asserts that, "[s]taff will not harass, discipline, punish, or otherwise retaliate against a detainee lodging a complaint."¹⁴⁰

Each facility must establish a method of documenting grievances, using, at minimum, a detainee grievance log. Copies of all grievances are placed in the complaining detainee's detention file.¹⁴¹

The manual does not give requirements for processing emergency grievances or explicitly state that sexual assaults or threats should be considered matters for emergency grievance.



F. Medical Care

The manual lays out the minimum requirements for medical care facilities, detailing such issues as the storing of pharmaceuticals,¹⁴² confidentiality and release of medical records,¹⁴³ and emergency care.¹⁴⁴

Under the manual's standards, a four-minute response time is mandated for health-related emergencies that can be handled through established facility procedures.¹⁴⁵

The manual fails to explicitly prescribe medical treatment procedures in the case of sexual assault. The manual does not require the provision of emergency contraception, pregnancy tests, HIV prophylaxis, and HIV tests when necessary. Procedures are not specified for the collection of forensic evidence in a rape kit or for making an official report of the assault.¹⁴⁶

G. Suicide Prevention and Intervention

The manual requires staff training on the recognition of suicidal risk factors and behavior.¹⁴⁷ Staff must refer detainees at risk for suicide to the medical staff for evaluation.¹⁴⁸

The manual fails to state that sexual abuse may be a factor contributing to the condition of suicidal inmates. The manual does not direct health care and mental health practitioners to ask clear, direct questions about the possibility of sexual assault.

H. Hold Rooms and Searches

Hold rooms are used for the "temporary detention of individuals awaiting removal, transfer, EOIR hearings, medical treatment, intra-facility movement, or other processing

Case Study: Rev. McGrail/Joyce Phipps

At the Esmor INS detention center, Rev. Martin McGrail, the facility's chaplain, saw a guard "having sex with and physically assaulting inmates." On one occasion, McGrail forced himself past a guard into a room at the facility and saw another male guard having sex with a detainee.^{C11}

Joyce Phipps, a Seton Hall law professor, represented about two dozen detainees from the Esmor INS detention center in a lawsuit. She said there was an awareness among INS officials of Esmor's problems.

"But along the way, many people who could have intervened didn't, . . . not the on-site monitors, not the local INS district office, not INS higher-ups who had many indications that things were amiss," Phipps said.

"Much of the treatment (of detainees) that was immediately objectionable to outsiders was known to the INS, but they just looked the other way."^{C12}



Case Study: Saeed Kangarlou

Saeed Kangarlou, an Iranian citizen, was subjected to unwanted sexual advances while being detained at the El Centro Service Processing Center.

Kangarlou was taken into custody after a dispute over payment for a rental car. A Los Angeles resident, he was shuttled between immigration facilities in San Diego, El Centro, and San Ysidro, with each move requiring a new strip and cavity search.^{C13}

At the El Centro facility, Kangarlou visited the medical clinic because of a heart condition. Inside the clinic, the doctor who treated him touched him on the buttocks and told him to "take care." The doctor also "rubbed himself" against Kangarlou's hand. Other detainees had similar experiences with the doctor, Kangarlou learned.

Kangarlou reported his concerns about the doctor, but he received no response. Instead, Kangarlou said, the confidentiality of his report regarding the doctor was violated.

Unable to resolve the problem with the El Centro physician, Kangarlou decided to avoid receiving medical treatment. His physical condition deteriorated as a result.^{C14}

into or out of the facility."¹⁴⁹ The section of the manual governing hold rooms lays out the ICE guidelines for conducting strip searches and pat searches.

The manual requires that every detainee is pat searched for contraband and weapons prior to placement in a hold room.¹⁵⁰ The manual further dictates that, "[w]here operationally feasible, an officer of the same sex as the detainee shall perform the patdown search." If the patdown search indicates the need for a more thorough search, an extended search (i.e., a strip search) shall be conducted. This must be performed by an officer of the same sex as the detainee, in the presence of another officer of the same sex.¹⁵¹ Additional instructions concerning the conduct of detainee searches were stalled in committee and have not been issued.¹⁵²

The manual fails to explicitly prohibit inappropriate physical contact in connection with pat and strip searches. The manual does not state that invasive searching should be used only when absolutely necessary and should not be used as a method of disciplining or humiliating detainees.

Taken as a whole, the Detention Operations Manual is sorely lacking in specific detail on sexual assault and is out of step with standards that are in place at some national, state, and local agencies. The unfocused nature of the language that does address sexual assault and the numerous areas in which important details are missing altogether contribute to a policy that treats the abuse of detainees as an afterthought. Given the progress that other agencies have made in this area, the ICE standards are in need of an update. And, as evidenced by the documented history of abuse in detention facilities, this update is long overdue.



Overview

Of Better Policies on Sexual Assault

The issue of sexual abuse in immigration detention centers has been neglected as a matter of federal policy. In contrast, while sexual abuse in U.S. prisons remains a tremendous problem, some important steps toward dealing with the issue have been made in recent years. The most significant example of this progress is the federal Prison Rape Elimination Act, signed into law on September 4, 2003. The law calls for an unprecedented nationwide survey of the incidence of sexual assault behind bars, the creation of a federal commission to develop new standards for addressing the problem, annual hearings on state performance, and \$40 million in annual funding for programs to address the abuse.¹⁵³ Other important federal-level progress includes the creation of a Federal Bureau of Prisons offender orientation guide on the issue of sexual assault¹⁵⁴ and the National Institute of Corrections' development of a comprehensive training curriculum on staff sexual misconduct.¹⁵⁵

The recent development of policies on sexual assault by some government agencies is part of the growing national awareness of the importance of preventing rape and abuse in detention. Individuals on all sides of the political spectrum have begun to agree that the United States' longstanding tolerance of such abuse is inhumane, counterproductive to justice, and dangerous to society.

The American Correctional Association, the agency whose standards the ICE views as a "benchmark for its facilities,"¹⁵⁶ has also made progress on this issue. The most recent edition of the ACA's standards was revised in 2003 to include language on:

- Screening inmates for potential vulnerability to sexually aggressive behavior or the tendency to act in a sexually aggressive manner;
- The need to investigate and document reports of sexual assaults or threats;
- The need to provide mental health assessment, monitoring, and counseling to inmates with a history of sexually assaultive behavior;
- The need to provide mental health assessment, monitoring and counseling to inmates who are at risk for sexual victimization;
- Prohibiting sexual conduct between inmates and staff, volunteers, and contract personnel, and excluding allowances for "consensual" encounters;
- Procedures for appropriate medical and psychological treatment of sexual assault victims;
- Allowing inmates to report sexual assault to a staff member other than an immediate point-of-contact line officer; and
- Appropriate retention of records related to reports of sexual assault.¹⁵⁷

The ACA standards also address body cavity searches for the purpose of controlling contraband.¹⁵⁸ Such searches must be "conducted only when there is reason to do so and when authorized by the facility administrator or designee. The inspection is [to be] conducted in private by health care personnel or correctional personnel trained by health care personnel."¹⁵⁹

Visual body cavity inspections must be "conducted based on a reasonable belief that the inmate is carrying contraband or other prohibited material. The inspection is [to be] conducted by trained staff in private."¹⁶⁰ Such visual searches must be conducted by officers of the same sex, except in emergency situations.¹⁶¹

The ACA's general standards for the preservation of evidence also require all facilities to have a written policy in place to ensure that physical evidence obtained in connection with a violation of laws or institutional regulations is properly preserved. These policies must include a chain of command, procedures for evidence handling, and location and storage requirements.¹⁶² This standard can facilitate more effective investigations in cases of sexual assault.

In contrast to these policies, the ICE's Detention Operations Manual represents a distressing example of institutional indifference toward the potential for sexual misconduct and abuse. As illustrated by the weaknesses outlined in the previous section, the manual's treatment of sexual assault is little more than an afterthought. The short shrift given to the problem sends the unfortunate message that the ICE does not take the risk of abuse seriously. With reports of rape and sexual assault of detainees continuing to surface, it is time for the ICE to make revisions in its procedures.

While written policies are only part of the solution to sexual abuse in detention, they are an important tool for setting an institutional tone of seriousness and forethought. SPR recommends that the ICE takes steps to combat sexual abuse in detention by enacting guidelines designed to effectively address this problem.

SPR's Recommended Policies to Address Sexual Abuse in Detention

Staff

- Hiring requirements must include extensive background checks of all employees. No individual convicted of a sex offense, nor any individual who has been fired or has resigned from a job as a corrections or immigration employee pursuant to allegations of sexual misconduct, should be hired.
- Thorough training about preventing and responding to sexual abuse for all current and future staff members, including regular, periodic updates, must be required.
- Administrators should reward employees for taking clear action to prevent and punish sexual assault and misconduct and sanction those who do not.
- Any employee who has sexually assaulted a detainee, engaged in sexual misconduct with a detainee, or exhibited deliberate indifference to the sexual abuse of a detainee by another individual should be terminated. Administrators should report criminal sexual abuse to law enforcement authorities.



- At least one female officer per shift should be assigned to any area where female detainees are located. Cross-gender pat and strip searches and cross-gender guarding of detainees during situations of undress should be eliminated.
- The above requirements must apply to all employees, including contract employees, healthcare professionals, and any others who have contact with immigration detainees, on or off of the detention facility grounds.

Investigative Procedures

- Grievance and investigatory procedures should be accessible and effective, and such procedures should ensure privacy and confidentiality.
- Procedures should allow for grievances against any staff member as well as against another detainee.
- Multiple avenues of complaint should exist so that detainees are not made to report grievances to an abusing staff member.
- Measures should be implemented to protect those who have made complaints of sexual abuse from retaliation by officers or other detainees.

Case Study: Yudaya Nanyonga

Yudaya Nanyonga, a Ugandan national, was sent to Pennsylvania's York County Prison when she came to the United States seeking asylum. Nanyonga fled her home country to escape the rape and violence she had been subjected to by individuals affiliated with the Ugandan government.

At the York County Prison, Nanyonga was transferred to the maximum security wing, where violent prisoners were kept. The 20-year-old woman, still coping with the trauma she experienced in Uganda, broke down after the transfer, according to Amnesty International, and "grieved inconsolably."

Officers responded to Nanyonga's sorrow with a "Quick Response Team," which included four men, three of whom wore riot gear. The officers stripped Nanyonga, tied her naked and spread-eagled to a cot and injected her with sedatives. She remained shackled to the cot for two days.^{C15}



- The response to charges of sexual abuse should not directly or indirectly punish individuals who make complaints. In particular, the frequent practice of forcibly segregating those who report abuse should be reexamined.
- A standard procedure for investigations of sexual assault should include forensic rape kits, questioning of suspects and witnesses, and gathering of other relevant evidence.
- If sexual assault victims are treated outside of the detention facility, the victim should not be handcuffed or shackled while in transit or while at the hospital. Hospital staff and rape crisis center representatives should be allowed to consult with the victim in private.

Detainee Handbook

The handbook issued to all incoming detainees should address sexual abuse, including the following elements:

- An assertion of the detainee's right to be free from sexual assault, sexual coercion, and sexual harassment, and the facility's express prohibition of such acts.
- A definition, using clear, frank language, of sexual abuse, including the indicators of inappropriate staff/detainee relationships.
- A clear statement explaining that staff do not have the authority to make decisions concerning the detainee's ability to remain in the United States.
- A description of emergency medical procedures for sexual assault incidents, including the importance of timely reporting and refraining from showering after an assault.
- Information about the availability of confidential mental health counseling following sexual abuse.
- Information about how to make private calls or send confidential mail.
- A list of service organizations and information on free access (e.g., phone, mail) to these organizations.
- A clear explanation of the steps the detainee must take to file a grievance.
- A list of names to whom detainees can directly report incidences of sexual abuse. The people whose names are on this list should all have received training in sexual abuse counseling.



- An explanation that the normal chain of command can be breached for this type of reporting.
- An assurance that the initial report will be confidential and that the detainee will be informed of further action to be taken in response to the grievance.
- An assurance that victims of sexual assault will not be retaliated against for coming forward.
- Information about requesting to be housed in or out of segregation.
- An outline of the appeal process and an explanation of how the detainee will know that internal remedies have been exhausted.

Detainee Safety

- The safety of a victim of sexual assault must immediately be ensured.
- Outside of the forensic component of medical care, survivors of assault must be provided with adequate physical and mental healthcare follow-up.
- Detainees who are repeatedly abused should be provided with the safest possible housing options.
- Blind spots in detainees' environment and living quarters should be eliminated, and officers should make regular night patrols to ensure detainee safety.
- Detainees should have regular, private access to telephones and mail.
- Detainees who become pregnant must not be subject automatically to segregation. Pregnant women must be given the choice whether to keep or terminate their pregnancies.

Facility Assessment

- The ICE should keep statistics on sexual abuse of detainees.
- Annual reviews should be conducted into facility conditions by an independent review board. These reviews should include confidential interviews with detainees and a review of detainee grievances.
- Independent monitoring and watchdog groups should be allowed to enter the facilities and to have access to detainees.
- Officials with the federal Bureau of Justice Statistics have expressed a



Case Study: Fauziya Kassindja

Fauziya Kassindja left her native country of Togo at the age of 17, hoping to escape Togo's female genital mutilation practices by seeking political asylum in the United States. When she arrived in this country, she was taken to the Esmor detention facility.

At Esmor, Kassindja was subjected to a laundry list of abuses, including being beaten and shackled; being denied sanitary napkins; being forced to stand naked for long periods of time; and being arbitrarily strip and cavity searched.^{C16}

After a riot at Esmor, Kassindja was transferred to York County Prison in York, Pennsylvania. There, the strip searches and degradation continued.

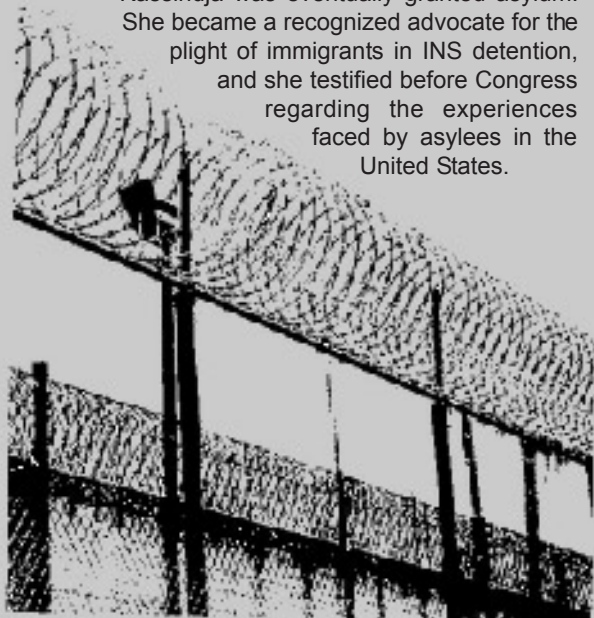
Kassindja also endured sexual pressure from York prison inmates. She recalls that a York inmate walked into her cell as she was eating an apple.^{C17} "You either give me the apple or you sleep with me," the inmate said. "Which is it?"

"Sleep with her?" Kassindja remembers wondering. "What was she talking about? Sleep in her cell? Sleep in her - and then it clicked. Sleep with her. She meant to have sex. I'd heard that expression on TV at Esmor. I'd heard it applied to women at Esmor too. Once some of the Ghanaian women in N dorm were gossiping about one of the female guards 'sleeping with' one of the female refugees. I hadn't heard of such a thing. I'd heard of men being with men, but I'd never heard of women being with women."

Kassindja gave her apple to the inmate to defuse the tense situation.

Kassindja was eventually granted asylum.

She became a recognized advocate for the plight of immigrants in INS detention, and she testified before Congress regarding the experiences faced by asylees in the United States.



commitment to including immigration detention facilities in the nationwide research on sexual abuse in detention called for in the Prison Rape Elimination Act.¹⁶³ The ICE should cooperate fully with this inquiry.

Mental Health

- Mental health staff members should be notified when a sexual abuse incident has been reported.
- Survivors of abuse should be seen by professional mental health staff within 24 hours of the incident.
- Ongoing, confidential psychological treatment should be provided as the survivor recovers from the trauma.
- Proper records and documentation of the treatment should be kept.
- Referrals to community mental health resources should be provided to victims upon their release from custody.

Conclusion

Stop Prisoner Rape expresses its hope that this report will encourage substantive policy progress on a human rights abuse that has long been neglected and that has needlessly victimized a vulnerable population.

As this report stresses, some government agencies have begun to make efforts to address the issue of sexual assault in detention, a change that should encourage the ICE to follow suit. Detailed in this report is evidence that sexual abuse in detention is a significant problem, that external monitoring of conditions in detention is very limited, and that the ICE's own regulations relating to sexual abuse are inadequate in a number of critical ways. The concrete policy suggestions described in these pages can serve as a road map toward improving those inadequacies and creating safer, more humane conditions for detainees.

Additionally, SPR expresses its hope that this report will encourage greater openness on the part of immigration officials in allowing access to detainees. Post-September 11 security concerns should not be exploited indefinitely to avoid independent scrutiny of serious human rights abuses or to continually bar access to public facilities in the manner that SPR encountered in compiling this report. The second of the three "core values" the ICE lists on its web page is the courage to "be accountable for our actions; we will do the right thing even when it is not the easy thing."¹⁶⁴ An atmosphere of transparency and candor is an essential component of making an earnest commitment to that accountability.



Notes

- ¹ *An Overview of Asylum Policy: Hearing before the Senate Subcomm. on Immigration, Senate Comm. of the Judiciary*, 107th Cong. (2001) (statement of Wendy Young, Dir. of Gov't Relations, Women's Commission for Refugee Women and Children, Detention and Asylum Project) [hereinafter *Overview*]; U.S. DEPARTMENT OF HOMELAND SECURITY, 2002 YEARBOOK OF IMMIGRATION STATISTICS 175 (2002) at <http://uscis.gov/graphics/shared/aboutus/statistics/ENF2002.pdf> (last visited April 20, 2004) (noting that the INS detained "approximately 202,000 aliens during fiscal year 2002").
- ² See, e.g., *INS Officer Charged with Sexual Assault*, 5 NEWS ONLINE.COM, Sept. 24, 2003, at <http://www.spr.org/en/news/2003/0924-2.html> (last visited Feb. 24, 2004); Alisa Solomon, *The Gatekeeper: Watch on the INS. Nightmare in Miami*, THE VILLAGE VOICE, Mar. 20-26, 2002.
- ³ See, e.g., *Jama v. U.S. INS*, 22 F.Supp.2d 353, 358 (1998 U.S. Dist.).
- ⁴ See, e.g., *U.S. v. Akram*, 152 F.3d 698, 699 (1998).
- ⁵ See, e.g., Jo Becker and Michael Bochenek, HUMAN RIGHTS WATCH, DETAINED AND DEPRIVED OF RIGHTS: CHILDREN IN THE CUSTODY OF THE U.S. IMMIGRATION AND NATURALIZATION SERVICE (Dec. 1998), available at <http://www.hrw.org/reports98/ins2/berk98d.htm>; AMNESTY INTERNATIONAL, WHY AM I HERE? CHILDREN IN IMMIGRATION DETENTION (June 16, 2003) [hereinafter *WHY AM I HERE?*].
- ⁶ See, e.g., FLORIDA IMMIGRANT ADVOCACY CENTER, KROME'S INVISIBLE PRISONERS: CYCLES OF ABUSE AND NEGLECT 144 (1996) [hereinafter *INVISIBLE PRISONERS*]; WOMEN'S COMMISSION FOR REFUGEE WOMEN AND CHILDREN, BEHIND LOCKED DOORS: ABUSE OF REFUGEE WOMEN AT KROME 11 (Oct. 2000) [hereinafter *WOMEN'S COMMISSION*].
- ⁷ See, e.g., Nate Seltzer, *Persistent Impunity, Growing Problems: Immigration Law Enforcement and Human Rights Abuses*, 50 BORDERLINES 6 (Nov. 9, 1998).
- ⁸ Robert W. Dumond & Doris A. Dumond, *The Treatment of Sexual Assault Victims*, in PRISON SEX: PRACTICE & POLICY 82 (Christopher Hensley ed., 2002).
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- 129 *Id.* at 2.
- 130 *Id.* at 5. Some privileges may be restricted, however. For example, detainees in protective custody cannot use the visitation room during normal business hours.
- 131 *Id.* at 2-3.
- 132 U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT, INS DETENTION STANDARD: DISCIPLINARY POLICY 2 (Sept. 20, 2000) *at* <http://www.ice.gov/graphics/about/organization/discip.pdf> (last visited Apr. 29, 2004).
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- 134 *Id.* at 12. This is in the category of "greatest offense."
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- 151 *Id.*
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