

Violence in California Correctional Facilities: An Empirical Examination of Sexual Assault

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Executive Summary

Policy Issues and Key Questions. Inmate sexual assault is a public health and human rights issue as well as an administrative management problem in correctional facilities throughout the country. This research was designed to contribute to a main goal of the Prison Rape Elimination Act of 2003 and the Sexual Abuse in Detention Elimination Act of 2005—to reduce sexual assault, including rape, in detention facilities in the U.S. This report draws on original self-report and institutional data to offer a systematic empirical assessment of inmate-on-inmate sexual assault in California correctional facilities. For comparative purposes, we also examine the parameters of non-sexual assault in order to discern what is—and is not—distinct about the correlates of sexual assault. Specifically, this report addresses the following general questions: 1) What proportion of inmates in California prisons housing adult males has been sexually assaulted in a California correctional facility? 2) What are the demographic characteristics of victims? and 3) What are the contextual and relational characteristics of the sexual assault/misconduct incidents¹ reported by inmates in California prisons housing adult males? By addressing these questions, this study sheds insight into the contours of sexual assault in order to contribute to ongoing efforts to create viable interventions designed to prevent and respond to sexual assault in ways that are humane, effective, and constitutional.

Study Methods. This research gathered data from two specific populations of inmates: 1) a random sample of the population of adult male inmates residing in six California state prisons who are not housed in reception centers or fire camps and who are not classified by the CDCR as "EOP" (the highest level of mental incapacity); and 2) a purposive sample of adult transgender inmates housed in a single California prison. The selection of six prisons to randomly sample inmates was informed by an examination of eight characteristics of the inmate population in each of California's 30 prisons that house adult males: age, race/ethnicity, offense category, custody level, life sentence, sex offender registration, gang affiliation, and mental health status. A seventh prison was selected to provide a supplemental, purposive sample of transgender inmates because it houses a concentrated population of transgender inmates.

¹ Incident-based analyses included inmate-reported events that were against their will as well as those that, while not against their will, they would rather not have done.

In compliance with a protocol approved by the University of California's Institutional Review Board (IRB), a team of nine interviewers used a structured interview instrument developed specifically for this study to conduct face-to-face interviews with currently incarcerated inmates in prison settings that ensured confidentiality. The sampling and informed consent procedure yielded an 85.3% active participation rate for the randomly selected sample and a 93.5% active participation rate for the transgender sample. The median duration for interviews was 40 minutes and ranged from 10 minutes to over three hours. Interviews with 322 randomly sampled inmates and 39 purposively sampled transgender inmates were included in analyses reported here.

Analyses of eight demographic variables reveal that the randomly selected sample is statistically similar to the population of inmates in the six prisons. Statistically significant differences between the sampled inmates and the total male prison population emerged in every variable except sex offender registration and lifer status. The magnitude of the differences in four variables is small, but the study sample has fewer Hispanic inmates and more inmates with officially recognized mental health issues. Therefore, the study sample should not be strictly regarded as statistically representative of the CDCR population. The differences between the study sample and the total CDCR population primarily reflect differences between the population characteristics of the six facilities from which data were collected and the total CDCR population rather than the sampling and access procedures used to select study participants. The transgender sample differs from the randomly selected sample in several ways, most notably, in a higher proportion of inmates with a classification of mental health problems (CCCMS) in the transgender sample.

Data collection relied on an interview instrument developed specifically for this study and official data provided by the CDCR. The interview instrument included 111 questions on the primary instrument and 33 questions on each supplemental incident form. The primary interview instrument asked inmates to provide information about their daily prison life, emotional health, fear of victimization in prison, perceptions of sexual and non-sexual victimization in prison, personal victimization from sexual and non-sexual assaults in California correctional facilities, opinions on safety and reporting, demographics, gang affiliation, and past and current incarcerations.

Inmates participating in this study were provided multiple opportunities to report sexual assault or misconduct by another inmate; they were asked: *"Have you ever had to do sexual things against your will with other inmates while incarcerated, " "Just to be sure, have any of the following things ever happened to you with other inmates while incarcerated: groping or fondling, kissing, genital contact, oral sex, or penetration against your will, " and "Well, what about sexual things [with other inmates while incarcerated] that were perhaps not against your will, but you would have rather not done? "* When an inmate reported sexual assault or misconduct, the interviewer followed-up by asking the inmate to reveal the number of times it has happened, recount the details of up to the five most recent incidents, and identify "the worst" incident of sexual assault. Interviewers gathered information on each incident, including a description of the event, the number of individuals involved, the location of the

event (i.e., the facility and location within the facility), the year and time of day the event occurred, the racial and gang composition of the parties involved in the incident, the inmate's perception of the cause of the incident, whether a weapon was involved and actually used in the incident, whether medical attention was received if it was needed, and the inmate's understanding of whether there was an official response to the incident.

Official data on the following variables were collected from the CDCR (without revealing to the CDCR which inmates were included in this study): date of birth, height, weight, race/ethnicity, prison term start date, mental health status, verified gang membership, classification score, custody level, current sentence length, time remaining on sentence, commitment offense, sex offender registration, age of first arrest in California, lifer status, and strike status.

The findings from these multiple sources of data speak to prevalence, victim characteristics, incident characteristics, and the nature of the lived experience of sexual assault in California correctional facilities.

Prevalence. Slightly more than 4% of 322 randomly selected inmates in California state prisons reported being sexually assaulted while in a California correctional facility. Sexual assault is 13 times more prevalent among transgender inmates, with 59% reporting being sexually assaulted while in a California correctional facility. Two different measures of rape—one that relies on the inmates' own assessment of incidents and one that relies on an operationalization of rape as "oral or anal penetration by force or threat of force"—reveal that 2% or 3% of randomly sampled inmates described at least one occurrence of rape, as did 41% or 50% of transgender sample inmates. Inmates often described multiple events of sexual assault and many of these incidents occurred fairly recently (i.e., since 2000).

Characteristics of Victims. With the exception of Asian inmates and inmates between the ages of 18-25, every type of inmate in the random sample reported sexual assault. Inferential statistical models reveal non-heterosexual inmates (i.e., gay, bisexual and other) and Black inmates are considerably more vulnerable to sexual assault in California correctional facilities. Moreover, over two-thirds of the randomly sampled inmates and the purposively sampled transgender inmates who reported being sexually assaulted while in a California correctional facility have had mental health problems. Random sample inmates with an official classification of mental health problems or non-heterosexual status are statistically significantly more likely to have been sexually assaulted and inmates who do not have these characteristics are significantly more likely to experience non-sexual assault exclusively.

Characteristics of Incidents. Sexual assault/misconduct occurs in every type of correctional facility, in various locations within correctional facilities, and at any time of the day. However, most incidents described by random sample and transgender inmates occur in state prison; incidents occur most often in dorms and cells for the randomly selected inmates and cells and showers for the transgender inmates; and they occur most often at night, according to inmates in both samples, but incidents reported by the inmates in the random sample occur almost as

often in the afternoon. From the point-of-view of inmates who experienced sexual assault/misconduct, the vast majority of the incidents were not about racial or gang dynamics; by far, the most common understanding of incidents is "sex-related" (i.e., physical attraction, perversion, and sexual gratification). The majority of incidents of sexual assault/misconduct described by both samples do not involve weapons or require medical attention. Inmates in the randomly selected sample stated that officers were aware of sexual assault/misconduct incidents the majority of the time and medical attention was provided when it was needed the majority of the time. Conversely, inmates in the transgender sample reported that officers were not aware of sexual assault/misconduct incidents the majority of the time and medical attention was not provided when it was needed the majority of the time. The contextual features of incident characteristics of sexual assault/misconduct are generally similar to the characteristics of non-sexual violence, with one notable exception: in the random sample, sexual assault/misconduct is statistically significantly more likely to take place in dorms.

There are also patterns in regard to the relational features of sexual assault/misconduct. The vast majority of sexual assault/misconduct incidents involve one victim and one perpetrator. Inmates in the random sample are significantly more likely to describe intraracial sexual assault/misconduct while transgender inmates are more likely to report interracial incidents. The participation of gang members in sexual assault/misconduct is evident in both samples. For example, two-thirds of the sexual assault/misconduct incidents reported by inmates in the random sample involve gang members (in either party) and over 45% of the incidents involve a gang member assaulting a non-gang member. This general pattern holds for inmates in the transgender sample, too. In the random sample of inmates, sexual assault/misconduct occurs between parties with varying degrees of familiarity (from "stranger" to "well-known"). In contrast, the relational distance between inmates involved in sexual assault/misconduct incidents reported by transgender inmates is skewed toward familiarity. As with the contextual features, sexual assault/misconduct incidents reported by inmates in the random sample share many relational characteristics with non-sexual violence, except that sexual assault/misconduct incidents are less likely to involve gang members among both victims and perpetrators than are non-sexual incidents.

The Lived Experience of Sexual Assault/Misconduct. The inmates' accounts of sexual assault/misconduct reveal considerable gray area in the terrain between forced, coercive, and non-coercive sexual interactions, with a range of undesirable sexually charged situations often seen as "a fact of prison life." However, there is little ambiguity in the expression of fear of victimization and concern for personal safety that weave through many of these narratives. A distressing number of inmates appear to blame themselves for their victimization, often by referencing ignorance, a failure to navigate the "rules" of prison culture, a failure to interrupt a chain of interactions leading to assault, or a failure to secure protection by other inmates or correctional officials. While some inmates noted their approval of correctional policy and response to sexual assault (including the PREA specifically), few inmates view correctional personnel as allies in the pursuit of personal safety. Finally, the gendered dynamics of social interaction in correctional facilities, including those that house same-sex inmates, underlie

inmates' accounts of sexual assault/misconduct and provide a platform from which recommendations related to the findings from this study can be offered.

Research and Policy Recommendations. Future research should take three directions. First, other populations of inmates need to be the target of research, most notably inmates housed in correctional facilities for women and juveniles. Second, moving beyond a focus on inmate-on-inmate violence, future studies on an array of incarcerated populations need to collect empirical data on a broader range of sexual assault, for example, staff-on-inmate and inmate-on-staff sexual assault/misconduct. Third, it would be beneficial to initiate and fund future studies designed to assess current efforts to respond to sexual assault in California correctional facilities. As the CDCR moves forward with current efforts to implement interventions into the dynamics that lead to sexual assault, the propensity of inmates to forego reporting sexual assault, and the failure of CDCR officials to respond appropriately when sexual assault is reported, research will be needed to determine "what works" in general and how different interventions fare on different inmate populations.

The policy changes developed by the CDCR PREA Commission that are being implemented constitute a significant advance in the CDCR's efforts to respond to sexual assault, which complies with the Prison Rape Elimination Act of 2003 and the Sexual Abuse in Detention Elimination Act of 2005. The findings of this study point to additional policy considerations that warrant special focus. First, the implementation of policies designed to address overcrowding likely would serve to reduce violence in California correctional facilities; the findings presented here suggest that—because sexual assault and non-sexual assault share common correlates—anything that can be done to reduce violence writ large is likely to reduce sexual assault, too.

Second, and related, revisiting the policy-specified considerations that inform initial and permanent housing assignments in correctional facilities is advisable. In particular, further consideration of the role sexual orientation, race/ethnicity, mental health status, and physical stature play in sexual violence could inform housing assignments. The Sexual Abuse in Detention Elimination Act of 2005 identifies the following as risk factors for sexual victimization to be considered in determining housing assignment: age, violent or nonviolent offender, prior commitments, and a history of mental illness. This research suggests sexual orientation, race/ethnicity, and physical stature should be added to that list. We know that transgender inmates are at high risk (as reported in this study), but we know very little about how that risk is statistically associated with specific housing assignments as opposed to other factors that might also be amenable to intervention, such as surveillance, programming, and physical features of the carceral environment in which they reside.

Third, it is also reasonable to invoke the structure of the Gender Responsive Strategies Commission and the expertise of its members to develop policies designed to enhance the safety of transgender inmates because transgender inmates fit squarely within a larger concern for "gender non-conforming inmates." As the quantitative and qualitative data presented in this report reveal, sexual assault in California correctional facilities is more pronounced among

non-heterosexual inmates and often shrouded in essentialist beliefs about gender. The issue of sexual assault in correctional facilities falls squarely into a larger discussion about the intersection between gender and violence. Quite apart from whether the Gender Responsive Strategies Commission takes the lead on revisiting policies related to the safety of transgender inmates, the CDCR would be well-advised to consider Stop Prisoner Rape's warning to avoid excessive reliance on isolation in response to sexual assault (2005, p. 4-5).

Inmates generally indicated an unwillingness to report sexual assault to corrections officials. The fourth study policy recommendation urges an assessment of the degree to which the provisions established by the Sexual Abuse in Detention Elimination Act of 2005 have been/are being implemented and with what consequence. Also, if the Office of the Sexual Abuse in Detention Elimination Ombudsperson is not securing reports of sexual assault, then alternative ways of enabling inmates to report sexual assault to non-CDCR officials should be considered. The solution is to provide venues for reporting that do not rely on CDCR officials as first responders (to reports), communicators, or adjudicators.

A fifth recommendation emanating from this study is the development and implementation of a peer education program designed to educate inmates about sexuality, bodily integrity, consent, and the ways to avoid coercion in correctional facilities. The focal point of peer education is trained peer educators who engage with inmates in order to raise awareness, provide education, and serve as a resource. Prison peer educators can facilitate workshops, provide one-on-one outreach, and support and coordinate educational events sponsored by prison officials.

Finally, it is important to recommend the obvious: CDCR officials should spend more time thinking about how to create carceral environments in which "fighting or fucking" (to quote inmates) are not the only options in some situations. Moreover, carceral environments need to have those charged with running the institutions publicly demonstrate a commitment to zero tolerance for sexual assault. This would go a long way toward changing the environment in which sexual assault is inspired, takes form, and largely goes undetected by those in a position to respond to it.