



September 24, 2024

Honorable Cory Booker
Chairman, Subcommittee on Criminal Justice and Counterterrorism
Senate Judiciary Committee
Washington, D.C. 20510

Honorable Tom Cotton
Ranking Member, Subcommittee on Criminal Justice and Counterterrorism
Senate Judiciary Committee
Washington, D.C. 20510

Chairman Booker and Ranking Member Cotton:

Thank you for holding a hearing on past legislative initiatives and future solutions to stop sexual assault in federal prisons. As a criminal justice organization rooted in conservative principles to protect victims, promote public safety, and prioritize the taxpayer dollar, Right On Crime supports policies to prevent and end any sexual assault both inside and outside prison walls.

In 2003, Congress passed the *Prison Rape Elimination Act* (PREA) to end sexual assaults in correctional facilities by requiring federal prisons to adopt policies that mitigate the risk of sexual abuse, track allegations of sexual abuse, and protect potential victims.¹ Since its adoption, PREA has been instrumental in reducing sexual violence in prisons by requiring federal, state, and local correctional facilities to maintain and enforce a zero-tolerance policy towards sexual assault.²

However, as this Subcommittee knows, sexual abuse is still a reality in many Bureau of Prisons (BOP) facilities. In fact, according to a bipartisan congressional report, “BOP employees have sexually abused women in their custody in at least 19 or 29 – or two-thirds – of facilities where BOP incarcerates women.”³ Sometimes, this criminal activity has led to federal indictments.⁴ But not always. Take, for example, the underutilization of 18 U.S.C. § 2243(c), which makes it unlawful for someone, while acting in their capacity as a federal law enforcement officer, to knowingly engage in a sexual act with an individual who is under arrest, under supervision, in

¹ Bureau of Justice Assistance, Prison Rape Elimination Act (PREA): Overview (<https://bja.ojp.gov/program/prisonrape-elimination-act-prea/overview>).

² National Institute of Justice, Prison Rape Elimination Act (<https://nij.ojp.gov/topics/articles/prison-rape-elimination-act#:~:text=The%20Prison%20Rape%20Elimination%20Act,staff%20Don%20inmate%20misconduct.>).

³ U.S. Senate Permanent Subcommittee on Investigations, Committee on Homeland Security and Governmental Affairs, “Sexual Abuse of Female Inmates in Federal Prisons,” Dec. 13, 2022, page 2 (<https://www.hsgac.senate.gov/wp-content/uploads/imo/media/doc/2022-12-13%20PSI%20Staff%20Report%20-%20Sexual%20Abuse%20of%20Female%20Inmates%20in%20Federal%20Prisons.pdf>).

⁴ See, e.g., U.S. Attorney’s Office, Southern District of New York: Correctional Officer At Metropolitan Correctional Center Sentenced To 40 Months In Prison For Engaging In Abusive Sexual Contact With Inmates (Dec. 8, 2020) (<https://www.justice.gov/usao-sdny/pr/correctional-officer-metropolitan-correctional-centersentenced-40-months-prison>); Office of Public Affairs, Department of Justice: Jury Convicts Former Federal Prison Warden for Sexual Abuse of Three Female Inmates (Dec. 8, 2022) (<https://www.justice.gov/opa/pr/jury-convicts-former-federal-prison-warden-sexual-abuse-three-female-inmates>).

detention, or in federal custody. Despite this new charging authority, there were no cases filed by the DOJ and no criminal convictions under this law in fiscal year 2023.⁵

To be sure, there may be reasons for this.⁶ But, this illustrates an issue which this Subcommittee may consider: sexual assault is prevalent in federal prisons and there is a lack of urgent and consistent responses to stop it.

Fortunately, in addition to continued PREA implementation efforts, Congress can do more to reduce sexual violence in BOP facilities. First is to pass the *Sexual Abuse Services in Detention Act* (S. 1422). This is a bipartisan bill that will provide confidential support services to incarcerated survivors of sexual abuse and harassment. It will also fund training opportunities for correctional agencies, facilities and staff to better provide emotional support services for incarcerated victims. Medical and mental health professionals and rape crisis advocates must be able to provide the same services to inmates as provided to those who are not in detention. S. 1422 makes sure this happens.

Also, increased transparency and accountability into the BOP will expose and reduce sexual crimes against incarcerated individuals. Right On Crime commends this Committee's leadership in ensuring the passage of the *Federal Prison Oversight Act*.⁷ Now signed into law by President Biden, this law will bolster the goals of PREA in two ways. First, the BOP will be subject to independent oversight by the DOJ's Office of Inspector General; second, individual complaints must be investigated by an independent Ombudsman.

The *Federal Prison Oversight Act* is a powerful tool that will bring to light acts of sexual violence in prisons and hold bad actors accountable. But rooting out sexual violence may be stymied if this new law is not fully implemented. To that end, Right On Crime requests that members of the Senate Judiciary Committee and this Subcommittee seek necessary funding for this law to be effective.

Sexual assault in prisons can and should be stopped. This hearing sheds light on an important issue and Right On Crime looks forward to continuing to work with both sides of the aisle on policies that promote public safety, rehabilitate offenders, and support victims.

Sincerely,

Brett Tolman
Executive Director
Right on Crime

Cc: Hon. Dick Durbin, Chairman, Senate Judiciary Committee
Hon. Lindsey Graham, Ranking Member, Senate Judiciary Committee

⁵ U.S. Government Accountability Office, Letter to Hon. Dick Durbin, Hon. Lindsey Graham, Hon. Jim Jordan, and Hon. Jerrold Nadler, "Federal Law Enforcement Officers: Criminal Sexual Acts while Acting in Official Capacity (Oct. 23, 2023) (<https://www.gao.gov/assets/d24106723.pdf>). And as of the date of this letter, no new charges have been filed.

⁶ Individuals cannot be charged for conduct that occurred prior to the provision's effective date of October 1, 2022. Also, there is a high rate of underreporting sex offenses in general, particularly when it involves victims in custody. Lastly, it can take several years from the time of an alleged incident to the filing of a criminal case to a disposition of the criminal case.

⁷ H.R. 3019, 118th Congress. See <https://www.congress.gov/bill/118th-congress/house-bill/3019/text?s=6&r=5&q=%7B%22search%22%3A%22federal+prison+oversight%22%7D>.