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**United States Senate  
Committee on the Judiciary  
Hearing on the Prison Rape Reduction Act of 2002  
July 31, 2002**

**Statement of Human Rights Watch  
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***Rape Crisis in U.S. Prisons***

Prison rape is a devastating human rights abuse that is widespread in U.S. prisons. Corrections authorities have done too little to prevent it from happening, to protect the victims, and to punish those responsible. The Rape Reduction Act of 2002 will encourage much-needed efforts to ensure that a prison sentence is not a sentence to violence. We hope the Act signals renewed congressional concern about the conditions under which more than two million Americans are confined. International human rights standards, constitutional law, and basic decency mandate safe and humane prisons. Too often, that mandate is honored in the breach.

***Human Rights Watch Report***

Human Rights Watch has published the first major nationwide report on male inmate-on-inmate rape. Our findings and recommendations are based on more than three years of research that included correspondence with over 200 prisoners in thirty-four states, inmate interviews, and a comprehensive survey of state correctional authorities.

Our report illuminates the nature of prison rape and its psychological and physical impact. Prison rapes can be unimaginably vicious and brutal. Gang assaults are not uncommon. Victims may be left beaten, bloody, and, in extreme cases, may die of their injuries. Some prisoners unable to escape a situation of sexual abuse find themselves the “slaves” of their rapists. Certain prisoners are targeted for sexual exploitation the moment they enter a penal facility: their age, looks, sexual orientation, and other characteristics mark them as candidates for abuse.

The prevalence of prisoner rape is well documented. The interviews detailed in our report, as well as other research, shed light on its pervasiveness. A study in seven Midwestern prisons showed that 21 percent of inmates have experienced at least one episode of pressured or forced sex since being incarcerated. Correctional officers in one southern state surveyed by their department estimated that one-fifth of prisoners were coerced into sex.

The prevalence of rape in prison is not just a problem of individual conduct. It is a consequence, in part, of the failure of the public to support adequate staffing, housing, and programs for a massive prison population. Prison rape – as with other forms of prisoner violence – is not, however, just a function of overcrowded prisons with idle inmates who are inadequately supervised. Prisoner sexual abuse also directly reflects the failure of correctional authorities to take the problem seriously. As our report documents, correctional officials generally deny that prisoner-on-prisoner rape is a major problem. In too many prisons, prevention measures are meager and effective punishment is rare. A central problem is the deficient response – in many instances deliberate indifference – on the part of prison officials to complaints of rape. By failing to take reasonable measures to prevent and punish rape – and, indeed, in many cases, by taking actions that make sexual victimization likely – prison authorities permit this physically and psychologically devastating abuse to occur.

Our report provides detailed recommendations for action by the U.S. Congress, the Justice Department, federal and state prison officials, and state and local prosecutors. Five critical recommendations bear highlighting. First, prison officials must develop and implement comprehensive protocols on staff response to inmate-on-inmate sex abuse. Second, prisoners must have access to adequate complaint mechanisms that are taken seriously by correctional staff and victims who make complaints must be protected from further abuse. Third, criminal charges should be pursued where appropriate, and the Civil Rights Division of the Department of Justice should investigate reports of prison sexual abuse and vigorously pursue any that rise to the level of pattern and practice cases. Fourth, prisons must develop and implement sexual abuse prevention programs. Fifth, prison officials must provide prisoners who are victims of rape and sexual assault proper care and treatment. HRW's full report, entitled *No Escape: Male Rape in U.S. Prisons*, can be found on line at [www.hrw.org/reports/2001/prison/](http://www.hrw.org/reports/2001/prison/).

### ***The Prison Rape Reduction Act of 2002***

The Prison Rape Reduction Act of 2002 represents an important step in addressing the problem of prison rape. The bill focuses on rape prevention, as well as on investigation and punishment. It provides federal resources and support in the form of information, assistance, training, and grants to federal, state, and local authorities to strengthen their response to this pressing problem. The bill directs the Department of Justice to establish a confidential reporting system for prisoners seeking to report incidents of rape. It also mandates the collection of national statistics and creates a commission to draft national standards to prevent and punish prison rape. We are pleased that Congress has recognized the importance of prison rape as part of the larger phenomenon of prison violence, and commend Senators Kennedy and Sessions and Representatives Wolf and Scott for their leadership.

While the legislation, if enacted, will mark an important first step in dealing with prison rape, it does not address several critical aspects of the problem. Human Rights Watch urges Congress to make the following changes to the bill to strengthen its effectiveness in remedying this pervasive human rights abuse:

Purpose and findings – The bill should include a purpose and findings section. After briefly describing the problem, Congress should clearly express its view that prison rape is a human rights violation and an affront to human dignity, and that all prisoners should be safe from rape, sexual abuse, and other violence.

Coverage of sexual assault by correctional staff – While the issue of rape and sexual abuse by correctional staff is mentioned in the legislation, the language needs to be strengthened to ensure that sexual abuse of inmates by correctional staff is fully addressed along with inmate-on-inmate rape. As we documented in our 1996 report on sexual abuse of women in U.S. prisons, *All Too Familiar*, male correctional employees have raped and sexually abused female prisoners, sometimes by physical force and sometimes by providing or threatening to withhold goods and privileges. They also engage in sexual touching during mandatory pat-frisks and in prurient viewing. The bill should mandate that all prison sexual abuse – whether committed by inmates or by correctional staff – be addressed in data collection, training, technical assistance, standards, prevention programs, complaint mechanisms, and investigation and punishment.

Prison Litigation Reform Act (PLRA) – Reducing the incidence of rape and protecting the legal rights of inmates requires access to the courts. Prisoners, however, face multiple impediments to seeking judicial protection of their rights under the PLRA. The legislation should mandate an assessment of existing obstacles to obtaining judicial remedies by inmates and the degree to which these obstacles contribute to the problem of prison rape. Moreover, at least with regard to prisoners alleging rape, sexual abuse, or other forms of violence, the legislation should create an exemption from the stringent requirements of the PLRA, which impede the ability of prisoners to seek judicial protection of their constitutional rights.

Meeting national standards – While the National Prison Rape Reduction Commission should take into account the feasibility and cost effectiveness of proposed standards, the principal objective in setting standards must be the effective prevention, investigation, and punishment of prison rape. Given that our report documents inadequate responses to this problem by state officials, the Commission should not encourage states to maintain such inadequate practices simply because improvement would require the expenditure of additional funds. Simply put, states must meet their obligation to provide safe and humane conditions of confinement.

Rape of juvenile offenders – In calling for a comprehensive legal and factual study of prison rape, the legislation should specifically refer to an assessment of the special risks posed by housing juveniles in adult prisons and of the incidence of prison rape of juvenile offenders, whether housed in adult prisons or juvenile facilities.

Attorney General's report on complaints – While fully respecting victim confidentiality, the Attorney General's report on the program to collect, review, and refer complaints from prisoners alleging prison rape should be made available to the public.

In sum, we hope the introduction of this legislation signals a renewed willingness on the part of the Congress to address prison conditions more broadly, and to protect the rights of prisoners to safe and humane treatment. Sexual assault of prisoners violates their constitutional and international right to be free of cruel and inhuman treatment or punishment. Prison rape is an

affront to human dignity, and shames the society that allows it to occur. The eventual enactment of this legislation will take an important step toward ensuring the rights of prisoners to be free from rape. Rape and violence should not be part of any prisoner's sentence.