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Criminal Justice Issues and Prisoners' Rights

<https://solitarywatch.org/2011/03/07/prison-rape-the-prea-and-the-plra/>

Campaign and Advocacy

close

Search

close

close

by [Solitary Watch Guest Author](#) | March 7, 2011

Editors Note: Jennifer Wedekind is a journalist whose work has appeared in Mother Jones, In These Times, and the Multinational Monitor. She is a 2011 JD Candidate at Georgetown Law.

The public comment period for the PREA regulations extends through April 4, 2011. To submit a comment or read the full text of the proposed standards, go to [this page](#) on the website of [Just Detention International](#), an organization devoted to exposing and eliminating the epidemic of prison rape.

The Department of Justice in early February opened a comment period for proposed regulations under the Prison Rape Elimination Act (PREA). Passed in 2003, the Act requires the Attorney General to promulgate national standards for the detection, prevention, reduction and punishment of prison rape. While its ultimate aim is to stem the rampant sexual abuse that occurs in prisons and jails across the country, up until now PREA has largely been an aspirational and fact-gathering statute.

The proposed regulations are structured around recommended standards put forth by the Prison Rape Elimination Commission, established by PREA, in a comprehensive 2009 report on the the penological, physical, mental, medical, social, and economic impacts of prison rape in the United States. However, subsequent comments by interested parties citing concerns about prison security and inmate gamesmanship have resulted in some of the recommendations being largely neutered. Additionally, a statutory mandate that no regulation impose substantial additional costs on prison authorities may limit the types of programs the regulations can implement. However, the comment period will allow for criticism and revision of the proposed regulations and provides an open forum for prisoner-rights advocates to be heard.

The problem of prison rape that PREA is attempting to address is nothing short of staggering. An estimated 88,500 adult inmates 4.4 percent of prison inmates and 3.1 percent of jail inmates reported at least one instance of sexual victimization in the previous year, according to a 2010 Bureau of Justice Statistics report. At a Hughes Unit prison in Texas, the facility with the highest rates of reported victimization, 8.6 percent of inmates reported being sexually assaulted by another inmate. Sexual victimization by guards is equally as prevalent. In the Crossroads Correctional Facility in Missouri, the male facility with the highest rates of guard sexual misconduct, 8.2 percent of inmates reported being victimized. At the womens Bayview Correctional Facility in New York, 11.5 percent of inmates reported sexual victimization by guards.

When a prisoner comes forward and reports a sexual assault, he or she is more likely to face retribution than redress. Complaining prisoners frequently face retaliatory harassment, discipline or further abuse. A full 25 percent of inmate victims are summarily sent to solitary confinement, according to the Department of Justices own numbers.

Additionally, an inmate complaint will rarely result in legal sanctions for the perpetrator or prison authorities, despite the fact that the Supreme Court has held that placing an inmate at risk of sexual assault with deliberate indifference can be a violation of the 8th Amendment. The main obstacle between inmates and a courtroom is the 1996 Prison Litigation Reform Act (PLRA). Congress passed the PLRA in an effort to prevent frivolous inmate lawsuits and created considerable hurdles that an inmate must overcome to see his or her day in court. Significantly, any regulations passed under PREA will have to be in compliance with the PLRA, which may hamper its effectiveness in some areas.

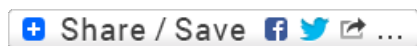
In cases of sexual assault, inmates are most often stymied by two PLRA requirements an exhaustion of all administrative remedies and a showing of physical harm. If a prisoner fails to comply with the technical and often arbitrary requirements of the administrative procedures, or if the inmate misses one of the filing deadlines which may be as short as 48 hours his or her right to sue is forever forfeited. Cases are frequently dismissed because of technical errors, because the wrong form was used or because the complaint was submitted to the wrong entity within the sprawling prison system.

In a notable 2003 case, Human Rights Watch reported that sixteen female inmates filed suit alleging systematic sexual abuse by prison staff, including forcible rape, coerced sexual activity, oral and anal sodomy, and forced pregnancies. The federal court hearing the case refused to address the merits, instead taking nearly five years to conclude that the womens use of informal reporting procedures provided by the prison resulted in a failure to adequately exhaust all administrative remedies.

The PLRA also requires a showing of physical injury and many jurisdictions do not consider a sexual assault to constitute a physical injury per se. This provision in particular is frequently relied upon to dismiss claims by victims of sexual assault, who frequently have no proof of physical injury due to delay in reporting, lack of additional violence during the assault, or inadequate prison medical providers, who often do not have the resources or willingness to administer a rape kit.

Advocates hope the final PREA regulations will provide more services for inmates and more accountability for prison administrators. However, while the regulations may be able to ease some of the administrative burdens currently on inmate victims, it will not provide a private cause of action and the PLRA will still dictate access to courts.

The proposed regulations would ban cross-gender strip searches, create minimum standards for investigations following a report, require correctional facilities to provide medical and mental health care, and institute a zero tolerance policy for sexual assault and harassment. The regulations also purport to make the prison grievance systems more accessible, however they don't go as far as most advocates think necessary. It remains to be seen what effect, if any, the regulations will have.



Accurate information and authentic storytelling can serve as powerful antidotes to ignorance and injustice. We have helped generate public awareness, mainstream media attention, and informed policymaking on what was once an invisible domestic human rights crisis.

Only with your support can we continue this groundbreaking work, shining light into the darkest corners of the U.S. criminal punishment system.

by [Juan Moreno Haines](#)

October 25, 2022

by [Solitary Watch Guest Author](#)

October 13, 2022

by [Vaidya Gullapalli](#)

September 29, 2022

Solitary Watch encourages comments and welcomes a range of ideas, opinions, debates, and respectful disagreement. We do not allow name-calling, bullying, cursing, or personal attacks of any kind. Any embedded links should be to information relevant to the conversation. Comments that violate these guidelines will be removed, and repeat offenders will be blocked. Thank you for your cooperation.

Here is a article that puts the victim rate even higher.

I read another article awhile back that said the local jails had an even higher rate of rape than prisons.

For those that say Why should I care they are criminals? I have a few stories to tell you first.

It is not uncommon for a college student on drunken binge to get thrown in a tank with harden criminals. This maybe you or a family member.

I remember an incident in LA County jail where a substitute teacher had acquired several unpaid traffic tickets and was placed in a tank where he was repeatedly raped. The guards listening to the mans screams for help never opened the cell door until the morning and by that time he was ruptured internally.

He later tried to sue the city.

I recently read a ex-judge was suing because he was forced to listen to the screams of just such a sexual assault after being arrested.

The founder of Stop Prison Rape which is now Just Detention was repeated raped in a D.C. jail after being arrested at a political protest. He died of AIDs that he contracted from this.

You do not have to be a criminal to have this happen to you. And even criminals are human beings.

Many suicides are motivated by this or the fear of it!

I think it is great that people are finally talking about this. All these issues are interrelated. Rape or its threat results in violence. results in gangs and the system reacts with prolonged isolation for the gang members, the LGBT and juveniles.

Pimping of victims and other such horrible abuse spreads AIDS, Hepatitis and ruins people lives. Then they return to spread their illness on the streets.

Here are the latest numbers:

<http://www.nybooks.com/articles/archives/2011/mar/24/prison-rape-and-government/?pagination=false>

.More than 216,600 people were sexually abused in prisons and jails and, in the case of at least 17,100 of them, in juvenile detention. Overall, thats almost six hundred people a daytwenty-five an hour.

Overall, most victims were abused not by other inmates but by corrections staff: agents of our government, paid with our taxes, whose job it is to keep inmates safe.

All the numbers we have cited count people who were abused, not instances of abuse. People raped behind bars cannot escape their attackers, though. They must live in constant fear, their trauma renewed every time they see their assailants. Between half and two thirds of those who claim sexual abuse in adult facilities say it happened more than once; previous BJS studies suggest that victims endure an average of three to five attacks each per year.

Now everyone but guards are ok with talking about this type of abuse.

And it is also more PC to focus on such topics as the targeting of the LGBT population, and women in prison both which have wide public, and political support groups.

But there is another aspect that few of us are willing to mention publicly.

Race.

Here are the uncomfortable facts uncovered by researchers and validated by my own personal observations.

Human Rights Watch published a report about this:

No Escape: Male Rape in US Prisons

<http://www.hrw.org/legacy/reports/2001/prison/>

Inter-racial sexual abuse is common only to the extent that it involves white non-Hispanic prisoners being abused by African Americans or Hispanics. In contrast, African American and Hispanic inmates are much less frequently abused by members of other racial or ethnic groups; instead, sexual abuse tends to occur only within these groups.

Past studies have documented the prevalence of black on white sexual aggression in prison. These findings are further confirmed by Human Rights Watch's own research. Overall, our correspondence and interviews with white, black, and Hispanic inmates convince us that white inmates are disproportionately targeted for abuse.

http://www.utexas.edu/know/2010/11/22/renaud_jorge/

In Texas prisons, violence and racism reign

by Jorge Antonio Renaud

Published: Nov. 22

Jorge Antonio Renaud, a graduate student in the School of Social Work, spent 27 years in Texas prisons. This post is part of a Know series on the Texas prison system.

Relieved of the certainty that random violence might result in deadly retaliation, incoming gang bangers overwhelmingly black and Hispanic brought their street codes into prison: the drive-by mentality took hold, and it was visited against Anglos. These cons didn't limit their violence to enemies they adopted the attitude that any white boy was fair game, and that he could and should be broken by continual, unexpected gang beatings administered regardless of whether he fought back, or whether he showed heart. The unwilling joined white supremacy gangs for protection, while those men weary of constant beatings became sex slaves and cash cows.

This aspect of Texas prisons results in thousands of men leaving the system with a predator mentality or a raging racism buried so deep it might never be eradicated. Reducing barriers to reentry is one thing understanding and relieving the trauma this unceasing violence leaves on the thousands of Texans returning to our streets is another.

<http://www.texasobserver.org/archives/item/13630-1014-cruel-and-unusual-still->

Justice Justice of Texas wrote in 1999:

Texas prison inmates continue to live in fear a fear that is incomprehensible to most of the states free world citizens. More vulnerable inmates are raped, beaten, owned, and sold by more powerful ones. Despite their pleas to prison officials, they are often refused protection. Instead, they pay for protection, in money, services, or sex. Correctional officers continue to rely on the physical control of excessive force to enforce order. Those inmates locked away in administrative segregation, especially those with mental illnesses, are subjected to extreme deprivations and daily psychological harm. Such practices and conditions cannot stand in our society, under our Constitution.

Here is a quote from the Supreme Court?

U.S. Supreme Court Justice Harry A. Blackmun, *Farmer v. Brennan*:

The horrors experienced by many young inmates, particularly those who are convicted of nonviolent offenses, border on the unimaginable. Prison rape not only threatens the lives of those who fall prey to their aggressors, but it is potentially devastating to the human spirit. Shame, depression, and a shattering loss of self-esteem accompany the perpetual terror the victim thereafter must endure.

This sexual violence, which is primarily focused on white inmates, is the result of an oversimplified view in the press that inmates of color are merely victims of white society.

Of course inmates of color then strike back at those who are least able to defend themselves.

In my opinion prison is a cruel gauntlet with rouge guards on one side and predatory inmates on the other. Consciously or unconsciously these two adversarial groups collude together in ways that perpetrates the violence. Non-violent inmates that just wish to serve out their sentence are held in the confined space in the middle like sacrificial lambs in a slaughter house.

I like Jorge Renaud fear what happens after these rapes occur and the victims hit the street crazy with hate, commit racist acts.

Stop the circle of violence by exposing it for what it is! Everyone black, brown, or whatever hue need to see it affects us all negatively.

Disease doesnt care if your the rapist or the victim. The Ninja kills all he encounters.

Read Charles P. Norman: Fighting the Ninja

<http://www.pen.org/viewmedia.php/prmMID/2503/prmID/1622>

Excerpt:

In prison, they call HIV and AIDS, the ninja, the black-clothed assassin that creeps inside and cuts your throat in the night, then slips away unseen, leaving you there to bleed out, alone.

Riveting article! In Maine, zero tolerance is reserved for sex; not for sexual assault a questionable policy in a raging hormone factory. Meanwhile, the currency of choice at Maine State Prison is drugs and sex. If you are a female staff member, it is assumed that you are either having sex with a prisoner or a guard. If not either, keep you back to the wall!

Prison Reform

<http://www.moodyreport.wordpress.com>

A majority of people were taken from their vehicles which is contrary to the intent, the letter, the rule & spirit if the law. STATE BAR UNION MEMBERS, aka EVILDOERS prey & feed on We the People. JUSTICE does NOT exist in private, for profit courts. The Federal Reserve monetizes court cases which proves that Public Servants are rewarded for Aggravated Assault, Aggravated Kidnapping, Crimes Against Humanity,, Crimes Against Peace, Abuse of the Public Trust, Dishonest Services, Deceptive Trade & Fraudulent Business Services, et.al.

WOE TO ALL STATE BAR UNION MEMBERS & their enablers.

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