

Vera Institute of Justice

Criminal Justice Issues and Prisoners' Rights

<https://www.vera.org/blog/mass-incarceration-reform-should-address-domestic-and-sexual-violence>

Public Facing Advocacy Writing

According to a [2014 newsletter on violence against women](#), One of the most enduring realities of sexual assault is that very few cases result in arrest, prosecution, and conviction of [perpetrators]. Arrest, no less prosecution, is fairly unlikely, especially those in which the suspect is a stranger to the victim. So it should have come as welcome news that Brock Allen Turner was convicted in March of three counts of felonious sexual assault against Emily Doe, a 23-year-old graduate student to whom Turner was a stranger.

In case you haven't been following this story, Brock Turner was pulled off of the unconscious Emily Doe by two students who happened to be passing by. Mr. Turner attempted to flee but the two students held him down until police arrived. Two witnesses, an unconscious victim, and a perpetrator who attempted to run: a guilty verdict should have come as no surprise.

Except that, traditionally, rape and sexual assault of women and girls have some of the lowest conviction rates of any crime. [According to RAINN](#), out of every 1,000 rapes, 994 will walk free. To break it down further, only about 344 of the 1,000 are reported at all (40 percent); 63 of those reports lead to arrest; 13 of those arrests are referred for prosecution; seven will lead to a felony conviction; and six will lead to incarceration. So we can pause for a moment and recognize the already-herculean effort that Emily Doe achieved. Her case was one of the seven out of 1,000 to result in a felony conviction.

But then on June 2, Judge Aaron Persky determined that the man who sexually assaulted an unconscious woman behind a dumpster should receive a sentence of six months in the county jail, with the likelihood of serving only half of that time. The reason, as stated directly from the judge: A prison sentence would have a severe impact on him. I think he will not be a danger to others.

As a reminder, the crimes for which a jury unanimously found him guilty were attempted rape, sexual penetration of an intoxicated woman, and sexual penetration of an unconscious woman. For these crimes, he faced up to 10 years in prison, with the prosecutor recommending six years. Instead, he received 6 months. Click on most internet sites now, or read a newspaper, and you will experience the collective gasp that is reverberating through the country at this sentence.

When a convicted rapist receives less time in jail than someone who commits a non-violent crime, like driving with a suspended license, something is indeed wrong with our system. Both the over-incarceration of people who commit technical infractions and the under-incarceration of those who commit violent crimes contribute to this broken system. Many people inside and outside the criminal justice system are taking a very hard look at the causes, effects, and conditions of mass incarceration, Vera included. With a national spotlight on the price we as a nation pay for mass incarceration, some commentators on this case determined this was exactly how this sentence should have proceeded. [A Santa Clara public defender wrote](#): This culture of mass incarceration has so shaped our minds that when a judge, like Judge Persky in this case, undertakes a holistic sentencing analysis that takes into account both the victim and the convicted, we still insist on arbitrary, lengthy terms of incarceration as the response to crime.

But, let's keep in mind that only 7 out of 1000 rape cases result in felony conviction so it is not the over-incarceration of rapists that is adding to the problem of mass incarceration. The judge suggested that Mr. Turner will not pose future threats to women, thus the lenient sentencing. However, research indicates that rapists have up to a 35% recidivism rate, so what is informing their prediction that he will never do this again? Finally, doesn't the 12-page victim impact statement penned by Emily Doe belie the argument that the judge undertook a holistic sentencing analysis? While Emily Doe stated that she did not necessarily want Mr. Turner to rot in jail, she did want him to understand what he had done. Given that, even after hearing her lengthy statement, Mr. Turner and his family referenced the rape as 20 minutes of action and the folly of an intoxicated youth, the 6 month sentence clearly did little to drive home her point.

The fights to end mass incarceration and to end sexual and domestic violence do not have to run counter. But, they will if we fail to acknowledge how deeply entrenched beliefs about these types of crimes has led our justice system, for centuries, to treat these forms of violence as insignificant issues, brought on largely by the victims' bad choices. Reform efforts must include the voices of victim advocates and survivors, precisely to ensure that these efforts do not unintentionally promote a narrative that is dangerous for survivors.

For further discussion, see Vice President Joe Biden's [open letter to Emily Doe](#).

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