# Why Americans Don't Care About Prison Rape

**And what happens when the problem escapes from behind bars.**

*Elizabeth Stoker Bruenig* March 2, 2015



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In June of 2012, the *New York Times* "Room for Debate" feature considered whether or not convicted youth offenders should be treated differently than adult convicts in the penal system. Those in favor of trying some youth offenders in adult courts included a victims' advocate, and an attorney from the conservative Heritage Foundation; those against included an inmate at California's San Quentin prison, and a human rights activist. The victims' advocate and the attorney from the Heritage Foundation talked about extreme cases of violence and the benefits of stern consequences. The inmate and the human rights activist talked about rape.

"The suicide and sexual abuse rates of younger prisoners are higher than those of the physically mature," Gary Scott, the inmate, noted: "how can rehabilitation be possible in such a dangerous environment?" Scott was incarcerated at age sixteen.

T.J. Parsell, the human rights advocate, put it like this: "In early 2003, I testified on Capitol Hill with Linda Bruntmyer, a mother from Texas whose 17-year-old son was incarcerated after setting a trash bin on fire. In prison, he was raped repeatedly. He later hanged himself inside his cell. I felt a special bond with Linda, because I too had been raped in prison at 17."

Taken together, the accounts of the carceral system featured in the *Times* 's roundtable on youth offenders span the entire American conception of prison itself. On one hand, prisons are understood as the terminus at the end of a long line of injustices adjudicated by a cold bureaucracy. On the other hand, American prisons are infamous for their brutality, especially when it comes to sexual violence. Being sent to prison is, in this sense, not the conclusion of the criminal justice process but the beginning of long-term torture.

That prisons routinely house thousands upon thousands of instances of sexual exploitation and rape is at the very least tolerated, and at most subtly appreciated as part of their punitive purpose. Our collective *meh* at the bracing reality of prison rape may be partially premised on the fact that the problem seems contained; but like most severe sicknesses, it only appears that way, and not for long.

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Following the passage of the Prison Rape Elimination Act (PREA) of 2003, the Bureau of Justice Statistics (BJS), an office within the Department of Justice, has conducted various surveys of

inmates, former inmates and incarcerated youths to calculate the number of prison rapes occurring annually. BJS surveys conducted between 2011 and 2012 found that 32 people per 1,000 were sexually abused in jail; forty people per 1,000 were sexually abused in prison; and ninety-five youths per 1,000 were sexually abused in juvenile detention facilities. In contrast, the National Crime Victimization Survey, also a product of the BJS, found that the rate of rape and sexual assault among free women was 1.3 per 1,000 females over the age of 12 in 2012, meaning that a prisoner's likelihood of becoming a victim of sexual assault is roughly thirty times higher than that of any given woman on the outside. Allen J. Beck, a senior statistician at BJS, confirmed to *The New York Review of Books* that nearly 200,000 people total were sexually violated in American detention facilities in 2011. One of the persistent myths surrounding sexual violence inflicted upon prisoners is that other inmates are chiefly responsible; according to the BJS, inmates in state and federal prisons and local jails all reported greater rates of sexual victimization involving staff than other inmates. Despite all this, sexual assaults that take place within prisons are generally not factored into national crime statistics, as if they are somehow expected.

Certain factors nudge an inmate's likelihood of being victimized even higher. The BJS reports that inmates with mental health problems and inmates who identified as gay, lesbian or bisexual were all at higher risk for sexual abuse than the general population. Minors contained in juvenile detention facilities were reported to be at much higher risk than adults contained in adult facilities. Vulnerabilities that exist in the free world are magnified in the carceral system.

Just Detention International, a human rights organization aimed at ending sexual abuse of incarcerated people, collects testimonials from inmates. The accounts are stomach-churning. Micah from California reports residual nerve damage from a torture session involving tasers and stun guns applied to his genitals. He was also anally raped. The prison guard who raped Kimberly in Kentucky to the point of hemorrhaging told her he would hurt her children if she reported the attack, and informed her that he knew their whereabouts. In Louisiana, Rodney was sexually enslaved and prostituted by other inmates, who targeted him because he was gay. Every sickness and pathology in American life—misogyny, homophobia, a legacy of racism and slavery—is amplified in patterns of prison sexual violence.

Meanwhile, the Prison Rape Elimination Act, which has made prison rape statistics available, has done little in the way of its title. Robert Weisberg and David Mills predicted in their 2003 Slate essay 'Violence Silence' that PREA would do little more than gather information about prison sexual assault, and a report submitted by Human Rights Watch to the United Nations Committee against Torture this October seems to bear out their foresight:

> The federal Prison Rape Elimination Act (PREA) was enacted in 2003 to help combat sexual assault in confinement facilities. A landmark piece of legislation designed to prevent, detect, and respond to sexual assault in confinement facilities, PREA has yet to be fully implemented—state governors have only been required to designate whether their state was compliant with PREA. Six states—comprising 20 percent of the US population—have refused to comply with PREA: Arizona, Florida, Idaho, Indiana, Texas, and Utah.
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> Recently, the US Congress indicated that it may weaken PREA even further. PREA is structured to elicit state compliance by holding back 5 percent of federal grant funds used for prison purposes from states that refuse to comply. However, in September the Senate Judiciary Committee unanimously passed an amendment that would virtually eliminate the compliance mechanism by protecting several large federal grants from being held back.

If PREA is mostly toothless, it is only because it is allowed to be. It is difficult to conjure up similar legislation applied to any other population that would be met with such a resounding shrug. It appears that prison rape, by insinuating itself into the very punitive and rehabilitative functions of prison, has produced a deadly nonchalance. We have become a culture that tolerates and potentially lauds the rape and sexual exploitation of *hundreds of thousands of people* every year, many of them minors, mothers, mentally ill. Why?

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Tony Kaye's 1998 *American History X* features Edward Norton as Derek Vinyard, a disaffected

skinhead locked in a karmic cycle of racially motivated hate crimes. The core drama of the film is Derek's reform: what could possibly be its source, given how deeply embedded he is in low-income neo-Nazi culture? Even his imprisonment seems to have little effect until he is brutally raped.

In a now iconic shower scene, Derek encounters aggrieved members of a cinematic cognate of The Aryan Brotherhood, who beat him and rape him in frenzied succession. The scene is drawn out in slow motion, thrust by thrust, and concludes with a shot of blood rushing down the shower drain; viewers later learn that Derek needed six stitches to heal from the attack. It's during his recovery, when he is immobilized on his stomach, that an old high school mentor arrives to set him straight and snap him out of all this neo-Nazi nonsense like a nasty adolescent phase, which works: duly receptive and humbled by his experience, Derek turns his life around.

It is hard to imagine another genre in which rape is just a transitional necessity, one of the hurdles a character must navigate to grow. But prison rape has that strange valence in popular culture, and not purely in fictional works. Rape is part of forcing prisoners to change, it's what makes learning your lesson in prison scary, and scary prisons are what keep bad people in line.

*Beyond Scared Straight* is A&E's reality show based on at-risk-teen behavioral modification. The goal is to expose youths who are at risk for incarceration to what prison life is like in order to deter future delinquency. In a 2011 episode, a former inmate forces a 14-year-old to pat Kool-Aid powder onto his lips and then lunges forward to kiss him, intimating in frantic yelling that this routine would conclude in his sexual exploitation in prison. Interviewed at the end of the episode, the 14-year-old admits he was made uncomfortable by the advance, but still claims the former inmate "doesn't own [him]"; at the Huffington Post, this was tsk-tsked as evidence "he still doesn't completely get what a different world prison can be." Sexual exploitation in prison has its uses, in other words, and one of them is instructive.

Treatment of prison rape in ordinary television is often, with a few exceptions, bizarrely comical. *Law & Order: Special Victims Unit,* the iteration of the *Law & Order* franchise that made its fortune on rape theater, deploys the trope of prison rape with depressing regularity. In a surreal episode involving wild-animal smuggling, Christopher Meloni and Ice-T menace a wannabe hip-hop mogul during his interrogation by rolling dice and suggesting his cellmates will adopt the same procedure to determine the course of his rape. The suspect relents. The same scenario pans out in so many procedural cop dramas, with all due allusions to cellies named Bubba and pretty-boys-like-you. Even *The X-Files* had a go in a glibly comedic episode, wherein Detective Scully is urged to perjure herself lest she wind up with a Gertrude Stein–reading cellmate called "Large Marge." The arrests of celebrities like Lindsay Lohan and Paris Hilton produce fantasies disguised as news. Fox News reported in 2010 that "lesbian prison gangs" were itching to get their hands on Lohan; whether the "report" was filed under "entertainment" because of the actress or the feverishly implied rape is unclear.

The logic perpetuated by ongoing ease with prison rape is that certain bad people in particular bad settings either deserve sexual assault or do not deserve protection from it. That prison simply *is* a site where rape occurs is given as a deterrent and, in the event that an offender is not deterred, implied to be what they had coming all along. But the notion that prisoners who are raped should have behaved better to be less deserving is the apotheosis of the "asking for it" or "had it coming" arguments so commonly employed to dismiss victims of rape in the free population. Some crimes are so egregiously heinous that knee-jerk, visceral reactions tend toward the violent, but when we codify primal impulse into popular consensus, we wind up in agreement that rape is sometimes an appropriate punishment. Hatred or indifference to people in prison, therefore, affirms a particularly poisonous view of rape itself: that it has its place in the order of things, especially where badly behaved people are concerned. So long as some 200,000 people are sexually violated in detention centers annually, rape will never really retreat into the realm of the unthinkable, no matter how many perpetrators we turn into victims.

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And what of those victims of sexual abuse behind bars? Here again, the poisonous effects of prison rape slip the grip of the facilities themselves. While some inmates remain in custody until they die, the majority return at some point to society at large. Currently, reintegration and re-entry programs are generally structured around employment rather than psychologically adjusting to the effects of prison itself, and there is no standardized reintegration program with resources

freely available to all former inmates. Bryan Stevenson, the attorney-cum-human rights advocate who founded and directs the Equal Justice Initiative, has spoken about the harm done to communities when inmates return home having suffered severe trauma, noting in an NPR interview that "we can't continue to have a system of justice defined by error and unfairness and tolerate racial bias and bias against the poor and not confront what we are doing to individuals and to families and to communities and to neighborhoods." So it goes as well for sexual abuse: What sort of stable sexual culture can we hope to produce in communities already unduly affected by the carceral system when former inmates are re-introduced without any source of treatment for sexual trauma?



A 2004 study authored by Sheryl Pimlott Kubiak of Wayne State University found that the effects of post-traumatic stress disorder acquired in prison can compromise rehabilitation as former inmates re-enter their communities. Kubiak found that inmates treated for substance abuse struggled with post-prison legal problems and drug relapse in proportion to diagnoses of PTSD. Prison can, of course, be traumatic for a number of reasons, but as Kubiak notes, "while [sexual assault] may be glibly referred to as part of the sentence…it is rarely attended to by clinical professionals during incarceration, or in planning reintegration services." The echoes of sexual trauma inflicted in prison, therefore, can interfere with former inmates' efforts to put their lives back together post-prison, and put them at risk for further contact with the correctional system. Sexual assault in prison, in other words, has the destructive power to create a cycle of abuse that extends outside prison walls.

Kubiak's observation that few programs for inmates or former inmates attend to the ramifications of sexual assault in prison is also notable. In a 2008 article, James Radford, an AIDS activist and attorney, noted that the stigma of prison sexual assault forms a serious barrier to HIV and AIDS treatment for inmates and former inmates. "Rape itself stigmatizes the individual who is now in fear of yet another stigmatizing marker, an HIV diagnosis," Radford observed of sexual assault victims in prison who elect not to seek treatment, noting that "should the victim come forward, he would receive a drug regimen that inhibits the spread of HIV as well as tested for other STDs." Due to the stigma of victimization, inmates who have been sexually assaulted may choose not to seek treatment, which (in the case of HIV) puts them at risk for missing a critical period for medical intervention. When these inmates who have contracted HIV and AIDS via sexual assault re-enter the community without having been tested or treated, they put future sex partners at risk for the spread of HIV, in addition to going without adequate healthcare themselves. It is hard to imagine strong intimate relationships—the sort that anchor many of us in our surrounding communities—developing under conditions like these, where trauma and illness worsen under the burdens of stigma and stress. Here again, prison sexual assault poses a risk to the web of relations former inmates enter into when they leave the confines of penitentiaries.

The ubiquity of rape in prisons has led to a ubiquity of prison rape nonchalance in popular culture, which promotes a rape-as-punishment framework and normalizes rape itself. There is no other element of carceral life so frequently referenced in television, film, stand-up comedy routines, sleazy gossip rag headlines and second-rate porn scenarios. Meanwhile, despite the efforts of PREA, prison rape numbers have shown little sign of changing; drops have generally corresponded to overall drops in prison population, which isn't much of a trend to hang one's hopes on: the United States *still* has the highest incarceration rate in the world, a distinction we have held since 2002, a year before PREA was enacted. Prison overcrowding, loose oversight and an intensely punitive (as opposed to therapeutic or rehabilitative) carceral system are certainly all tied up in the eager habits of US incarceration, and likewise they all seem to be contributing factors in the prevalence of US prison rape. Eliminating prison sexual abuse will undoubtedly require a total system overhaul, which is necessary on its own merits, and for all our sake.

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***Elizabeth Stoker Bruenig*** *March 2, 2015*

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