

ABSTRACT

THE SOCIAL INJUSTICE OF PRISON RAPE:
A HISTORICAL ANALYSIS

By

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The purpose of this review is to gain a better understanding of prison rape and why it has routinely been an unobstructed form of inequality in American culture. Further, to examine why society typically holds a retributive approach toward sexual assault in prison and to review the recent legislation, which was enacted to help minimize the social injustice of rape in all detention facilities throughout America. This historical analysis revealed that sexual assault occurs in every type of correctional facility, in multiple locations, and at various times. Prison sexual violence profoundly impacts survivors, threatens public health, and hinders the ability of facility personnel to maintain orderly, safe, and productive correctional environments. Research on sexual assault in detention is scarce and typically inadequate due to small sample sizes, definitional problems, and low participant response rates. Studies on inmate victimization have produced contradictory conclusions, making it difficult to accurately assess the prevalence of sexual violence in corrections. However, most studies indicate that prison rape is a serious threat for countless prisoners.

THE SOCIAL INJUSTICE OF PRISON RAPE:
A HISTORICAL ANALYSIS

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CHAPTER 1

INTRODUCTION

Research suggests that sexual assault in detention facilities in the United States is a widespread problem that affects numerous prisoners as well as society (Berk, Kriegler, & Baek, 2006; Dumond, 2003; Eigenberg, 2000). It is estimated that 1 in 10 prisoners is the victim of a completed rape at least once during incarceration (Struckman-Johnson & Struckman-Johnson, 2000). According to English and Heil (2005), the occurrence of inmate sexual abuse has been known and examined by academics over the last 30 years. However, research has by and large failed to influence policies needed to prevent, intervene, or respond to prison rape (Dumond, 2000; English & Heil, 2005). In addition, much of the early literature was inconsistent due to the variety of methodological approaches utilized in different studies (Jones & Pratt, 2008). Moreover, unclear or diverse definitions contributed to unreliable prevalence rates (Jones & Pratt, 2008; Kaufman, 2008). Although prevalence rates fluctuate across studies, academic research often underestimates the impact of sexual violence in detention and the extent to which it constitutes a significant social injustice (Dumond, 2003).

Problem Statement

This review is a historical analysis of sexual abuse in detention settings throughout the United States of America from the 1930s to the passing of the Prison Rape Elimination Act (PREA) in 2003. Included is an examination of the rape-relevant history

of prison policies and prison culture from 1934 to the present. In addition, sociocultural factors relating to sexual abuse and sex roles within the prison sub-culture will be assessed and compared with those traditionally found in American society. Furthermore, the most recent and influential legislation affecting the sexual abuse of inmates, PREA, will be the subject of assessment as the first federal response to the crisis of sexual abuse in detention settings. This review will show how a growing awareness of sexual violence in detention settings throughout the past 80 years led to a policy response in PREA. In addition, this review will attempt to answer the following questions: Why have prisoners historically not been protected? How have policies evolved to eliminate prison rape? How does PREA intend to meet its proposed objectives?

Systemic problems contribute to the ineffective minimization of prison sexual violence, while the growing prison population destabilizes efforts to implement new programs to reduce its incidence (Dumond, 2003). Overcrowding, understaffing, poor classification systems, and individual attitudes contribute to the high rate of prison sexual assault (Dumond, 2003). Also, the stigma associated with prison rape and indifferent attitudes toward its occurrence contribute to under-reporting by both inmates and staff (National Prison Rape Elimination Commission [NPREC], 2009). Moreover, the current prison system does not provide for a supportive or positive rehabilitative environment for inmates (Kupers, 2005). Rather, the unsafe and unproductive environments found in detention facilities across America undermine the goal of rehabilitation (NPREC, 2009).

Survivors of prison sexual violence are significantly affected (Dumond, 2003; Dumond & Dumond, 2007; English & Heil, 2005; Jones & Pratt, 2008; Mair, Frattaroli, & Teret, 2003; Mariner, 2001; Melby, 2006). Mental health consequences of prison

sexual brutality include depression, posttraumatic stress disorder (PTSD), rape trauma syndrome (RTS), anxiety, an increased risk of substance abuse, and an increased risk of suicide (Dumond, 2003; English & Heil, 2005). In addition, prison rape survivors are five times more likely to contract HIV than their non-incarcerated counterparts (Maruschak, 1999). These negative consequences affecting individual inmates become damaging to the public, considering that 95% of inmates will eventually return to their communities (Mair et al., 2003).

According to English and Heil (2005), the salient features of sexual assault in prison include violence, politics, power, and business. The targets of abuse in prison often include individuals without the power. Devastatingly, youth incarcerated in juvenile detention centers are the most vulnerable and defenseless population (NPREC, 2009). Moreover, housing child inmates with adults contributes to sexual exploitation behind bars (PREA, 2003). Sadly, minors as young as 16 can be placed in adult facilities in several states (Stop Prison Rape [SPR], 2006). Snyder and Sickmund (2006) reported that in June 2004, more than 7,000 youth under the age of 18 were housed in adult facilities. Once victimized, inmates are marked as easy targets, increasing their risk for additional abuse (Mariner, 2001).

Other most violated groups in prison are gay and transgender individuals, those suffering from mental health disorders, and undocumented immigrants. Jenness, Maxson, Matsuda, and Sumner (2007) reported that 67% of inmates who identified as lesbian, gay, bisexual, or transgender reported having been sexually assaulted by another inmate during their incarceration. Additionally, individuals who suffer from mental health problems are found to be a highly targeted group (Jenness et al., 2007; Wolff,

Blitz, & Shi, 2007). Undocumented immigrants are especially vulnerable to sexual assault during imprisonment due to social, cultural and language isolation, past trauma, and lack of awareness regarding both the United States and prison cultures (NPREC, 2009).

Rape in prison, just like other forms of rape, is a human rights violation. Dumond (2003) suggests that permitting or not opposing such human rights violations weakens the government's power to protect numerous inmates and provide safe institutions. Jenness et al. (2007) support this conclusion, explaining that sexual violence in prison limits the ability of facility personnel to maintain an orderly, safe, and productive correctional environment. English and Heil (2005) propose that the ominous danger of sexual violence in prison creates an atmosphere of terror, further compromising security.

Sadly, American society has not intervened on behalf of the vulnerable, the powerless, or even its children, who endure unjust torment because of America's lack of awareness and refusal to acknowledge the occurrence of rape in state and federal institutions (SPR, 2006). Further, some individuals view sexual violence in prison as a natural consequence of violating societal norms, which likely contributes to the toleration of prison rape (Kury & Smartt, 2002).

Although rape in detention facilities across America has been largely ignored traditionally, organizations like Human Rights Watch and Just Detention International have brought attention to this inequity. With the constant expansion of the prison infrastructure, PREA and further legislation are needed to prevent, intervene, and respond to rape when it occurs. If it is true that the moral and ethical fiber of society are judged

by the way it treats its weakest and most vulnerable members, then implementing policies to end abuse in corrections is a much-needed response to a shameful situation.

Definitions

Definitions of Prison Rape

Rape is defined in the three following ways: “The carnal knowledge, oral sodomy, sexual assault with an object, or sexual fondling of a person, forcibly or against the person’s will,” “The carnal knowledge, oral sodomy, sexual assault with an object, or sexual fondling of a person not forcibly or against the person’s will, where the victim is incapable of giving consent because of his or her youth or his or her temporary or permanent mental or physical incapacity,” or “The carnal knowledge, oral sodomy, sexual assault with an object, or sexual fondling of a person achieved through the exploitation of the fear or threat of physical violence or bodily injury.” Prison rape includes “The rape of an inmate in the actual or constructive control of prison officials” (PREA, 2003, 42 USC 15609).

Definition of Prison

Prison is defined as, “Any confinement facility of a federal, state, or local government, whether administered by such government or by a private organization on behalf of such government, and includes any local jail or police lockup and any juvenile facility used for the custody or care of juvenile inmates” (PREA, 2003, 42 USC 15609).

Relevance for Social Work

Principles that are intrinsic to the duties of social workers include, but are not limited to, advocating for and protecting the rights of oppressed individuals, minorities, defenseless groups, and those at risk for maltreatment (National Association of Social

Work [NASW], 2008). Social workers are to be ethical and to uphold human rights. Rape, whether of a citizen or an inmate, constitutes a violation of human rights. Thus, social workers have a responsibility to protect individuals who are subject to this exploitation.

It is both critical and fitting to the aims of social work that social workers become aware of the issue of prison rape. An understanding of prison rape prepares social workers to advocate for human rights and inmate rights, to help change the judicial system and the prison system, and to educate members of society on the significant negative consequences of prison sexual violence. Furthermore, social workers should be prepared to educate, counsel, and study the effects of inmate sexual abuse at multiple levels. As such, it is essential that social workers understand how the societal factors, sociocultural factors, and the prison sub-culture collectively contribute to sexual abuse behind bars.

Other applicable core values in social work include acceptance, empathy, objectivity, and avoiding judging or blaming clients (NASW, 2008). There is an expectation that social workers build on clients' strengths and recognize clients' capacities for growth. Considering the importance of the strengths perspective in the social work model, it is appropriate that social workers work with inmates to help them succeed. Rehabilitation appears to fit the social work model best when working with individuals serving sentences in detention facilities as opposed to punitive environments that perpetuate violence. Therefore, rehabilitation should be the primary concern of prison administrators, prison staff, social workers, and society at large.

Tolerating or overlooking rape in detention facilities is in direct opposition to the goal of rehabilitation. Social workers are in a position of expertise in the area of studying behaviors at various levels and are also trained to look at the person in his or her environment. With such qualities, social workers generally have enriched backgrounds, which make them well suited to study this type of social problem and then consult on methods to improve the quality of life for countless prisoners who can be spared the trauma of rape while incarcerated.

Finally, it is crucial for all social work professionals to become educated about issues that exploit the human value of any individual or group. Challenging social injustice, respecting the inherent dignity and worth of people, helping people in need, and addressing social problems are additional values rooted in the practice of social work (NASW, 2008). Based on the aforementioned principles, it is evident that the issue of prison rape is relevant to the social work profession.

CHAPTER 2

LITERATURE REVIEW

This review focuses on rape in detention facilities. Provided in this review are the current representations of confinement, the prevalence of rape in detention, inconsistencies in prevalence rates found in research, and characteristics of both victims and perpetrators of sexual abuse in prison settings. Furthermore, the role of ethnicity, gang involvement, staff attitudes, and mental health factors are considered. Additionally, collective conditions of incarceration that add to the incident of prison rape are examined. Numerous academic studies are reviewed to elaborate on systemic issues including overcrowding, ineffective classification methods, the code of silence, and poor responses of prison staff following rape. The review also shows how these factors may lead to an atmosphere of fear, violence, and sexual assault found in detention facilities across America. Lastly, the effects of rape on survivors and communities are discussed.

The Current Representation of Confinement

The United States incarcerates a larger portion of its population than any other country in the world (SPR, 2006). Harrison and Beck (2004) reported that at the end of 2003 more than 2 million U.S. adults were incarcerated in federal and state prisons and local jails, with nearly 1.5 million inmates being housed in federal and state prisons. Golden (2008) estimated that 1 out of every 100 people in this country lives behind bars. Men are significantly represented within the prison population. Ninety-three percent of

U.S. inmates are male (Harrison & Beck, 2004). Golden reported that 1 in every 30 men between the ages of 24 and 35 are confined, while 1 in every 9 Black men the same age is imprisoned. Between 1980 and 1999 the prison population quadrupled (Pastore & Maguire, 2007), and more than 500,000 prisoners were incarcerated on drug charges (Walmsley, 2005). Additionally, research indicated that over half the inmates in state prisons were serving time for non-violent offenses (English & Heil, 2005).

Prevalence

The extent of prison abuse is still not known, but it is thought to be higher than research estimates (Cotton & Groth, 1982; Dumond, 2003; Eigenberg, 2000). Rates fluctuate across studies depending on definitions and methods used as well as the type of prison examined (Saum, Surratt, Inciardi, & Bennett, 1995). Depending on which studies are employed, rates range from less than 1% to 21% (Davis, 1968; Gaes & Goldberg, 2004; Jones & Pratt, 2008; Lockwood, 1980; Moss, Hosford, & Anderson, 1979; Nacci & Kane, 1983; Saum et al., 1995; Struckman-Johnson & Struckman-Johnson, 2000; Struckman-Johnson, Struckman-Johnson, Rucker, Bumby, & Donaldson, 1996; Wooden & Parker, 1982).

In an earlier study by Davis (1968), sexual abuse in Philadelphia jail systems was analyzed. Over 3,000 inmates and 561 custodial staff were interviewed and reviews of official records were conducted. It was determined that close to 3% of male inmates were sexually assaulted and that close to 2,000 of 60,000 men were assaulted over a 26-month period. Davis noted that only 5% of the total inmate population was included in the study and thus the findings were only a glimpse into the extent and severity of the

problem. Several other studies found similarly low prevalence rates (Hensley et al., 2003; Lockwood, 1980; Moss et al., 1979; Nacci & Kane, 1983; Saum et al., 1995).

Lockwood (1980) and Nacci and Kane (1983) considered whether inmates were the targets of other kinds of sexual aggression other than rape. Lockwood studied sexual coercion in a New York state prison, interviewing close to 100 inmates. It was determined that 28% of inmates were targets of sexual aggression and 1.3% had been raped. Nacci and Kane found comparable results, reporting that close to 10% of inmates had been targeted, but less than 1% reported having been raped. Consequently, rates are dependent on how loosely researchers define rape, whether they observe sexual aggression, and likely what inmates feel least ashamed about sharing. Also, inmates may feel less ashamed to report attempted assault than to report completed rape.

Struckman-Johnson et al. (1996) focused on low report rates of sexual abuse in prisons, the effects of rape on inmates, prevalence rates, and participation by staff in the occurrence of sexual abuse in confinement. They found that of the 474 men studied, 101 men reported sexual coercion during incarceration, 51 of these 101 inmates reported forced anal intercourse perpetrated by one or more assailants. Further, close to 25% of prisoners experienced sexual pressuring or attempted sexual assault during confinement (Struckman-Johnson et al., 1996). However, Struckman-Johnson et al. reported that only 10% of participants in their study were the subjects of a completed rape at least once during incarceration.

Struckman-Johnson and Struckman-Johnson (2000) replicated their 1996 study, surveying 1,788 male inmates and 475 correctional staff. Twenty-one percent of the inmates surveyed reported at least one episode of forced or pressured sexual contact

while incarcerated. Struckman-Johnson and Struckman-Johnson (2000) concluded that 1 in every 5 men would be a victim of rape behind bars. Beck and Harrison (2007) reported that of the estimated 60,500 inmates studied, 4.5% of them experienced unwanted sexual attention ranging from touching to rape. Furthermore, the 2006 Bureau of Justice Statistics Report indicated that more than 6,500 official allegations of prison sexual abuse were reported in the year 2006 alone (Beck & Harrison, 2006).

The rates found in women's facilities vary depending on the facility. However, some statistics suggest that 1 in 4 female inmates is at risk of sexual abuse while incarcerated (Struckman-Johnson & Struckman-Johnson, 2002). Kassebaum (1972) studied consensual sex in female institutions and concluded that female inmates are sexually exploited by other inmates, as well as by staff. In 1996, the Human Rights Watch reported that male guards in several state prisons were sexually abusing female inmates (Hensley, Struckman-Johnson, & Eigenberg, 2000). According to the data reported by SPR (2006), staff and corrections officials assaulted women at a higher rate (74%) than male inmates assaulted fellow inmates (54%). Struckman-Johnson and Struckman-Johnson (2000) found that 0% to 27% of the 263 female inmates questioned had been sexually coerced. Rape rates ranged from 0% to 3%. However, their report differed from the Human Rights Watch Report in that they found close to half the perpetrators were other female inmates, not staff.

Once victimized, many rape survivors are targets of future sexual assault (Banbury, 2004; Castle, Hensley, & Tewksbury, 2002; Dumond, 2003; Man & Cronan, 2002; Mariner, 2001; Wooden & Parker, 1982). Struckman-Johnson and Struckman-Johnson (2006) found that nearly 75% of male and 57% of female prison rape survivors

reported being abused more than once, and 30% of these survivors endured six or more assaults. Devastatingly, some survivors reported up to 100 assaults in a single year (Struckman-Johnson et al., 1996). These findings illustrate an extensive breakdown in the prison system to preserve the basic human rights of prisoners (NPREC, 2009).

Inconsistencies in Prevalence

Although there are disparities between prevalence rates resulting from different methodologies, it has been commonly concluded that sexual coercion rates range from 14% to 22% and rape rates are near 12% (English & Heil, 2005; Hensley et al., 2000; Struckman-Johnson & Struckman-Johnson, 2000). Based on a review of rigorous and methodologically sound studies of prison inmates, Jones and Pratt (2008) estimated the overall rate of prison sexual victimization to be 20%. Overall, available statistics should be valued as conservative at best, due to problems with rape documentation and under-reporting of inmate rape, the nature and conditions of prisons, which contribute to rape and the tolerance of rape, inmate codes that prevent reporting, and staff attitudes that might influence under-reporting (Jones & Pratt, 2008).

Kaufman (2008) suggested a few obstacles that interfere with prevalence studies. Victims may respond at a low rate due to embarrassment or fear of reprisal and officials often have a difficult time verifying reports made by inmates, which may contribute to unsubstantiated incidents that are not included in prevalence rates. Also, the lack of common terminology used to define sexual abuse in prison was indicated. Moreover, disparities between studies may be attributed to the different approaches of collecting data. Societal values and perceptions regarding the prison population also may pose a barrier to obtaining accurate prevalence rates (Dumond, 2003; Saum et al., 1995).

English and Heil (2005) found that individuals interviewed face-to-face generally reported less abuse than those who were anonymously surveyed. They concluded that this was likely due to the shame associated with rape and the guilt many victims feel following a violation (English & Heil, 2005).

Jones and Pratt (2008) analyzed varying methodological approaches that produced an array of prevalence rates. They suggested that studies that focus on completed rapes tend to reveal low prevalence rates. Studies that assess for forms of sexual coercion reveal higher rates. The method of data collection plays a significant role in prevalence rates as well. While self-administered questionnaires and face-to-face interviews typically elicit higher participation rates than anonymous surveys, they may contribute to under-reporting as anonymous surveys often uncover higher prevalence rates (Jones & Pratt, 2008).

Additionally, the selections of prison sites influence prevalence rates (Jones & Pratt, 2008). Studies that evaluate inmates from single facilities reveal lower prevalence rates compared to studies that assess inmates at multiple sites. However, Jones and Pratt (2008) explained how there is often overlap in methodological approaches. Therefore, it should not be determined that single-site approaches are the sole cause of lower prevalence rates. Further, the lack of differentiation between prevalence rates and incidence rates in the literature causes highly anecdotal findings (Jones & Pratt, 2008). Prevalence rates refer to the number of prison residents who have ever had a sexual assault experience, where incidence rates refer to the number of new cases. Overall, the methodology and attitudes regarding sex in prison affect the prevalence rates found by researchers and contribute to discrepancies in prevalence rates from one study to the next.

Characteristics of Victims

Certain characteristics place inmates at a heightened risk for sexual cruelty while in detention. Individuals most at risk are the young and criminally inexperienced, mentally ill or developmentally delayed, gay or transgender persons, those held in immigrant detention centers, those who are not gang affiliated, and individuals who are not streetwise (Bowker, 1980; Dumond & Dumond, 2007; English & Heil, 2005; Hensley, Koscheski, & Tewksbury, 2005; Mariner, 2001). Those who are small and weak, persons who are disliked by staff or other inmates, individuals who have already been victimized, those who have broken the code of silence, and non-violent first time offenders are also at an increased risk of abuse (Donaldson, 1993).

Austin, Fabelo, Gunter, and McGinnis (2006) conducted a study to determine methods to help reduce sexual assault across all correctional systems. Of particular focus was determining which inmates were at greatest risk for abuse. The study was conducted in the Texas prison system from 2002 to 2005. They found several dynamics that increased the likeliness for abuse to occur. Of the substantiated cases, 60% involved White inmates and 12% were mentally ill; they also found that victims were on average 3 years younger than their perpetrators (Austin et al., 2006).

Vulnerable Groups

Gay and transgender inmates may be the most violated group in custody (SPR, 2006). Due to reckless classification systems, vulnerable inmates are often housed with likely perpetrators, which place gay and transgender populations at risk for abuse. Further, these inmates are often perceived and portrayed as willing victims (SPR, 2006). According to Jenness et al. (2007), transgender inmates are 13 times more likely to be

sexually assaulted while incarcerated compared to non-transgender inmates. The transgender inmates studied were assaulted at a rate of 4.4% to 59%. Additionally, nearly 67% of the non-heterosexual inmates reported sexual assault, compared to only 2% of the heterosexual inmates (Jenness et al., 2007).

Youth are also at great risk for abuse. According to the report *In the Shadows*, juveniles ages 13 to 18 are exceptionally vulnerable to abuse in adult facilities (NPREC, 2006). The rate of victimization for youth housed with adults is 5 times that of youth held in juvenile facilities (Forst, Fagan, & Vivona, 1989). Moreover, youth housed with adults are 8 times more likely to commit suicide than those who are housed with other juvenile offenders (Forst et al., 1989). Unfortunately, sexual violence is also prevalent in juvenile detention facilities. According to Beck and Hughes (2005), juvenile detention facilities reported the highest incidence of sexual perpetration by staff compared to adult facilities. Staff committed 41% of the substantiated incidents while the remaining 59% were carried out by other youth (Beck & Hughes, 2005). Snyder and Sickmund (2006) indicated that youth reported close to 3,000 allegations in a single year.

Mental Health and Inmates

Toch and Kupers (1999) analyzed the mentally ill inmate population and concluded that they are at risk for mistreatment in detention, which can lead to trauma and exacerbate emotional problems. He suggested that inmates who have mental health problems are overwhelmingly represented in the inmate populace (Toch & Kupers, 1999). Further, Toch and Kupers reported that the prevalence of mental disorders among inmates is at least 5 times higher than that of the general population. Moreover, Torrey (1997) reported that more mentally ill individuals are housed in jails and prisons in the

United States than in psychiatric hospitals. Lamb (1989) indicated that the deinstitutionalization of the mental health system caused an influx of inmates with severe mental health disorders in correctional facilities.

Wolff et al. (2007) sampled 7,528 inmates from 11 male facilities and one female facility through an audio-computerized survey. They based the incidence of mental disorders on self-reports made by inmates based on information such as previous mental health treatment. Wolff et al. estimated rates of sexual victimization among inmates with and without mental disorders. Based on their findings, 1 in 12 male inmates with a mental disorder compared to 1 in 33 male inmates without mental disorders reported at least one occasion of sexual violence by another inmate over a 6-month period.

Among female inmates with a mental disorder, sexual assault was over 3 times higher than what was reported by male inmates with mental disorders. African American and Hispanic inmates with mental disorders, regardless of gender, reported higher rates of sexual violence than non-Hispanic White inmates (Wolff et al., 2007). The study found that the majority of inmates who reported sexual victimization did not report completed rapes. They also reported that both male and female inmates might be at greater or lesser risk for sexual violence in the community, based on their mental health disorders and community characteristics (Wolff et al., 2007). Nevertheless, these findings indicate that inmates who have mental health disorders are at a heightened risk for sexual victimization.

Not only are inmates with mental health problems more likely victims in prison, they also report previous violence in the community (Wolff et al., 2007). Kupers (1996) reported that inmates frequently lack a support system, have often experienced childhood

sexual abuse, and tend to be plagued by mental illness at much higher rates than those in the general population. Collins and Bailey (1990) suggested that a significant number of inmates experience severe and repeated trauma prior to incarceration. Such trauma likely causes these inmates to be more susceptible to PTSD, suicide, and other mental health problems (Kupers, 1996).

Racial Composition and its Role in Rape

Numerous studies have focused on ethnic disparities between perpetrators and their victims (Carroll, 1977; Chonco, 1989; Davis, 1968; Moss et al., 1979). Moss et al. (1979) concluded that all the perpetrators in their study were Chicano or Black. Furthermore, they determined that rape in prison is highly precipitated by race. Carroll (1977) found there to be a high relationship between nonconsensual sex and racial tension. According to Carroll, perpetrators were likely to be of different racial backgrounds than their victims.

In an earlier study, Davis (1968) reported that 56% of rape incidents involved Black aggressors and White victims, 29% involved Black aggressors and Black victims, 15% involved White aggressors and White victims, and no cases involved White aggressors and Black victims. However, it should be noted that at the time of Davis's study, in the 1960s, 4 out of every 5 prisoners in the Philadelphia prison system were Black. Thus, this alone may have been the cause for studies to indicate Black inmates as the highest rape perpetrators in prison. Further, Bowker (1980) suggested that the findings would be quite different if the circumstances were reversed and there were a small percentage of Black prisoners compared to other ethnicities.

However, Carroll (1977) studied rape rates in a prison where only 22% of the prisoners were Black and found that this did not affect the degree to which Black men were perpetrators. He determined that Black inmates hold significant power in detention facilities because they are organized and have a high degree of group cohesion compared to other ethnic groups. He also found that White gang leaders facilitate interracial rape in order to get victims to agree to consensual relationships or pairings following their rapes by Black inmates. Therefore, it appears that White prisoners gain protection from other White inmates not due to solidarity, but for sexual favors.

Additionally, Carroll (1977) suggested that there is an element of “Black Rage” in prison rape. According to Carroll, Blacks have been generally oppressed as a group and use rape in prison to retaliate against Whites. Therefore, rape is used to gain power, dominance, and a sense of greater masculinity (Bowker, 1980; Cotton & Groth; English & Heil, 2005; Lockwood, 1980; Ross & Richards, 2002) and can be used by different ethnic groups to gain power, dominance, and control over other races.

Davis (1968) hypothesized that Black prisoners may organize into prison gangs as a way to maintain status. Moreover, he suggested that refusal to participate in gang rape might lead to victimization. Davis also hypothesized that lower-class Blacks may perpetrate rape in jail because they have been unable to affirm their masculinity outside of prison. Further, incarceration exacerbates their lack of masculinity leading them to rape others in an effort to demonstrate dominance.

Although many studies suggest that White inmates are most often victimized, Jenness et al. (2007) found different results when studying the incidence of prison rape in California prisons. According to Jenness et al., Black inmates are considerably more

vulnerable to sexual assault in California correctional facilities. Of the inmates sampled, 50% of the non-heterosexual inmates who reported sexual assault were Black and, even more pronounced, 83% of the heterosexual inmates who reported being sexually assaulted were Black (Jenness et al., 2007).

While many studies seem to suggest that ethnicity factors into rape in prison, it is important to note that not all victims, nor all perpetrators, are from one ethnic background, and that ethnicity is not a singular factor found in prison sexual violence (Kunselman, Tewksbury, Dumond, & Dumond, 2002). Further, Kunselman et al. (2002) explained that victims of prison rape generally display several characteristics associated with inmates at risk for abuse. Thus, ethnic background is not the only common characteristic found among victims.

Bowker (1980) suggested that, "Interracial rape is like all social problems in that its epidemiology changes over time in responses to changes in the social environment" (p. 10). Bowker also indicated that White men historically perpetrated rape on Black women. Thus, rape should be examined according to who has social power, rather than by whether individuals of different racial backgrounds have a propensity toward sexual violence. Although rape in prison does have a correlation with race, race itself is not the main factor, as is evidenced by rapes perpetrated by inmates on victims of their own racial background (Carroll, 1977; Davis, 1968).

Gangs and Prison Rape

Extortion is a common theme in prison and much violence perpetrated amongst inmates, results from efforts to seize or maintain control of the illegal economy found in detention facilities (Mariner, 2001). Often, prison gangs run underground markets,

including the trading of inmates or sexual slavery (Mariner, 2001). Prison gangs are considered a security threat and generally are organized, powerful, and structured groups (Hensley, 2002). They are often responsible for the preponderance of violence found in prison facilities (Camp & Camp, 1988; Cooksey, 1999). Both Bowker (1980) and Scacco (1982) described how inexperienced inmates frequently accept a service or good and then are expected to pay for them. Payment can be monetary or physical. When inmates are not able or unwilling to pay, physical and sexual attacks may occur.

Prison rape incidents often involve multiple perpetrators (Banbury, 2004; Mariner, 2001; Struckman-Johnson et al., 1996). According to Jenness et al. (2007), gangs play a role in prison sexual misconduct, with 45% of the incidents reportedly involving a gang member assaulting a non-gang member. Some inmates have been forced to be sex slaves throughout the prison or to certain groups in the prison sub-population, such as to a prison gang (Castle et al., 2002; Knowles, 1999; Mariner, 2001; Wooden & Parker, 1982).

Characteristics of Perpetrators

Inmates who are most likely to perpetrate abuse in prison include those who are most likely to perpetrate abuse outside of prison (Berk et al., 2006). Research indicates that individuals incarcerated for violent crimes, those affiliated with gangs, those who are accustomed to prison, those who spent time in juvenile detention facilities, those who are older and stronger than their victims, those who are younger than thirty years old, and those who tend to break other prison rules are at an increased risk of perpetrating abuse while in confinement (Berk et al., 2006; English & Heil, 2005; Mariner, 2001; Nacci & Kane, 1982). Further, inmates who are young and those serving sentences of more than

10 years also seem to be most likely to perpetrate offenses (Berk et al., 2006). However, it was determined that inmates who are serving life in prison are not at an increased risk of engaging in serious misconduct, as might be assumed (Berk et al., 2006).

Staff as Perpetrators

Tewksbury and West (2000) indicated that there is a significant power differential at play between correctional officials and inmates, which makes abuse of inmates by staff extremely easy. It was not until recently that laws criminalizing sexual behavior between staff and inmates were enacted. Previously, guards were able to get away with perpetrating sexual abuse on inmates (Tewksbury & West, 2000). Research commonly indicated that staff, not other inmates, violated women inmates (Amnesty International, 2001; Human Rights Watch, 1996; Smith, 2001). Similar to the common impression that guards singly assaulted female inmates, it was generally concluded that male inmates were only at risk of sexual violence at the hands of other inmates (MGuire, 2005). However, other research has suggested that male and female inmates are at risk of assault by both staff and fellow inmates. Struckman-Johnson et al. (1996) reported that guards perpetrated 18% of incidents reported by male inmates. Further, Struckman-Johnson and Struckman-Johnson (2002) found that fellow inmates perpetrated nearly half of the 8% to 27% of incidents reported by female inmates, while guards were responsible for around 45% of the reported incidents.

Collective Conditions of Incarceration

Numerous factors contribute to prison culture and prison norms. Conditions associated with the occurrence of prison sexual violence include racial conflict, dormitory or barrack style housing, facilities with a high number of violent offenders, blind spots,

and understaffing (Mariner 2001; Nacci & Kane, 1982; Struckman-Johnson & Struckman-Johnson, 2000).

Lack of Proper Inmate Classification

Berk et al. (2006) conducted a study to determine which inmates are most likely to engage in serious misconduct while imprisoned. Serious misconduct included drug trafficking, assault, rape, attempted murder, and other offenses that met criteria for serious misconduct (Berk et al., 2006). They were able to accurately predict serious misconduct over 50% of the time, with less than 3% of inmates over a 24-month period having been reported for serious misconduct (Berk et al., 2006).

They concluded that classification systems can be designed and employed to identify individuals most likely to offend and then such inmates can be placed in more restrictive housing (Berk et al., 2006). Utilizing such a system could potentially prevent rape from occurring in prison. Berk et al. (2006) explained that there is a concern of how to best maintain order while staying cost-effective. This fiscal concern likely impedes the probability of employing methods to help reduce the occurrence of rape in prison. The average cost to house a single inmate, according to Berk et al., is \$30,000 per year. The cost increases significantly for more secure housing (Berk et al., 2006). Thus, it does not seem financially feasible to place large quantities of inmates in restrictive environments.

Berk et al. (2006) also explained a flaw in the current classification system. All infractions are treated the same, with minor infractions being regarded as equal to major infractions. They highly recommended a system that focuses on identifying inmates who are most likely to commit serious offenses, rather than treating all offenses the same.

Thereby, ranking infractions based on levels of severity would be significantly beneficial in minimizing sexual violence among inmates (Berk et al., 2006).

Overcrowding

Research points to the growing prison population, overcrowding, and understaffing as the main culprits in the occurrence of prison rape (Hensley, 2002; Dumond, 2003). Hensley (2002) explained that the rapid growth of prisons resulted from societal values. Citizens' fear of crime, increased media coverage, stricter legislation, the war on drugs, and more severe sentencing laws were listed as factors contributing to the influx of prisoners being incarcerated. Facilities are now overcrowded, understaffed, and unsafe (Hensley, 2002).

Hensley (2002) suggested that overcrowding directly leads to violence and that rape in prison is a ramification of overcrowded detention facilities. Additionally, Toch, Adams, and Grant (1989) found that prisons operating over capacity exhibited more violence than prisons operating at or below capacity. According to Kupers (1996), the majority of state and federal facilities are profusely crowded. Further, he described different methods used to house inmates in overpopulated facilities. Dayrooms and gymnasiums are converted into dormitories and numerous prisoners are forced to house with a roommate in cells designed for single inmates (Kupers, 1996). Kupers (1996) explained that the outcome of such overcrowding is unhealthy, unsafe, and creates unproductive environments. Additionally, overcrowding impedes the rehabilitation process in detention (Kupers, 1996).

Location and Timing of Assaults and Lack of Staff

Sexual assault occurs in all types of correctional facilities, in multiple locations in these facilities, and at all different times throughout the day and night (Jenness et al., 2007). According to Struckman-Johnson et al. (1996), staff and inmates both reported lack of staffing as a major feature in the occurrence of prison rape. Nacci and Kane (1982) indicated that assaults often occur when inmates first arrive in a facility, with most inmates reporting assaults within the first month of incarceration. Abuses most frequently occur in places where staff is not readily able to view the assaults and at times when staff is not present (English & Heil, 2005). Also, abuses are more likely to occur in dormitory or barrack style housing than in single cells occupied by only one or two inmates (English & Heil, 2005). However, Austin et al. (2006) concluded that cellblocks with solid cell fronts make rape more feasible because they reduce noise within the unit, permit privacy, and limit visual observation by staff. These findings demonstrate the need for enhanced security measures and additional personnel.

Reporting Abuse

Rape is one of the nation's most seriously under-reported crimes (Sabo, Kupers, & London, 2001). According to Kilpatrick, Edmunds, and Seymour (1992), no more than 16% of rape survivors report their rapes. It has been concluded that men are even less likely than women to report sexual abuse (Pino & Meier, 1999). As in the community, inmates who are victimized are often ashamed to report abuse (McGuire, 2005). Dumond (1992) found that of the estimated 1000 prison sexual assaults that took place yearly; only three percent were ever reported. In addition, prisoners face more barriers following rape than do rape survivors found in the community. For inmates who

do report abuse the reality is adverse, as much abuse does not end following such reporting (Mariner, 2001). The likelihood of abused inmates being re-targeted is high (English & Heil, 2005). One study reported that the average rape survivor suffered nine individual incidents of abuse (Struckman-Johnson et al., 1996). The fear of being labeled, being targeted, and not being protected, along with immense guilt, can cause individuals to not report abuse when it occurs (English & Heil, 2005).

Code of Silence

Prisoners and some staff view reporting sexual assault as feeble. In the prison setting snitching is often met with retaliation and further victimization (Kupers, 2001). Kupers (2001) also suggested that when rape is reported officials typically pressure victims to reveal the name of their assailant(s), often worsening circumstances for the rape survivor. The code of silence is further fostered when inmates feel that their reports will go uninvestigated and ignored (Dumond, 2003).

Staff Attitudes and Their Influence on Reporting

The attitudes of staff regarding rape in confinement is a serious concern found when examining the factors contributing to the phenomenon of sexual abuse in detention (Dumond, 2003; English & Heil, 2005). Eigenberg (2000) suggested that prison officials can either help deter and prevent rape or indirectly facilitate rape. Struckman-Johnson and Struckman-Johnson (2000) found the careless attitudes of prison officials regarding sexual coercion in detention settings to be a significant factor that promotes prisoner rape. When guards were surveyed about the prevalence of prison rape it was found that many guards believed prison rape to be uncommon in their facility. Dumond (2003) found that inmates were highly unlikely to report abuse to staff due to fear of retaliation by the

perpetrator and other inmates and fear that the guards would not take their reports seriously.

Eigenberg (2000) established that the majority of correctional officers interviewed held stereotypical views toward homosexuality. Furthermore, officers' religiosity and views on homosexuality affected responses or lack of response to inmate rape. Eigenberg found that younger, male, religious, or less educated officers more often held negative views regarding homosexuality and younger, female, or less religious officers were more likely to support egalitarian attitudes toward women. Moreover, officers who held repressive attitudes toward women and officers who condemned homosexuality were most likely to blame victims. Further, officers who did not victim-blame were found to define assaultive situations as rape (Eigenberg, 2000).

Eigenberg (2000) pointed out that correctional officers are directly responsible for formal rule enforcement in prison facilities and for presenting inmate violations to disciplinary boards. Therefore, a significant amount of responsibility and power regarding responding to rape falls in the hands of correctional staff. Eigenberg (2000) suggested that some officers might use the threat of sexual violence to control or intimidate inmates and that officers potentially tolerate rape because it makes inmates, as a whole, more manageable. Most notably, Eigenberg (2000) explained that officers likely fail to enforce regulations because they define some acts as consensual homosexuality rather than coercive acts of violence. Eigenberg (2000) suggested that distinguishing rape from consensual sex in prison is not an easy task as extortion techniques are often employed. Thus, unless a rape was committed with the presence of a weapon or clear violence and physical injury, officers may not recognize inmate rapes.

Eigenberg (2000) also explained that inmates and officers perceive the role of prison guards in the occurrence of prison rape quite differently. Inmates reported that guards are unresponsive and that they contribute to prison rape. Guards generally reported that they respond accordingly to incidences of prison rape (Eigenberg, 2000). Eigenberg (2000) suggested that guards potentially do not respond to rape because they do not define certain types of rapes as sexual assaults and because they may hold attitudes about different types of rape as being precipitated by the victim. Eigenberg (2000) concluded that nearly one-fourth of the officers interviewed did not consider it rape when an inmate threatened to identify another inmate as a snitch unless he engaged in sexual acts or when an inmate was forced to pay off a debt through sexual acts.

Unfortunately, staff values and perceptions significantly contribute to rape in detention settings (Dumond, 2003). Thus, staff responses are critical components in the prevalence of reporting sexual abuse. Although, the dynamics that determine levels of reporting sexual abuse vary, it is crucial for policies to acknowledge reasons why inmates are reluctant to report abuse in the prison community (English & Heil, 2005). In addition, such barriers should be eliminated from these institutions. Eigenberg (2000) suggested that staff training be employed to emphasize which sexual acts constitute rape, as prison guards cannot react adequately if they fail to define rape effectively.

Responses Following Sexual Violence

Although sexual abuse constitutes a crime in all 50 states, there are significantly low prosecution rates of inmate-on-inmate sexual abuse. When rape occurs in prison it is not always considered a crime that can be prosecuted. The requirement for prisoners to take action following assaults is to prove physical harm (*Farmer v. Brennan*, 1994). Not

only does the majority of prison rape go un-prosecuted, prisoner rights have commonly been disregarded at all levels, including institutionally (PREA, 2003). Surprisingly, it was not until the 1990s that the majority of U.S. states enacted laws to prohibit sexual abuse of inmates by staff (Kunselman et al., 2002).

Typical responses following sexual assault in detention settings drastically affect the rate at which inmates report abuse (Dumond, 2003). Kupers (1996) explained that when rape is reported prison officials tend to pressure the victims to identify their assailants although it is known that snitching is not accepted in the prison culture and usually is met with retaliation. Even more inappropriate, guards sometimes overlook sexual assault or doubt the victims' reports (Eigenberg, 2000). Kupers (1996) suggested that these types of responses to reports of rape add to the trauma the victim experiences.

Rape Effects on Survivors and Communities

Inmates who have been sexually assaulted during incarceration appear to blame themselves for their victimization due to a lack of experience and an inability to successfully navigate the prison culture and protect themselves (Jenness et al., 2007). According to Jenness et al. (2007), many inmates who survive rape express fear of victimization and concern for personal safety. In addition, inmates are at an increased risk for developing PTSD, depression, anxiety, substance abuse, and contracting HIV and other STDs (Dumond & Dumond, 2002; Jenness et al., 2007; Kilpatrick et al., 1992; Maruschak, 2004; Oakie, 2007; Pinkerton, Galletly, & Seal, 2007). Further, inmates who have been sexually abused are at an extremely heightened risk of committing suicide to cope with their abuse and to avoid further suffering (Dooley, 1990; Haycock, 1991; Lockwood, 1980; Struckman-Johnson & Struckman-Johnson, 2000; Toch & Kupers,

1999; Tucker, 1982; Wooden & Parker, 1982). Lastly, inmates who have survived rape are less likely to successfully reintegrate into society (Dumond & Dumond, 2002).

Mental Health Implications

Kilpatrick et al. (1992) found that impacts on rape survivors are significant. Dumond and Dumond (2002) suggested that prison rape survivors frequently suffer severe psychological harm. Short-term affects of sexual abuse on victims include guilt, shame, fear, anxiety, tension, an exaggerated startle response, depression, anger, impaired memory and concentration, and rapid mood swings (Herman, 1992; Petrak & Hedge, 2002). Struckman-Johnson and Struckman-Johnson (2000) concluded that sexual abuse survivors reported suicidal ideations resulting from the sexual violence experienced and the possibility of future sexual harm. Additionally, the trauma of sexual assault may emotionally affect the victim for years (Jenness et al., 2007), potentially impairing the normal functioning of individuals and contributing to depression, phobias, and the inability to maintain basic activities (Cotton & Groth, 1982; Dumond & Dumond, 2002; Goyer & Eddleman, 1984).

Physical Effects

Prison rape survivors are at a serious risk for contracting HIV and other sexually transmitted diseases (Okie, 2007). A disproportionate number of inmates are infected with HIV compared to the general population (Pinkerton et al., 2007). According to Maruschak (2004), an estimated 1.9% of men and 2.8% of women incarcerated have HIV. Pinkerton et al. (2007) suggested that this prevalence rate is likely a conservative approximation. According to Maruschak (1999), rates of HIV infection are 5 times higher among the inmate population than among the general population.

Pinkerton et al. (2007) estimated that male inmates raped once in prison by five men have a 1 in 477 risk of getting infected with HIV compared to a 1 in 98 chance if raped seven to 35 additional times. Surprisingly, their estimate was quite conservative. They based their calculations on a prison population of 1.4 million men and used the low prevalence rate of 1% to determine their findings. They predicted that of the 14,000 men who have or will be raped in prison, between 43 and 93 of these men have or will acquire HIV (Pinkerton et al., 2007). Women have an even higher risk of infection. It has been reported that 3.5% of all female state prison inmates were HIV positive, compared to 2.2% of male state prisoners; incarcerated women are three times more likely to be HIV-infected than incarcerated men (DeGroot, 2001; Maruschak, 1999).

Aside from physical diseases that are transmitted through sexual violence, many inmates suffer physical injuries resulting from such attacks. Dumond and Dumond (2002) explained that prison rape victims might require hospitalization for broken bones, bleeding, and other physical harm resulting from violent assaults.

Consequences to Society

Sexual violence in prison not only impacts the inmates significantly, it can compromise the well-being of communities (Jones & Pratt, 2008). Societal consequences include an increased risk of crime by the rape survivor, an increased spread of STDs to the public, and a reduction in the likeliness of a smooth transition back into society as a productive citizen (English & Heil, 2005). English and Heil (2005) also found an increased likelihood of racial tension, both in and outside of prison, and an increased risk of violence both aimed at the rape survivor and precipitated by him.

Dumond and Dumond (2002) suggested that psychological harm, suffered as a result of prison rape, negatively affects reintegration into communities. Pinkerton et al. (2007) suggested that the only way to reduce the consequences carried over to society by prison rape survivors is to reduce the incidence of prison rape. Thus, reducing the transmission of diseases in the prison setting will also reduce the spread of diseases within communities.

Prison rape contributes to the spread of diseases, an increased risk of committing future crime on the part of the victim, increased violence and homicide against staff and inmates, and interracial tension (English & Heil, 2005; Okie, 2007). Individuals who perpetrate sexual abuse in prison typically came in to prison more violent and more dangerous than the general population (Man & Cronan, 2001). According to Heil, Ahlmeyer, Harrison, and English (2002), over half of institutionalized offenders were arrested for violent crimes within 12 months following their release. These considerable dangers to the public demonstrate why it is necessary to impose consequences for perpetrators who commit sexually violent crimes while in prison. Prosecution of prison rape would extend prison sentences and keep dangerous individuals off the streets.

Conclusion

Accurately assessing the incidence and prevalence of prison rape and other forms of sexual assault in corrections facilities is a complex process. Partly due to contradictory findings implicated by research (Jenness et al., 2007), rates of sexual violence in detention settings fluctuate across studies. Varying definitions and methods used also contribute to this fluctuation. Kunselman et al. (2002) suggested that the biggest problem affecting the validity of studies is not the ever-changing definitions of

prison rape, but the lack of reporting rape in prison. Some research suggests that sexual victimization in prison is rare (Fleisher & Krienert, 2006; Fuller & Orsagh, 1977; Lockwood, 1980; Moss et al., 1979). However, other studies concluded that prison sexual violence occurs quite frequently (Struckman-Johnson et al., 1996; Weiss & Friar, 1974; Wooden & Parker, 1982).

Several studies found sexual coercion rates in detention to range from 14-22% and rape rates near 12% (Hensley et al., 2000; Struckman-Johnson & Struckman-Johnson, 2000). Gaes and Goldberg (2004) estimated prevalence rates ranging from 0% to 40%. The PREA (2003) conservatively reported that 13% of inmates experience sexual assault in correctional facilities in the United States. Studies considered the most rigorous and methodologically sound, on average, report a 20% prevalence rate of sexual violence (Jones & Pratt, 2008).

Prison rape survivors are at a serious risk for suffering considerable mental health problems and physical ailments. Prison rape also contributes to an increased risk of crime in communities, increased violence inside prisons, increased interracial tension, and can directly lead individuals to commit suicide. In addition, sexual assault in confinement is both a public health issue and a human rights violation. Further, prison rape has the potential to result in the proliferation of HIV and other diseases among inmates and society. Overall, prison rape threatens public health in both prisons and communities (Gaes & Goldberg, 2004; Staples, 2004).

Individuals most at risk are the young and inexperienced, mentally ill and impaired, gay or transgender persons, immigrant detainees, small and weak prisoners, individuals who have already been victimized, those who have broken the code of

silence, and non-violent first time offenders. Additionally, inmates are often raped more than once during incarceration. Some survivors of prison rape reported numerous rapes by numerous assailants (Bowker, 1980; Donaldson, 1993; Dumond & Dumond, 2007; English & Heil, 2005; Mariner, 2001).

Among the collective conditions of incarceration that contribute to prison rape overcrowding, lack of proper inmate classification systems, understaffing, and a pervasive code of silence by inmates and guards are indicated (Berk et al., 2006; English & Heil, 2005; Hensley, 2002; Kupers, 1996; Mariner 2001; Nacci & Kane, 1982; Struckman-Johnson & Struckman-Johnson, 2000). Although racial composition does appear to be a component in prison rape it is not a casual factor. Prison hierarchies, gangs, politics, and the prison economy all contribute to prison rape. Staff attitudes and responses to prison rape also shape the degree of sexual abuse in detention. Moreover, rape myths, cultural biases, and negative societal views contribute to a hostile environment where rape is tolerated. However, the most important aspect affecting the prevalence of prison rape is the correctional culture itself.

CHAPTER 3

METHODS

A historical analysis of the most recent and influential legislation, PREA, and its proposed objectives and findings was conducted for this review. This analysis was positioned in the context of historical legislation and focused on scholarly research studies that highlighted factors contributing to sexual violence in detention facilities across America. Research on the impact of PREA, following its passing in 2003, was also of interest. Primary and secondary sources were drawn upon to determine how policies have evolved to eliminate prison rape and to determine to what extent PREA has stimulated practice change.

This historical analysis used these sources to portray a thorough examination of the incidence of rape in detention settings from 1934 to the passing of PREA in 2003. Current studies resulting from PREA were also utilized. Primary sources consisted of the Prison Rape Elimination Act of 2003, *Farmer v. Brennan* in 1994, The Prison Litigation Reform Act of 1996, and other legislation that affect the prison population. Secondary sources included law reviews, professional journals, and academic articles. The review integrated research conducted by advocacy organizations such as Just Detention International and Human Rights Watch. Academic books related to the history of prison sexual violence were incorporated as well. Lastly, the findings of PREA were thoroughly examined, while the proposed objectives were explored in depth.

Limitations

Since much of the early research was anecdotal and there were no national studies conducted, it is important to recognize that early research on sexual abuse in detention facilities should not be generalized. Therefore, limitations to this historical analysis include unreliable and inconsistent research. Jones and Pratt (2008) suggested that the body of literature on the prevalence of sexual violence in prisons has been largely composed of methodologically questionable studies. Further, research concerning prison sexual victimization has been scanty and insufficient.

From a cultural perspective and historical context, prison sex has been considered perverse (Kunzel, 2002). Mental health professionals considered homosexual behavior to be a mental disorder until the 1970s (2nd ed.; *Diagnostic and Statistical Manual of Mental Disorders [DSM-II]*; American Psychiatric Association, 1968). Thus, understanding sexuality in prison settings traditionally may have been affected by the social and cultural construction of gay and lesbian relationships in society. Moreover, there was little empirically validated research conducted on this topic in the early 1900s (Hensley et al., 2000). Lastly, the view of this topic by society and some academics as offensive has limited research (Tewksbury & West, 2000) and consequently research may be less accessible through academic channels.

Data Analysis

The examination employed in this review was a historical analysis. The goal was to determine common dynamics correlated with the incidence of prison rape. Another objective was to determine how the prison subculture and societal perceptions regarding prison sexual violence shape the event of such violence. Lastly, this examination seeks to

emphasize how the recognition of the extent of sexual abuse in detention has brought forth legislation to amend current systemic problems contributing to this social injustice.

CHAPTER 4

RESULTS

Introduction

This chapter examines conventional ideologies of prison rape and its epidemiology. The perception of early research concerning prison sexual violence is discussed, as are the political dynamics that affect prison violence. The information presented in this chapter focuses on common assumptions regarding sexuality in prison. Further, significant policies and legislation and their influence in bringing awareness to prison rape and support for social change, along with policy responses regarding inmate sexual assault are highlighted. Noteworthy agencies working to end prison rape and prevention models that have been successfully implemented, both prior to and following PREA, are also discussed. Additionally, an in-depth description of PREA is provided. Lastly, the objectives of PREA are analyzed.

Historical Overview

Sex among prisoners has likely been occurring since the dawn of American prisons (Clemmer, 1940; Kunzel, 2008). Initial research described sex in prison as inmates resorting to homosexual sex because of the deprivations associated with confinement (Tewksbury, 1989). Therefore, sex in prison was typically not recognized as assaultive or coercive. Since both perpetrators and victims were viewed as situational homosexuals (Eigenberg, 1992), the subject of prison rape was traditionally examined in

the correctional literature on homosexuality. In addition, much of the early interest on prison sexuality was based on the AIDS epidemic and the spread of the disease behind prison walls (Tewksbury & West, 2000). It was not until the 1980s that research became more specific, informed, and accurate (Alarid, 2000a, 2000b; Dumond, 2003; Jones & Pratt, 2008). More current literature has focused on the violence intrinsic to prison sexual assault and on establishing accurate prevalence rates (Eigenberg, 2000).

From the mid-70s to the early 80s several researchers studied prison rape (Cotton & Groth, 1982; Ibrahim, 1974; Lockwood 1980; Nacci & Kane, 1983; Scacco, 1975; Weiss & Friar, 1974; Wooden & Parker, 1982). These early accounts of inmate sexual violence focused primarily on inmate hierarchies, including age and level of criminality. In the 1960s and 1970s the focus shifted to Black male criminality and hyper-sexuality (Kunzel, 2002). Jones and Pratt (2008) explained that there was little distinction between perpetrators and their victims, as both were viewed as participating in homosexual behavior. As a result, the line between victimization and consensual sex was distorted in much of the early research (Jones & Pratt, 2008).

Causal Theories of Rape in Prison

The Prison Environment

According to Hensley (2002), relatively few studies have focused on the pains of imprisonment. Sykes (1958) described these pains as the deprivation of liberty, goods and services, autonomy, security, and heterosexual relationships. Loss of liberty, as examined by Sykes, was explained as an inmate being confined by the institution and then again within the institution. Hensley (2002) reported on inmates' loss of autonomy and suggested that the objectives of incarceration are to strip prisoners of their

individuality and to dehumanize them. According to Foucault (1975), the two objectives of prison were to strip individuals of their freedom and to reform them.

Prison environments are designed to deprive inmates of basic liberties. It is thought that such an environment contributes to the motivation for prison rape (Prichard, 2000). Hensley (2002) described the phenomenon of inmates negatively influencing other inmates in prison and deepening pre-existing criminal behavior as “prisonization.” This results in criminality being enforced in prisons and inmates learning from one another how to become hardened criminals.

There are two models attempting to determine the basis of the social system and subculture of inmates found in the prison environment. The deprivation model suggests that inmates adopt the prevalent values of the inmate culture in an effort to reclaim their self-worth and alleviate the deprivations of confinement (Sykes, 1958; Thomas, Petersen, & Zingraff, 1977). The importation model emphasizes how inmates carry over their values and lifestyles from their communities to the inmate social system, creating their own power structure. Hence, one theory suggests that inmates bring an outside culture of violence and criminality into the prison setting, which contributes to rape. The other suggests that the lack of self-government and control allotted to inmates, inherent to institutionalism, results in behaviors aimed at regaining power, which promote rape (Irwin, 2005).

Situational Sex and Deprivation of Heterosexual Outlets

Early research deemed the sexual activities of inmates to be exclusively consensual or purely situational (Fishman, 1934; Giallombardo, 1966; Heffernan, 1972; Ibrahim, 1974; Koscheski, Hensley, Wright, & Tewksbury, 2002; Nacci & Kane, 1983;

Propper, 1981; Sagarin, 1976; Toch et al., 1989; Ward & Kassebaum, 1965; Wooden & Parker, 1982). The assumption was that inmates were deprived of heterosexual gratification and thus had situational sex with members of the same sex to lessen the deprivation during their sentences (Eigenberg, 1992). Hensley et al. (2000) suggested that studies intended to focus on homosexual sex relations in prison also highlighted the occurrence of rape and prostitution. Thus, homosexual behavior among inmates was not necessarily consensual (Hensley et al., 2000).

Fishman (1934), a federal prison inspector, although studying homosexual behavior in male detention facilities, reported on coercive sex. Fishman was one of the first individuals to conduct reports on coercive sex in prison concluding that many sexual predators used threats, bribes, and deception to pressure young boys and men into homosexuality. He also suggested that the prison code of silence prevented inmates from reporting sexual assault.

Davis (1968) carried out the earliest study on the prevalence of rape in prison in the late 1960s and was one of the first researchers to acknowledge that prison rape was often redefined as homosexuality and treated like sex rather than aggressive behavior. Eigenberg (1992) stated that both rapists and victims were portrayed in early research as homosexuals responding to sexual deprivation. Jones and Pratt (2008) pointed out that due to this perception of prison sex there was little distinction, if any, between sexual victimization and consensual homosexual sex. Therefore, studies that defined all homosexual behavior in prison to be situational and consensual and those that did not distinguish between perpetrators and victims, inaccurately represented prison sexuality.

Further, Eigenberg (2000) suggested that early literature focusing primarily on situational homosexuality blurred the distinction between rape and consensual sex, thereby allowing perpetrators to divert stigmatization to their victims. Eigenberg (2000) also explained how blame is shifted from the rapist to the rape victim by emphasizing negative characteristics of the victim to legitimize their suffering.

Bowker (1980) indicated that sexual deprivation is the least important causal factor in the frequency of rape in prison and that masturbation and consensual sex are available to all who desire them. He suggested that all homosexual behavior in prison is not violent and that many couples that engage in consensual relationships express their sexuality in more gentle ways. Additionally, Bowker explained how some inmates prostitute in prison, selling sexual services to gain goods. Therefore, Bowker concluded that the lack of sexual outlets was not a significant factor leading to prison rape.

Mariner (2001) also determined that sexual deprivation is not an important aspect contributing to prison sexual violence. Further, Eigenberg (2000) and Hensley et al. (2000) questioned whether early research was based on the attitudes of inmates or those of researchers. Overall, modern research has suggested that prison sexual victimization is more complex than conventionally thought (Rideau & Sinclair, 1984).

Consensual Sex and Protective Pairing

Wooden and Parker (1982) conducted one of the most thorough studies on consensual sex in a California male correctional facility. They found that more than 65% of a random sample of 200 inmates had engaged in consensual sex while incarcerated. Nacci and Kane (1983) also conducted a study on consensual sex in 17 federal institutions and found close to 30% of the 330 inmate participants had engaged in a

homosexual experience at some point during their incarceration and 12% reported engaging in a homosexual act in their current institution. Tewksbury (1989) found that more than 19% of the 150 inmates studied in Ohio had engaged in homosexual behavior. Saum et al. (1995) concluded that only 2% of the 101 inmates sampled reported having homosexual sex while incarcerated. Thus, research determined that 2% to 65% of male inmates engage in consensual sex while incarcerated.

Ward and Kassebaum (1965) studied consensual sexual relationships in female institutions. They found that more than 50% of the women surveyed had engaged in at least one homosexual activity while incarcerated. Giallombardo (1966) studied a women's reformatory in West Virginia and estimated that 86% of the inmates studied had engaged in a homosexual act during incarceration. Propper (1976) gathered data from 396 female inmates in seven institutions and found that 14% of the inmates reported being in a relationship with or being married to another woman, 10% reported having had kissed another woman, and 7% reported having had sex beyond hugging and kissing another woman. It appears that 7% to 86% of female inmates engage in some form of homosexual behavior, ranging from kissing to consensual sex.

Although consensual sex does occur in confinement, it should be established that protective relationships in the prison culture constitute an uncertain subject in the study of sexual violence in prison (Pinkerton et al., 2007). Pinkerton et al. (2007) suggested that what appears to be consensual behavior in prison is, in reality, coercive. Inmates are choosing to exchange sex to be protected against other predators. From this perspective, it becomes apparent why inmates would submit, when forced, to engage in sexual acts with one perpetrator rather than numerous perpetrators or endure more pervasive and

violent rapes. Therefore, consensual sex and protective pairing should be examined with scrutiny before determining that they indeed are not coerced acts of rape.

Comparing Sex Roles in Prison and Traditional American Society

Bowker (1980) suggested that rigid sexist conceptions of male and female roles contribute to prison rape. He further explained that men, specifically those from lower economic status backgrounds, define masculinity in terms of domination. These men likely affirmed their masculinity with women outside of prison through force. Additionally, such men choose physically weaker men in prison to victimize because they can more easily subdue these men and because they can participate in homosexual behavior without having to identify as homosexual. According to Bowker, victims are often considered feminine and are even called girls by other inmates. This type of redefining gender roles allows the rapists to maintain their masculine roles while preserving their heterosexuality (Bowker, 1980).

Prison Hierarchy and Sex Roles

The world of incarceration is a subculture with its own language, hierarchy, and stratification. Castle et al. (2002) explained how inmates have little control over their daily lives and how they are separated from society. However, inmates can exercise social control in their environment, the prison subculture (Castle et al., 2002). The prison subculture carries its own specific values and argot roles. This allows inmates to gain power and status in the prison setting and also forces inmates to adhere to the prison lifestyle. If prisoners do not follow the prison code they face danger. They can be physically and sexually assaulted by other inmates and even be killed as a result of rejecting prison norms (Castle et al., 2002).

Sexual roles assigned to inmates define their position in the prison hierarchy. The treatment of inmates by other inmates, as well as by staff, is often based on these sexual roles or labels. The argot roles also place certain inmates at a heightened risk for sexual assault (Castle et al., 2002). In addition, the roles help inmates who perpetrate abuse escape the stigma of being labeled homosexual. Therefore, men who sexually assault other men in prison are viewed as masculine and heterosexual. Further, victims of abuse are looked at as “made” homosexuals, cowardly, or effeminate (Castle et al., 2002). Although both rape perpetrators and survivors are considered situational homosexuals, the perpetrators are considered the “real” men and the survivors the “sissy” men. Therefore, inmates who play a part in homosexual behavior are labeled based on the sex role they play (Castle et al., 2002).

Traditionally, the three sexual roles given to inmates include the “punks,” “fags,” and “jockers.” Castle et al. (2002) described the prison hierarchy to be the “punks,” or men who are heterosexual and victimized, as the lowest ranking inmates. Next the “fags,” or those who are homosexual, but are sexually victimized in prison, are the second rank of inmates. The “jockers,” or the inmates that rape other inmates, are at the top of the prison sexual hierarchy. The “jockers” or “wolves” reinforce their status through victimization (Castle et al., 2002).

Castle et al. (2002) also described the argot roles assumed by female inmates. Like male inmates, female inmates were found to display characteristics of the opposite sex. Female inmates who assumed the masculine role in prison typically held more power than women who played the feminine role. However, most of the research

conducted on female homosexual relationships in prison settings found female inmates to be emotionally attached to one another and to play the role of a family.

Castle et al. (2002) pointed out that the prison subculture has changed somewhat regarding the different power levels associated with each argot role. For male inmates, social status seems to be based on the amount of control an inmate has in the sexual relationship and the amount of harm he poses. The “punks” are still at the lowest level, but the “fags” are gaining status in the prison hierarchy as they are now gaining a reputation for being aggressive. Female inmate sexual argot roles are also changing. According to Greer (2000), women are now gaining status based on economic manipulation in their sexual relationships. Greer also suggested that the previous argot roles held by female inmates are almost non-existent.

The Role of Violence and Power in Prison Rape

Bowker (1980) and Lockwood (1980) concluded that violence is a germane aspect of sexual assaults in prison settings. They suggested that there are two reasons for inmates to behave violently. They are categorized as instrumental and expressive. Instrumental violence transpires in order to obtain desired results and expressive violence is used to intimidate and overpower others (Kunselman et al., 2002). English and Heil (2005) and Ross and Richards (2002) concluded that prison sexual violence is about power, politics, and business.

Tewksbury and West (2000) discussed the relationship of violence and sex in prison. They suggested that forced sex is a known feature of the prison sub-culture and concluded that many inmates display a high fear of sexual assault while incarcerated. Scacco (1975) indicated that inmates live in constant terror of being sexually assaulted.

According to Chonco (1989), inmate sexual abuse is typically a result of the perpetrator's effort to gain status, for revenge, to dominate other inmates, and to release anger.

Additionally, Wooden and Parker (1982) discussed how competition is created between inmates when they claim possession of other inmates as sexual objects and how this leads to violence.

Bowker (1980) described rape as having a minimal sexual component and compared prison rape to heterosexual rape outside of prison. He further highlighted how prison rapes are about dominance and typically are extremely sadistic and brutal in nature. Prichard (2000) found that the prison culture causes inmates to attempt to reinforce their self-worth through rape. Further, Prichard indicated that prison life diminishes an inmate's sense of self, personal worth, and control. Since inmates cannot access appropriate means to exert power, inmates channel their energy and frustration into gaining power within the prison system (Mariner, 2001; Prichard, 2000; Rideau & Sinclair, 1984). They obtain power by controlling other inmates through sexual violence (Rideau & Sinclair, 1984).

Rape Culture

Burt (1980) studied rape myths and indicated that they stem from stereotypes and false beliefs about rape, rape victims, and rapists. She concluded that such prejudices contribute to a hostile environment where rape is tolerated. Furthermore, social reactions to victims are affected by rape myths, which deny or reduce injury while blaming the victim for their victimization. According to Burt, the acceptance of rape myths influences the extensiveness or narrowness of rape definitions.

Burt (1980) reported that American culture is rape-supportive and that many Americans believe rape myths. Also, she stated that sex-role stereotyping contributes to the tolerance of rape. Along with the need for changing societal values, Burt suggested that understanding attitudes regarding rape is necessary in order to make change efforts more effective. Additionally, Burt indicated that sexual abuse is an extension of a dominant-submissive, competitive, sex-role stereotyped culture. It may be reasonable to presuppose that these same attitudes play a role in the prevalence of and response to prison rape.

History of Prison Policies

Legislation Affecting Inmate Abuse

Before the passing of PREA, limited documentation was available on what state prison systems were doing in regards to dealing with the issue of prison rape (Zweig & Blackmore, 2008). During the late 1990s, Human Rights Watch requested such documentation from state prisons and the Federal Bureau of Prisons. They discovered that most state prisons did not have a rape prevention program in place and that only six departments reported that they offered training to correctional officers in recognizing and responding to prison rape (Zweig & Blackmore, 2008). Since the passing of PREA many states have been motivated to develop or refine such prevention strategies. Prior to PREA, several noteworthy amendments, acts, and cases were brought forth and played a significant role leading up to the passage of PREA.

Civil Rights of Institutionalized Persons Act

Legally, it was not until the 1980s that policies were employed to identify the poor conditions of incarceration. The Civil Rights of Institutionalized Persons Act of

1980 was enacted to bring attention to the problem of cruelty in institutional settings (Barczyk & Davis, 2009). This Act aimed at investigating and litigating abusive conditions of confinement in federal, state, and local facilities. The legislation authorized the Attorney General to investigate and intervene against state or local governments and their employees when institutionalized persons were being deprived of their rights (Barczyk & Davis, 2009).

Farmer v. Brennan

In 1994, the U.S. Supreme Court concluded that rape in detention constitutes a violation of an individual's basic right to be free of cruel and unusual punishment (*Farmer v. Brennan*, 1994). Dee Farmer, a transsexual inmate, exhibited female characteristics due to hormones he took prior to and while in prison. After being released from segregation into the general population following discipline problems, he was beaten and raped. He declared that the guards showed deliberate indifference by placing him in the general population.

Upon hearing the case, the U.S. Supreme Court determined that prison officials have a duty to protect inmates' rights under the "Cruel and Unusual Punishment" clause of the Eighth Amendment of the U.S. Constitution. This includes protecting inmates from violence imposed by other prisoners. The ruling affirmed that prison rape is not part of the penalty that criminal offenders pay for their offenses against society and that correctional officers are to be held both responsible and accountable for upholding prisoner rights and protecting them from maltreatment (*Farmer v. Brennan*, 1994).

The Anti Drug Abuse Act, Three Strikes Law, and Truth in Sentencing Legislation

The Anti Drug Abuse Act of 1986 is one piece of legislation that increases the over-capacitated state, federal, and local facilities (Mauer & King, 2007). This law requires mandatory minimum sentencing for the possession or sale of 5 grams of crack cocaine. This legislation highly promotes institutional racism and contributes to the overcrowding of detention facilities, as well as the over-representation of the African American population in the prison system (Mauer & King, 2007). In addition to the Anti Drug Abuse Act of 1986, the Three Strikes Law and the Truth in Sentencing legislation carry mandatory sentencing. Such laws minimize the leeway of the sentencing judge and impose longer sentencing affecting minority groups at a disproportionate rate, as many impoverished individuals have a prior criminal history (Mauer, 2004).

Women and children are also affected significantly by the war on drugs. Mumola (2000) reported that more women are in prison on drug charges than are men, with 29% of female inmates confined due to drug offenses compared to 19% of male inmates. Moreover, two-thirds of these women have children under the age 18. These women have often been victimized prior to incarceration, and many have histories of mental health problems (Mauer & King, 2007).

Mauer and King (2007) found that African American communities are extensively affected as a result of drug law enforcement concentrating on inner cities. Further, they indicated that there are unjust sentencing disparities based specifically on race and social class. This emphasis on punishment and sentencing directly leads to overcrowded detention facilities where rape can flourish. Further, many individuals sentenced to prison on drug charges are non-violent offenders and are at an increased risk for sexual

violence while incarcerated (Bowker, 1980; Dumond, 2000; English & Heil, 2005; Mariner, 2001).

Moreover, Mauer and King (2007) reported that an estimated 500,000 individuals are presently serving sentences in detention for drug offenses, compared to only 41,100 in 1980, prior to the war on drugs. In addition, King and Mauer (2002) reported that nearly 58% of drug offenders in state facilities have no history of violence or high-level drug sales. Furthermore, Mauer (2004) indicated that the race and class dynamics of criminal justice policies are apparent when examining the nation's approach to drug abuse. Since drug policies have typically targeted oppressed populations, there are vast racial disparities in the current state of confinement. Although drug use crosses all race and class lines (Mauer, 2004), it is addressed dependent on resources, power, politics, and status. According to Mauer (2004), over the last twenty years federal policies have focused almost solely on policing and prison and little on prevention and treatment.

Prison Litigation Reform Act (PLRA)

According to Golden (2006), the Prison Litigation Reform Act (PLRA) is legislation that can and does create a barrier for prison rape survivors when bringing lawsuits against their perpetrators. In order to receive monetary compensation, the PLRA requires every plaintiff to demonstrate that he or she suffered a physical injury while in prison (Golden, 2006). Unless inmates can show previous physical harm they cannot be compensated for emotional injuries (PLRA, 1995).

Due to the dynamics at play in the occurrence of prison rape, it is alarming that many inmates will not be permitted to seek re-dress following abuse. As indicated, rape in prison is often coerced and does not always leave visible physical injuries. Therefore,

it can be determined that this unclear ruling may be misinterpreted when pertaining to victims of sexual abuse in detention settings. The PLRA does not effectively protect inmates suffering from sexual abuse and should be modified to include all inmates who are raped during incarceration (Golden, 2006). Further, rape should be viewed differently, as rape is an extreme physical crime against a person, harmful in nature, irrespective of whether the victim is beaten or bleeding.

Roles of Agencies Working Toward Change

In 1972, the American Civil Liberties Union (ACLU) started the ACLU National Prison Project, which highlighted the problem of prison rape and worked toward legislation aimed at the social injustice of prison rape (Melby, 2006). The National Prison Project is committed to combating over-incarceration, humanizing prison conditions, improving prisoner medical care, and upholding the rights of inmates in all detention facilities.

In 1980, Dan Smith, a prison rape survivor, founded Stop Prison Rape (SPR), a nonprofit group known now as Just Detention International (JDI). Stephen Donaldson, also a prison rape survivor incorporated JDI in 1994. Donaldson held a fundamental position in this organization as their President from 1988 and contributed meaningfully to the literature on prison rape as well. Donaldson was gang raped over 60 times in two days when he was in jail on charges of trespassing on White House property during a peace protest in 1973. He acquired AIDS as a result of being raped in jail and died in 1996. Don Collins and Tom Cahill, both prison rape survivors as well, also acted as JDI presidents.

Just Detention International focuses on ending prison rape (NPREC, 2009). The three goals of this group are to ensure government accountability for prison rape, to transform ill-informed public attitudes regarding rape in confinement, and to promote access to resources for survivors of such violence (NPREC, 2009). Furthermore, JDI proposes that sexual violence in confinement is unjust and contradictory to society's most fundamental values. They further state that it destroys the lives of countless individuals and harms society by spreading violence and disease. Additional organizations, including Amnesty International, the Salvation Army, the Christian Coalition, the American Probation and Parole Association, the Soros Foundation, Prison Fellowship Ministries, and Physicians for Human Rights also endorse PREA (Goldberg & Gaes, 2004).

Policy Response in PREA

Growing awareness over the past 80 years has led to a policy response to the social injustice of rape in prison. On September 4, 2003, President George W. Bush signed the PREA into law after it passed unanimously in both houses of Congress. According to PREA (2003), the national standards addressing the incidence of prison rape will apply to all public and private institutions that house adult or juvenile offenders. All detention facilities are mandated to abide by this law. This most recent and influential legislation affecting the sexual abuse of inmates is the strongest legislative response to prison rape and the first significant federal law to address the issue of sexual abuse in detention settings.

Through PREA, \$5,000,000 per year from 2004 through 2010 was authorized to abate prison rape (PREA, 2003). Grants were made available for personnel, training,

technical assistance, data collection, and equipment to prevent and prosecute rape in prison (PREA, 2003). A National Prison Rape Elimination Commission (NPREC) was developed to study the impacts of prison rape and propose national standards based on their findings.

Purposes of PREA

According to PREA (2003), its main objectives are to provide for the analysis of the incidence and effects of prison rape in federal, state, and local institutions. Gaes and Goldberg (2004) suggested that PREA is responsible to provide information, resources, recommendations, and funding to protect individuals from prison rape. According to PREA, there are three major provisions: developing standards for the detection, prevention, reduction, and punishment of prison rape; the collection and dissemination of information on the incidence of prison rape; and the awarding of grant funds to help state and local governments implement the act.

Under PREA (2003), the prevention of prison rape is to be a top priority in all prison systems and a zero tolerance approach to its occurrence is expected. All federal and state prisons and jails, community corrections institutions, public and private facilities, military institutions, holding facilities, and Indian reservation prisons are included under PREA and shall be held accountable to the standards proposed (Jeness et al., 2007). Furthermore, prison officials will be held more accountable to protect inmates from rape. Grant programs will be implemented to reduce the occurrences of rape in detention facilities and to minimize the negative consequences that result following such violence.

The purpose of PREA was to require detention facilities to implement programs designed to minimize prison rape and minimize the damages caused both inside prison and in the community, which are the result of its occurrence. As a consequence of PREA detention facilities will be required to develop a comprehensive strategy to address the problem of sexual assault in their facilities (Mair et al., 2003). Additionally, an increase in the available data and information on the incidence of prison rape and improved administration of correctional facilities are intended consequences of PREA (Jenness et al., 2007).

Findings of PREA

According to PREA (2003), 200,000 inmates now incarcerated have been or will be the victim of sexual assault in confinement, and it is likely that the number of inmates over the past 20 years who survived rape during incarceration exceeds 1,000,000. An estimated 16% of inmates in state prisons and jails and 7% of federal inmates suffer from mental illness. Young, first-time offenders are at a high risk for victimization and juveniles are five times more likely to be assaulted in adult facilities within the first 48 hours. Although the estimated prevalence of rape in detention facilities is alarming, Congress reported that there is insufficient research and data conducted and reported on regarding the incidence of prison rape, which is already an under-reported crime (PREA, 2003). Hence, the occurrence of sexual violence in these facilities is an enormous calamity.

In addition, PREA (2003) indicates that the majority of prison staff lack training in preventing and responding to rape. Inmate victims often receive inadequate care or no care at all following rape. Grant programs aimed at minimizing or treating mental health

disorders, crime, and diseases are undermined by the high prevalence of prison rape. Further, treatment expenses both inside prison and in the community are increased when dealing with the side effects of prison rape. Treating depression, PTSD, and AIDS are examples of the numerous consequences of prison rape. In addition, the increased risk of recidivism by survivors also entails an expense to society (PREA, 2003).

The findings of PREA (2003) also suggest that prison rape not only undermines grant programs, but also destabilizes public health by contributing to the spread of sexually transmitted diseases. Prison rape adds to violence among inmates and violence aimed at staff, as well as an increased likelihood for riots and insurrections. Additionally, rape survivors suffer physical and psychological effects that encumber their ability to effectively integrate into the community following incarceration, and they are therefore more likely to suffer further social inequities. Moreover, prison rape endangers the public not only through the spread of diseases but also by contributing to the likelihood that victims will commit future crimes. Lastly, the sexual abuse epidemic in detention facilities violates the U.S. Constitution (SPR, 2006).

Following PREA

As a result of this legislation, researchers have begun to collect accurate and valid incidence reports on sexual violence in detention settings nationwide. With improved research, correctional practices and management to minimize the prevalence of prison sexual violence can be enhanced (Dumond, 2000). Due to the lack of evidence-based research on the topic of prison rape, numerous academic studies regarding prevalence and epidemiology had to be conducted as required by PREA (Dumond, 2003; English & Heil, 2005). During the six years following the enactment of PREA, researchers completed

surveys and studies in detention facilities throughout the United States to determine how to most effectively combat the problem of rape in detention facilities (NPREC, 2009).

Following the passing of the PREA, the NPREC was given the responsibility to research the incidence of sexual abuse in detention facilities across America and to develop national standards designed to tackle prison rape (NPREC, 2009). The purpose of such standards was to ensure that proper protocols to thwart and respond to prison rape became consistently practiced. The standards were released on June 23, 2009. In addition, the Department of Justice's Review Panel on Prison Rape will review the best and worst performing correction facilities on an annual basis (NPREC, 2009). This is expected to help pinpoint factors shared by facilities that are contributing to prison rape as well as factors that play a role in minimizing its occurrence (NPREC, 2009).

The Bureau of Justice Statistics (BJS) is responsible for collecting, reviewing, and analyzing prevalence rates of sexual violence in custody (PREA, 2003). Grants for training, personnel, technical assistance, data, and equipment are available through the Bureau of Justice Assistance and the Attorney General to all states (PREA, 2003). Grants for research on prison rape and its effects are available through the National Institute of Justice (NIJ). The objective is that evidence-based research will determine the best practices for prevention and response efforts in fighting the epidemic of prison rape.

In June 2009, the NPREC suggested standards based on their examination of the academic findings from these national studies. The Attorney General is expected to evaluate the proposed standards to conclude which will compose the final regulations that will be legally required of all detention facilities throughout America by June of 2010.

After this time, facilities that do not implement the national standards to address prison rape will risk losing up to 5% of their federal funding (Golden, 2008; PREA, 2003).

Innovative Preventative and Intervention Strategies

As a result of the push for evidence-based research following the passing of PREA, the Urban Institute and the Association of State Correctional Administrators together interviewed 67 prison officials in 45 states to determine the most effective strategies in addressing sexual abuse in prison (Zweig & Blackmore, 2008). They chose to study 11 states that had initiatives developed or were implementing methods to reduce the occurrence of rape behind bars. These states included Connecticut, Idaho, Kansas, Maine, Massachusetts, Minnesota, Ohio, Oregon, Pennsylvania, Texas, and Utah (Zweig & Blackmore, 2008).

The practices that correctional officers reported as the most promising in curtailing prison rape were presented in the research. The officers agreed that the current culture found in prison must be modified to minimize rape, and they identified resistance to change among agency staff, correctional officers, and inmates as the greatest challenge to reducing prison sexual abuse. Prison officials reported that inmates were not likely to report rape due to the fear of not being protected by officials, retaliation, and not being taken seriously (Zweig & Blackmore, 2008). They also found that strong leadership, a zero tolerance approach, inmate and staff education, investigation, prosecution, and victim services were vital components in addressing the crisis of rape in prison (Zweig & Blackmore, 2008).

Of the 11 states that the researchers determined to be using the most pioneering practices, the majority attempted to change the prison institutional culture as a strategy to

reduce the occurrence of prison sexual violence (Zweig & Blackmore, 2008).

Additionally, they cited this change as one of the most important features in tackling prison rape. Some prison officials identified the potential for false accusations being a deterrent for prison staff to change their attitudes regarding addressing rape. It was determined that resistance on the part of the staff may be based on the fear of being unfairly accused of such acts (Zweig & Blackmore, 2008).

Other administrators reported that the biggest challenge was changing inmate attitudes on reporting. Empowering survivors of such abuse to be confident enough in the system that they are able and willing to report their abuse without fear of retaliation or their reports being ignored was recommended (Zweig & Blackmore, 2008). Overall, it was concluded that the most important aspect affecting the prevalence of prison rape is the correctional culture itself. Employing strong leadership at senior levels to best address the challenge of changing the prison culture was indicated. Additionally, the officers reported that addressing rape is part of a larger goal of operating safe prisons (Zweig & Blackmore, 2008).

Remarkable Models

Since the 1980s, the San Francisco County jail system has been utilizing an effective classification system and has formed a crisis intervention protocol. Brook (2004) explained that the classification system was put in place originally to protect the city's gay inmate population. Under San Francisco's program, staff members are trained to interview, assess, and assign housing for inmates based on the likelihood for both perpetrating and enduring abuse (Brook, 2004).

DeBraux (2006) examined the composition of the innovative Ohio Ten-Point Program. Through Ohio's Ten-Point Program, all staff members receive specialized training on inmate sexual assault and appropriate staff and inmate relationships. Inmates are also educated regarding sexual assault in prison. They learn preventative strategies including how to protect themselves from abuse as well as during assaults. They are also educated on what to do following abuse. Inmates are taught how to report abuse and seek treatment. Further, they are taught how to minimize further harm. Sanctions against the prison are enforced when the prison does not actively take steps to prevent prison rape. Victim support staff is trained and available for rape survivors. Training officers on investigating prison sexual violence is also part of the ten-point program. All sexual aggressors are electronically tracked to help facilities house perpetrators away from likely victims. Every Ohio facility is audited to make certain that they are in compliance with the program. They are also required to maintain data on all incidents. In addition, a committee is in place to guarantee that the program is effectively implemented (DeBraux, 2006).

Sexual Abuse in Detention Elimination Act of 2005

On September 22, 2005, Governor Schwarzenegger signed into law California's Sexual Abuse in Detention Elimination Act of 2005 (Sexual Abuse in Detention Elimination Act, 2005). This state law indicates provisions that are in accordance with PREA. The Sexual Abuse in Detention Elimination Act of 2005 is charged with specifying proactive and reactive strategies for handling sexual abuse. Recognizing inmate risk factors for sexual victimization and classifying accordingly, intervening if an inmate is targeted, providing safe housing options without punishment, prohibiting

retaliation, and responding to all allegations of sexual abuse regardless of the sexual orientation of the alleged victim are integral to the execution of this legislation (Jenness et al., 2007). Identifying and prioritizing prison rape as a safety and administration concern, as well as a violation to the Eighth Amendment rights of inmates, is emphasized in this legislation (Jenness et al., 2007).

Conclusion

Early research described sex in prison as inmates resorting to homosexual relations as a result of the deprivations associated with confinement. However, consensual sex and protective pairing should be examined with care before determining that they indeed are not coerced acts of rape. To avoid multiple rapes by multiple assailants, some inmates opt to pair with one inmate or a group of inmates for protection (Hensley et al., 2000; Pinkerton et al., 2007).

Although there has been some progress in addressing the injustice of rape behind bars, it appears that the United States has previously taken a *laissez-faire* approach to its occurrence (Dumond, 2003; Hensley et al., 2000). In terms of the government efforts to prevent sexual violence in detention facilities and to redress survivors of such abuse, the government has failed (SPR, 2006). The PREA is noteworthy legislation recognizing sexual assault in detention facilities as a serious social problem (Jenness et al., 2007). It mandates numerous reforms and data collection, while assessing achievement in reducing rape rates and providing funding to support research (Jenness et al., 2007). Jenness et al. (2007) suggested that research prompted by PREA composes important progress in attempts to understand the causes, manifestations, and consequences of sexual assault in correctional facilities.

Since the enactment of PREA, many facilities are making strides toward change. The legislation has created a tremendous shift in attention to rape in detention facilities, and the enhanced responsiveness is assisting in the goal of achieving safer institutions. Replicating noteworthy models that have been shown to be effective in minimizing rape in detention facilities and education and training pertaining to prison rape should take place across America. Hopefully, PREA will meet its intended goals and individuals at all levels will be empowered to stand up to this social injustice and end the horrific rapes perpetrated on numerous individuals in confinement.

CHAPTER 5

DISCUSSION

Directions for Future Research

This thesis analyzed numerous dynamics at play in the prevalence of sexual violence in prisons. The significance of prison sexual violence was of focus and the impact of this violence was highlighted. The intent was to bring more awareness to the social injustice of prison rape by examining its history and by focusing on what can be done to reduce its prevalence. Inmate rape threatens the ability of the government to provide for the humane treatment of inmates (Dumond, 2003; Gaes & Goldberg, 2004; Harrison & Karberg, 2003), and its consequences are devastating and extensive (Cotton & Groth, 1982; Dumond, 2003; English & Heil, 2005; Jones & Pratt, 2008; Kupers, 2005; Lockwood, 1980; Mair et al., 2003; Mariner, 2001; Maruschak, 1999; Melby, 2006; Nacci & Kane, 1983; Struckman-Johnson et al., 1996).

Recognizing the many factors contributing to rape in prison and improving protective factors while eliminating risk factors is suggested. The problem of prison rape should be examined at multiple levels and in different contexts. Relevant policies and procedures should be modified, implemented, and created to improve multiple structures affecting the conditions of inmates. It has been concluded that systemic features specific to detention facilities including overcrowding, understaffing, improper classification of inmates, and the inmate code of silence contribute to prisoner rape (Berk et al., 2006;

English & Heil, 2005; Hensley, 2002; Kupers, 1996; Mariner 2001; Nacci & Kane, 1982; Struckman-Johnson & Struckman-Johnson, 2000). Changing these systemic problems would significantly reduce the occurrence of prison rape.

The populations most vulnerable to sexual abuse and those deemed most likely to perpetrate abuse have been clearly and extensively documented in the literature (Austin et al., 2006; Berk et al., 2006; Bowker, 1980; Chonco, 1989; Cotton & Groth, 1982; Dumond, 1992; Dumond, 2003; English & Heil, 2005; Jenness et al., 2007; Lockwood, 1980; Mariner, 2001; Nacci & Kane, 1983; Toch & Kupers, 1999). Taking this into consideration, housing inmates based on their characteristics is one of the easiest and most significant ways to prevent abuse. Another variable that affects prison rape is attitudes towards prisoners, prison sexuality, and prisoner rape. The attitudes held by prison staff, prison inmates, and society as a whole, all contribute to the tolerance of prison sexual violence.

In addition, the responses following assaults, or the expected responses, typically prevent or promote reporting abuse. Proper and sensitive responses following prison rape would help minimize the prisoner code of silence. Moreover, there is a need for improved laws and for current legislation to be practiced to afford prisoners their rights and allow for redress following all violence endured while incarcerated. Staff and prison officials must also be held responsible in cases where rape occurs under their direct supervision. Finally, holding perpetrators accountable for their actions and charging them with the crime of rape would aid in reducing the occurrence of rape in prison.

Lehrer (2001) indicated that prison rape is the most ignored crime problem in America. To be a humanistic culture, it is crucial that sexual abuse is deemed

inexcusable and removed from institutions in America and globally. The tolerance of crimes against humankind is deplorable and can be prevented with the implementation and enforcement of policies and laws targeted at eliminating prison rape. Furthermore, it is critical to become aware of the history of such injustices to amend them for future generations. The knowledge that sexual violence in prison begets further violence in the prison culture, and in communities outside of prison, should lead administrators to modify policies to create environments in prisons where such violence is not ignored or permitted and instead is not accepted but is penalized (Hensley, 2002).

According to Eigenberg (2000), numerous methods, programs, and tactics could be used to combat rape in prison. Such remedies cited included conjugal visits, utilizing separate housing, providing services such as educational and vocational programs, and increasing the number of female officers in facilities. Hensley (2002) suggested that encouraging conventional sexuality in prison through permitting masturbation, conjugal visits, and the accessibility of condoms among inmates would help reduce sexual violence in prison.

However, Bowker (1980) indicated that conjugal visits only curtailed rape, if at all, by the use of social control. Thus, conjugal sex, itself, was not responsible for diminishing the occurrence of rape. Rather, the threat of not being permitted conjugal visits potentially led inmates to abide by rules. Eigenberg (2000) also suggested that none of these strategies have been proven to minimize the occurrence of prison sexual violence. Further, she also stated that they are based on the unproven theory that rape in prison is a situational response to the deprivation of heterosexual outlets. Struckman-Johnson et al. (1996) determined that both inmates and correctional officers reported that

better screening and classification procedures would be effective in reducing prison rape. Further, segregating likely targets and perpetrators, enhanced supervision, consequences afforded to the perpetrators, single cell use, and improved training for inmates and staff would lead to a lower prevalence of sexual violence as well.

According to Mauer (2004), the way society develops responses and policies to crime or other social problems are always dependent on various social, cultural, and political dynamics. Mauer reported that crime is addressed more punitively when it is defined as a crime that affects mostly oppressed groups. Addressing crime more harshly based on racial or class factors perpetuates societal inequalities (Mauer, 2004). Mauer suggested that inequality is rampant in the criminal justice system, which results in greater imprisonment of marginal groups. Considering Mauer's finding, it is probable that responses and policies regarding crime within the prison system are also influenced by similar dynamics, which further contribute to inequity for oppressed populations.

Kupers (2005) indicated that prison crowding would remain a factor that affects prisoners until the public, the government, and the courts modify sentencing guidelines and parole requirements. Further, Kupers stated that educational programs and rehabilitative efforts will remain futile until legislation is changed and that harsh punishment, including segregation to control inmates, will continue until administrative efforts are made to revolutionize these practices. With these dynamics at play, Kupers predicted that masculine roles of both inmates and staff, which he described as toxic, would continue to affect the prison culture and hence contribute to prisoner rape. Kupers further pointed to the hegemonic culture of prisons as a facet of prison sexual violence.

Eigenberg (2000) stated, “Rape is a by-product of a socialization process that equates masculinity with dominance, aggression, violence, and control” (p. 437). In addition, just as definitions of rape are situational in the community and the behavior of the victim is commonly used to redefine rape as consensual sexual behavior, rapes in prison are perceived differently based on the manner of rape, the victim’s characteristics, and the observer’s definition of rape and attitude toward the victim and gender roles (Eigenberg, 2000). Similarly, as some women who are raped in the community are viewed as legitimate victims, so are certain inmates (Eigenberg, 2000).

Eigenberg (2000) recommended that research on rape in prison should utilize the extensive literature on rape in the community. Eigenberg (2000) suggested that research on prison sexual violence often neglects the findings of literature on rape in the community. Further, she recommended that important theoretical associations between rape in communities and rape in prison settings be explored in depth. Lastly, Eigenberg (2000) pointed out that to effectively grasp rape in prison, understanding attitudes toward rape in the larger social structure is essential.

In an effort to eliminate the occurrence of rape in detention settings, improved practices, more education, and a paradigm shift in societal values are essential. Many dynamics are involved in the occurrence of prison rape including why it is accepted and how it is responded to; these have been of focus throughout this review. The resolutions to the problem of prison rape are evident and identified. It is simply a matter of taking action to change priorities and assume the financial costs to prevent and eliminate this atrocity in American detention institutions. Replicating the evidence-based research on how to best prevent and react to prison rape, utilizing successful strategies and models,

changing legislation regarding imprisoning non-violent drug offenders, and prosecuting inmate and staff rapists would all lead to eradicating prison rape indefinitely.

The task of eliminating rape in confinement is only difficult because there is not enough concern for the treatment of inmates. Overall, society is indifferent to this population because they are deemed less than citizens or as deserving of punishment (SPR, 2006). They are not a group that most would choose to advocate for, as there are many other oppressed groups that are viewed as more worthy of help at no fault of their own. Many individuals do not want to pour funding into protecting people that they view as creating their own problems. Additionally, rape is a societal injustice that is permitted and often blamed directly on the victim. Therefore, it seems logical to conclude that until rape is viewed as detrimental and horrific, no matter what the circumstances or who the victims, it will be hard to eliminate the act of rape.

Although the survivors of prison rape may be viewed by society as more deserving of rape than other rape victims, eliminating rape in prison is conceivable. Prison rape can be prevented, reduced, and punished. This indeed, should be an easier pursuit than eliminating rape in the community because inmates are under direct supervision and control of prison officials and the judicial system.

Conclusion

Social scientists and society have collectively disregarded the topic of sex in prison starting at the conception of prison facilities (Hensley et al., 2000). Now, in the 21st century, this social injustice appears to be receiving needed support, allowing for the methodical study of prison rape to become progressively more significant among academics in the social sciences and in criminal justice (Dumond, 1992). It is important

to change paradigm views regarding prison rape, as society's perception of both its occurrence and the prison population greatly influence acceptance of a crime that could be prevented. Research indicates strategies that can be utilized to prevent, reduce, and potentially eliminate rape in detention. However, getting society to comprehend the significance of this social injustice is needed to bring about change.

More research is needed on this topic to affect change. Moreover, education is needed to teach individuals that rape is never deserved or tolerable. Rather, rape significantly harms many incarcerated Americans and American society collectively. Most notably, this cruelty is in direct opposition to what many Americans declare they value. Without basic liberties afforded to all U.S. citizens, the significance of the Constitution is degraded and American values abandoned.

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