

INEVITABLE HORRORS: SEXUAL ASSAULT IN PRISON

INTRODUCTION

Blood dripped from the ceiling. It fell in droplets from his shaking hands. The fan, now smashed, had turned from white to red. Suddenly, he took a deep breath and looked up at the officers who had just arrived. He asked one question from his bloody mask: "Does he have any diseases?" This inmate, once housed in a single cell at a solitary confinement prison, had decided to rape, then beat with a fan, his cellmate. This was a normal incident at an open population prison, where inmates were routinely celled with at least one other inmate. Violence, especially sexual assault, occurred frequently at this prison. I was transferred to this prison, Menard Correctional Center, when my previous facility closed. I had worked at Tamms Correctional Center as a correctional officer, an adult male closed super-maximum prison in Illinois. Tamms housed the most violent and troublesome inmates; when Tamms closed, these inmates were dispersed throughout Illinois and sent to adult male open maximum prisons. These inmates, who were not allowed to have any physical contact with other inmates at Tamms, were forced to go back to having cellmates at these open population prisons, such as Menard.

During the six months that I was at Menard, at least one inmate was killed each month. Officers did not kill these inmates; rather, inmates murdered fellow inmates. Or, inmates would take their own lives. Gangs who could not reach certain inmates in their cells would attack them during chow, yard, or commissary times. I remember one dinner chow where shots were fired, and I ran to my gun tower window, looking for the reason for the shot. Frantically, I scanned the street below. Finally, I saw two officers emerge from the dining hall, and they were carrying an inmate to the hospital unit. At first, I only saw the inmate's head down and his blue shirt. Once their backs turned to me, however, I saw that the entire back of his shirt was crimson. Two inmates had grabbed him during chow while a third inmate had stabbed him thirteen times in the back with a shank. The shank was too small to complete the job so this inmate lived, despite a punctured lung and his back riddled with stab wounds.

American correctional institutions are plagued by the unavoidable sexual and violent attacks inmates inflict upon one another; one researcher asserts that all prisoners are affected by rampant, unsolicited rape¹ and states that prison is "[t]he [p]lace of [o]fficially [s]anctioned [v]ictimization in a [n]ation [u]nder

1. LEE H. BOWKER, PRISON VICTIMIZATION I (1980).

God.”² Unfortunately, this researcher is not mistaken in his assumption of the incessant sexual assaults among prisoners, as has been shown evident in various studies, findings, statistics, prison sexual assault literature, and affirmed by other authorities.³ Prison is a dangerous world, one in which violence could erupt at any moment. Numerous factors contribute to prisoner victimization: the type of prison security level; the classification of the offenders; the prison code; the prison subculture; inmate roles and behaviors; physical characteristics; sexual orientation; officer negligence; and correctional staff, supervisors, and prison officials failing to shield the prisoners from sexual assaults. From my experiences working in two prisons, my attainment of two degrees in Criminal Justice, and the research I have studied, I strongly advocate for solitary confinement; it is truly the only option to prevent the physical harm that inmates suffer while incarcerated in open population prisons.

In this paper, I will begin with a discussion in Part I on inmate rights and the standard for bringing a lawsuit. Part II will focus on why these crimes of assault are so prevalent in the prison system. Part III will highlight solutions to the assaults and the importance of solitary confinement. Part IV will cover the Prison Rape Elimination Act and its effectiveness. Part V will conclude this Comment.

I. RIGHTS OF INMATES AND STANDARD FOR BRINGING A LAWSUIT

A. *Rights of Inmates*

Even though prisoners have incited the mass issue of sexual assault through their prison codes and subcultures, the sexual assaults are not completely their fault. Prisoners have a constitutional right under the Eighth Amendment’s Cruel and Unusual Punishments Clause to be protected by correctional staff from prisoners who may sexually and violently assault them.⁴ Established in *Woodhous*, the court found an inmate can sustain a lawsuit if he proves a pervasive risk of harm from other inmates to which officials failed to reasonably respond.⁵ The court also noted that “confinement in a prison where violence and terror reign is actionable.”⁶ Failing to protect the prisoners, despite knowing that the assaults are occurring, will result in correctional

2. *Id.* at 149.

3. See discussion *infra* Parts II(B), II(C).

4. Barbara Belbot & Rolando Del Carmen, *Legal Issues in Classification*, in CLASSIFICATION: A TOOL FOR MANAGING TODAY’S OFFENDERS 17, 26 (Elizabeth Watts et al. eds., 1993).

5. *Woodhous v. Virginia*, 487 F.2d 889, 890 (4th Cir. 1973).

6. *Id.*

liability for the attacks as long as the victim can prove and establish this fact in his/her case.

B. Indifference Standard

Correctional liability has been thoroughly analyzed and extensively discussed by Darrell L. Ross. Ross explains how correctional staff can be liable under the indifference standard when they act recklessly or callously⁷ to the protection and safety of those prisoners under their supervision. This indifference standard was determined in *Smith v. Wade*, where officials knew of a violent history of a prisoner, yet they ignored this knowledge and placed him with a protective custody inmate who was later raped by the violent inmate.⁸ The correctional officer's mindset is crucial to determining liability as well—an officer acting recklessly and without regard for a prisoner in a prisoner sexual assault case will be found liable for punitive damages.⁹

The plaintiff may use circumstantial evidence to prove his/her case.¹⁰ However, the burden of proof for the plaintiff is not lighter because of the resource of circumstantial evidence. How can a prisoner prove that an inmate who he has been housed with multiple times without incident is a substantial risk to his safety? Is it highly probable that the inmate will attempt to rape this inmate, even though he never tried before? As discussed in *Matthews v. Armitage*, two prisoners had coexisted without incident at least fifty times,¹¹ and there had never been a stabbing in the protective custody unit previously.¹² Officials had no knowledge that violence would erupt or that a potential harm existed for this inmate to be assaulted.¹³

Due to the fact that these inmates had never had violent or sexual confrontations, the plaintiff could not show that the officials knew or disregarded a serious risk.¹⁴ Another case, *Perkins v. Grimes*, was a typical incident because the bigger and stronger prisoner was the predator of the sexual assault.¹⁵ The jailers and the sheriff were found not to have been deliberately indifferent¹⁶ because the detainee and prisoner had shared a cell together without any issues prior to the assault,¹⁷ and the correctional staff was not aware that the prisoner's cellmate was such an aggressor who would

7. DARRELL L. ROSS, CIVIL LIABILITY IN CRIMINAL JUSTICE 52 (2003).

8. *Smith v. Wade*, 461 U.S. 30, 32 (1983).

9. *Id.* at 56.

10. *Matthews v. Armitage*, 36 F. Supp. 2d 121, 125 (N.D. N.Y. 1999).

11. *Id.*

12. *Id.* at 126.

13. *Id.*

14. *Id.*

15. *Perkins v. Grimes*, 161 F.3d 1127, 1129 (8th Cir. 1998).

16. *Id.* at 1130.

17. *Id.* at 1129.

violently and sexually assault the prisoner.¹⁸ The plaintiff neither appeared to be vulnerable to rape nor had this assaulter ever attacked this inmate (though it is possible this inmate had attacked others). Why would the officials know of a serious harm in placing these two particular inmates together?¹⁹

C. *Good Faith Defense*

If the correctional staff had no knowledge of the inmates' predisposition to victimization or aggression, qualified immunity could be granted. In *Harlow v. Fitzgerald*, the Supreme Court determined that officers can utilize the good faith defense when a reasonable person would not have known that his conduct would violate the constitutional or statutory rights of the prisoner.²⁰ When the action occurred, the law must be clearly established in order for officers to be held liable for their conduct.²¹ Objective reasonableness, rather than subjective criteria, is the focus for this standard.²² Officers proving this affirmative defense may then be entitled to qualified immunity²³ as a defense for liability in sexual assault cases. This doctrine shields officials from civil damages as long as they perform certain functions in their professions.²⁴ The two important factors in deciding to grant or deny immunity are whether a reasonable officer understood his powers and responsibilities when he acted²⁵ and whether the standards were clearly established.²⁶ If these two factors are analyzed and the court decides to grant immunity, the correctional officer can avoid liability.

D. *Deliberate Indifference and Farmer*

Deliberate indifference of correctional staff can also lead to liability. In *Stokes v. Delcambre*, the correctional staff ignored repeated screams from a prisoner who was being physically and sexually assaulted by another prisoner.²⁷ The court concluded that there was sufficient evidence to support the jury's finding of deliberate indifference to the safety of the prisoner, and that the officers were malicious, wanton, or oppressive in their actions toward the prisoner.²⁸ As defined in *Estelle v. Gamble*, deliberate indifference is when staff, whether a prison doctor or correctional officer, intend or choose to inflict

18. *Id.* at 1130.

19. *See id.* at 1129.

20. *Harlow v. Fitzgerald*, 457 U.S. 800, 818 (1982).

21. *Id.*

22. *Id.*

23. *Id.*

24. *Id.*

25. *See Harlow*, 457 U.S. at 818–19.

26. *Id.*

27. *Stokes v. Delcambre*, 710 F.2d 1120, 1123 (5th Cir. 1983).

28. *Id.* at 1124, 1127, 1129.

unnecessary and wanton pain toward a prisoner.²⁹ The staff member may have the requisite state of mind by delaying an inmate's access to medical care when requested or outright denying such care.³⁰ This standard is often applied to such cases because of the relevancy of the officers' actions affecting the sexual assaults. If the officers were conducting their duties according to the rules and regulations of the institution, they would not have ignored obvious cries of help for care; the staff would have intervened.

One of the most important cases arising from *Estelle* and dealing with failure to protect inmates from sexual assault is *Farmer v. Brennan* because it defined and applied the deliberate indifference standard to claims of failing to protect prisoners from inmate attacks.³¹ The Court held that prison officials must knowingly disregard an extreme threat to an inmate's safety or an inmate's health in order to be held liable under the Eighth Amendment for denying humane conditions of confinement to an inmate.³² The Court further asserted that deliberate indifference implies reckless behavior and is consistent with the purpose of the Eighth Amendment's Cruel and Unusual Punishments Clause.³³ The United States Supreme Court established that such behavior of a subjective prong could be satisfied to meet the requirements of deliberate indifference only when a prison official was consciously aware of an excessive risk to an inmate and that risk would result in severe harm.³⁴ The Court found that for an action to be deliberate, the minimum requirement would be voluntary disregard to an inmate's safety or health, not accidental indifference.³⁵

In order to successfully file a claim and win a suit against officials for failing to protect a prisoner, that prisoner must show that officials had knowledge of a substantial risk of serious harm to the prisoner but acted or failed to act.³⁶ Under *Farmer*, three situations were described where a plaintiff could prevail in his/her case: if the prisoner can show that the assaults were ongoing or reported to the correctional staff;³⁷ if the plaintiff can prove that he notified officials, and they suspected the plaintiff was telling the truth but did not attempt to look into the underlying facts of the allegations;³⁸ and, once officials realized or had a strong suspicion³⁹ such assaults were occurring, they

29. *Estelle v. Gamble*, 429 U.S. 97, 104 (1976).

30. *Id.*

31. *Farmer v. Brennan*, 511 U.S. 825, 833–34 (1994).

32. *Id.* at 837.

33. *Id.* at 839–40.

34. *Id.* at 839.

35. *Id.* at 840.

36. *Farmer*, 511 U.S. at 842.

37. *Id.* at 842–43.

38. *Id.* at 843 n.8.

39. *Id.*

refused to accept that serious risks to the plaintiff were apparent.⁴⁰ Correctional officers have a duty to protect inmates from harm, whether that harm is from deprivation of constitutional rights or actual assaults from other prisoners.⁴¹

In a prison, correctional staff and officials must realize the various characteristics⁴² of its prisoners; the inmates are not in prison for only minor, nonviolent crimes—inmates may be rapists, murderers, drug addicts, or mentally ill.⁴³ Because of this knowledge, prison officials and personnel should anticipate problems and have a response to such emergencies prepared.⁴⁴ An inmate cannot leave the prison to escape abuse; the correctional personnel must protect that inmate from abuse. If officials know of or suspect abuse and fail to inquire into the facts or move the inmate into protective custody, they are setting themselves up to be found liable under the level of culpability of deliberate indifference.

Plaintiffs who have overcome dispositive pretrial motions instituted by prison officials, such as those in *Dowling v. Hannigan* and *Freeman v. Godinez*, have shown enough facts for a jury to reasonably find in their favor.⁴⁵ These plaintiffs demonstrated the officials' propensities to disregard their safety as inmates and have attested blameworthiness of these officials.⁴⁶ These officials had known of a risk of serious harm, and they were unable to succeed on their motions to end the cases because of the standard of deliberate indifference.⁴⁷ Officials must learn from their mistakes, such as doing nothing when receiving a tip from another inmate, in order to prevent future liability and to protect the lives of the inmates who they have a duty to protect from harm. Their main purpose at the institution is to protect society and the inmates from harming others or themselves. These inmates cannot fend for themselves like individuals in regular society. Prison officials are the official caretakers of these inmates while they are under their custody and supervision.

E. Supervisor and Administrative Liability

Supervisors and the administration can be found liable as well in such instances of sexual assault of inmates. If a supervisor demonstrates that he did not intervene when an inmate reported a sexual assault,⁴⁸ he is liable.⁴⁹

40. *Id.*

41. *Farmer*, 511 U.S. at 833.

42. ROSS, *supra* note 7, at 157.

43. *Id.*

44. *Id.*

45. *Dowling v. Hannigan*, 995 F. Supp. 1188, 1190 (D. Kan. 1998); *Freeman v. Godinez*, 996 F. Supp. 822, 825 (N.D. Ill. 1998).

46. *Dowling*, 995 F. Supp. at 1189; *Freeman*, 996 F. Supp. at 825.

47. *Dowling*, 995 F. Supp. at 1190; *Freeman*, 996 F. Supp. at 825.

48. ROSS, *supra* note 7, at 91.

49. *Id.*

Another example of a supervisor knowing about an incident but refusing to stop his subordinates is the case of *Hudson v. McMillian*; this is a case where a lieutenant on the scene observed his officers punching an inmate repeatedly but simply cautioned the two officers “not to have too much fun.”⁵⁰ Despite the inmate suffering minor injuries, the supervisor was held liable for failing to properly intervene, supervise, and control the officers.⁵¹ Prison administrators are held to the same standards—they can be held liable for deliberate indifference if they disregard a serious risk to an inmate despite a reasonable person acting in their position would have known such a risk should not be ignored.⁵²

Seven ways administrative liability could arise are: training, supervising, disciplining, hiring, directing, entrustment, and assigning staff.⁵³ If an administrator hires a correctional officer with a known history of violence, he is risking the inmates’ safety by hiring such staff and then assigning him/her to supervise those prisoners. Another instance would be if the administration did not adequately train⁵⁴ its staff, or, in some cases, the states did not have training academies for staff.⁵⁵ If the staff is not adequately prepared to handle occurrences of sexual assault because it never received the training, the administrators could be found liable. An administrator cannot ignore deprivations just because he feels that he can do what he wants due to the possibility of qualified immunity. All prison officials must be mindful of their obligations to those under their confinement.

II. WHY IS ASSAULT SO PREVALENT IN THE PRISON SYSTEM?

A. *Prevalence and Classification*

Behind correctional liability for failure to protect inmates from sexual assault is an unfamiliar and inimitable world of violence and dominance, one that thrives off of aggression, power, and control. Correctional staff cannot quash this subculture in open population prisons, which is why inmate sexual assault cannot be contained without solitary confinement. Although cases have proven that an officer negligently or directly caused the sexual assault occurrence, there are several examples of the victimization occurring because of the overwhelming and empowering roles and behaviors inmates have formed and accepted in their own subculture;⁵⁶ and, regardless of staff, these

50. *Hudson v. McMillian*, 503 U.S. 1, 4 (1992).

51. *Id.* at 9.

52. ROSS, *supra* note 7, at 92.

53. *Id.*

54. BOWKER, *supra* note 1, at 157.

55. *Id.*

56. *See infra* Part II.

inmates will rape and assault others when the opportunity presents itself. Inmates and correctional staff have both been found liable for fault by the courts; and, despite improved conditions of prisons, hiring of staff, building larger facilities, and prison officials implementing new regulations and procedures, inmate sexual assault does not stop.

The first factor to be examined is the importance of classification. The main three types of prisons and the classification of the offenders embody this vital concern to prison officials. Prisons are classified according to their security level, ranging from minimum security to maximum security,⁵⁷ in order to ensure the inmate is confined at the proper security level for his classification.⁵⁸ There are noticeable differences between each of these security types through the facility's structural aspects, specifically the housing design and perimeter security⁵⁹ as well as based on the programs offered to the prisoners⁶⁰ inside the institution. A maximum security facility would most likely have single cells for its prisoners, whereas a minimum security prison would have dormitories.⁶¹ Minimum security facilities offer a wide range of programs because their offenders are able to move from one building to another without handcuffs and leg irons like those inmates housed at an open maximum security facility.⁶²

Minimum security institutions are reserved for nonviolent offenders or those offenders who pose little risk to other offenders' safety and well-being.⁶³ Medium security prisons, the next security level up, tend to incarcerate more dangerous offenders, such as those who are violent and may attempt to escape; these offenders are usually sentenced to less than twelve years for their crimes.⁶⁴ The third level, maximum security, houses the most violent and troublesome offenders,⁶⁵ with most of these inmates serving life sentences. The appropriate security level should be matched with the classification of the offender in order to reduce future issues that could arise, such as a maximum security prison housing an inmate who should have been confined at a minimum security facility. Classification can reduce other issues in prison because it groups similar offenders into a facility, which can ease some of the

57. HAZEL B. KERPER & JANEEN KERPER, *LEGAL RIGHTS OF THE CONVICTED* 444-47 (1974).

58. *Id.*

59. CLAIR A. CRIPE, *LEGAL ASPECTS OF CORRECTIONS MANAGEMENT* 197 (1997).

60. *Id.*

61. *Id.*

62. *Id.*

63. RICHARD P. SEITER, *CORRECTIONAL ADMINISTRATION: INTEGRATING THEORY AND PRACTICE* 215 (2002).

64. *Id.* at 216.

65. *Id.* at 217.

complications that result from a mixture of different offenders with varied criminal backgrounds.

Initial classification of an inmate could determine his future of being a victim or an aggressor in the vicious cycle of inmate sexual assault. Prisoners who should be incarcerated in a maximum facility should not be placed in a minimum security facility because the risks are high that these maximum level prisoners will endanger the lives of the minimum security prisoners. Even though deference to the prison officials is a critical part of classifying the inmates, the courts have not given complete autonomy to the institutions to establish what kind of inmate must be housed at a particular security level. Analysis of classification criteria in case law has shown that the courts do not require due process in prison classification decisions; although, those decisions can be scrutinized and changed if they were “arbitrary, irrational or discriminatory,”⁶⁶ which was validated in *Laaman v. Helgemoe*.⁶⁷ Nevertheless, prisons have developed a procedure for classifying inmates that is allowable by the courts and beneficial to reducing sexual assaults.

Prisons classify inmates based on their demographics and criminal records, possible location issues that may arise due to the inmates’ backgrounds and affiliations, space availability at the facilities, and problems with security, which may be influenced by the inmates’ special needs.⁶⁸ The criminal background of the offender is a chief concern for classification because, in a pragmatic mindset, a violent murderer most likely should not be housed with a petty, nonviolent thief. A prison would be promoting highly-probable failure for its inhabitants if correctional staff did not separate inmates based on these seven criteria or ignored key aspects of that inmate’s criminal history, such as gang affiliation or the previous occupation of law enforcement/corrections. Even though prison staff attempt to screen out the problematic inmates based on the above-mentioned acceptable criteria, it is impossible for these criteria alone to completely examine all of the significant elements that affect the likelihood of victimization because of the prison code, prison subculture, inmate roles and behaviors created and enforced inside institutions, physical characteristics, and sexual orientation.

B. Inmate Subculture

The prison code is a crucial component to the prison subculture, inmate roles, inmate behaviors, physical characteristics, and sexual orientation, as well as a code that, if violated, could result in sexual assault, physical assault, or fatal outcomes. The code has been described as prisoner hierarchy that ranks

66. *Laaman v. Helgemoe*, 437 F. Supp. 269, 318 (D.N.H. 1977).

67. *Id.*

68. *CRIFE*, *supra* note 59, at 196.

the prisoners by their masculine attitudes, skills, and abilities.⁶⁹ Inmates must be willing to fight at any moment, exude a manly appearance, and never display softness⁷⁰ unless they are willing to face the dire consequences of ongoing and violent assaults.⁷¹ Death is the ultimate consequence of failing to adhere to the prisoner hierarchy. Following this prison code, the inmates adhere to these strict rules of social, physical, and verbal appearance. A unique subculture with particular inmate roles and behaviors emerge from a prisoner's willingness to succumb to the rules or accept their fates at the hands of the dominant inmates.

Certain roles have been defined in the prison subculture that have high relevance to inmate victimization: there are "wolves,"⁷² which are inmates who are "predators"⁷³ who sodomize or sexually assault other inmates; and "punks"⁷⁴ or "suckers,"⁷⁵ which are those unlucky and weak inmates who are the wolves' "victims"⁷⁶ in the sexual victimizations. The institution's prison subculture places a heavy emphasis on appearing as a tough man⁷⁷ because appearing weak may lead to victimization, subordinate roles, or isolation; weak inmates may be forced to seek protection in order to survive in prison.⁷⁸ Prisoners must choose upon entering a new prison which role they can accept and defend. A prisoner who is unwilling to join a gang will most likely face sexual assault.

Which inmates are most likely to become wolves and accept such a role in the institution? Some researchers have found historically that sexual predators were typically black, seeking revenge, and motivated by their desires to demonstrate their toughness.⁷⁹ In this study, the researchers found that these perpetrators frequently were gang-affiliated, acquainted with the victim, and usually used a weapon against their victims.⁸⁰ Also, these wolves were not first-time offenders but usually had multiple rape victims; they chose not to "involve other inmates or staff, and, when motivation was known, it was most likely attributed to sexual orientation or mental illness/disability of the

69. Terry A. Kupers, *Rape and the Prison Code*, in *PRISON MASCULINITIES* 113 (Don Sabo et al. eds., 2001).

70. *Id.* at 112–13.

71. *Id.* at 113.

72. MATTHEW SILBERMAN, *A WORLD OF VIOLENCE: CORRECTIONS IN AMERICA* 56 (1995).

73. *Id.*

74. *Id.*

75. *Id.* at 36.

76. *Id.* at 56.

77. SILBERMAN, *supra* note 72, at 27.

78. *Id.*

79. Nancy Wolff & Jing Shi, *Contextualization of Physical and Sexual Assault in Male Prisons: Incidents and Their Aftermath*, 15 *J. CORRECTIONAL HEALTH CARE* 59 (2009).

80. *Id.* at 65.

victim.”⁸¹ These sexual attackers are typically larger than their victims, free from mental illness or disability, and heterosexual.⁸² Despite the wolf being a man raping a man, his actual sexual orientation before prison will determine his likelihood of being the rapist or the inmate raped.⁸³ His sexual orientation, if homosexual, goes against the inmate code of manliness and will increase his risk of sexual assault.

Those inmates who usually become punks or suckers are usually young white men who are underdeveloped physically.⁸⁴ These victims were found to resemble females, and their stereotypical physical and emotional characteristics: effeminate characteristics,⁸⁵ weak, vulnerable appearances,⁸⁶ small physiques,⁸⁷ and prettiness.⁸⁸ Punks were unable to defend themselves against the wolves not only because of their physical deficiencies but also due to their mental instabilities and fears. Many victims of sexual assault suffer from some form of “depression, anxiety, or posttraumatic stress disorder”⁸⁹ or have a “mental illness”⁹⁰ that makes them easy targets of victimization behind bars. Physically, they cannot fend off a larger attacker, and mentally, they cannot avoid putting themselves at risk for assault.⁹¹ If the inmates are homosexual or transgender, they are more susceptible;⁹² and transgender inmates reported “prevalence rates of sexual assault [] at 41%, compared to 2% for a random sample of inmates in the same California prisons.”⁹³ Punks and suckers are typically at constant risk of being sexually assaulted, and face the consequences of their faults and sexual preferences.

Another important inmate role that has been discussed in various research on the inmate subculture is the “fish,”⁹⁴ which is a “new inmate”⁹⁵ who may or may not have “friends”⁹⁶ currently incarcerated, and an inmate who has to fend off predators in order to avoid becoming an inmate’s property.⁹⁷ A wolf will

81. *Id.* at 65–66.

82. *See id.* at 60.

83. *Id.*

84. Wolff & Shi, *supra* note 79, at 59.

85. *Id.* at 60.

86. *Id.*

87. *Id.*

88. *Id.*

89. Wolff & Shi, *supra* note 79, at 60.

90. *Id.*

91. *Id.*

92. *Id.*

93. *Id.*

94. RICHARD HAWKINS & GEOFFREY P. ALPERT, AMERICAN PRISON SYSTEMS: PUNISHMENT AND JUSTICE 270 (1989).

95. *Id.*

96. *Id.*

97. *Id.* at 271.

easily dominate a fish who is alone in the prison and turn him into his punk. Once a punk, that wolf can decide to make that inmate his kid, which means that the inmate will receive protection from that wolf from other inmates but still must give him sexual favors, or turn him out, which means that he rapes this inmate whenever he wishes without granting protection.⁹⁸ If a fish is a small, homosexual inmate⁹⁹ who lacks any of the masculine qualities of a typical heterosexual inmate,¹⁰⁰ his physical characteristics and sexual orientation will be his eventual demise of sexual assault unless he can fight back. It is stressed in the prisoner's world that "[f]ighting is an integral part of the convict identity. . . . a rite of passage."¹⁰¹

C. *Failure to Report*

Why not report the sexual assault instead of fighting daily to avoid the brutal attacks? One researcher conducted a study to delve into this issue, explaining why inmates typically do not report the victimizations as well as the characteristics associated with these beliefs.¹⁰² The main reason behind male inmates refusing to tell officials about the sexual victimizations is the terror they feel towards the inmate subculture¹⁰³ because they fear the recourse they will face from the predators if they go against the inmate code.¹⁰⁴ Once an inmate reports the crime, he is labeled as a snitch. This prison subculture role involves multiple opportunities for abuse, sexual victimization, or an early and violent death. The convict code places a heavy emphasis on handling matters amongst the inmates and not involving correctional staff; reporting sexual assault is involving prison officials, violating this code. Even those inmates who are not involved in the sexual assaults fear becoming a snitch and therefore do not report the abuse either.¹⁰⁵ If the inmates do not tell on their attackers, they will remain victims in prison¹⁰⁶ thus allowing the cycle to persist.

Fear of retaliation is not the only reason inmates choose not to report their sexual assaults. Many fear protective custody or administrative segregation, even though such units are meant for protection from such abuse. The reasons given for this fear include: "loss of privileges . . . , a lack of educational programs, no access to movies, and fewer opportunities to attend church

98. *See id.* at 278.

99. *See* Kupers, *supra* note 69, at 111.

100. *See id.*

101. SILBERMAN, *supra* note 72, at 37.

102. Kristine Levan Miller, *The Darkest Figure of Crime: Perceptions of Reasons for Male Inmates to Not Report Sexual Assault*, 27 JUST. Q. 692, 693 (2010).

103. *Id.* at 694.

104. *Id.*

105. *Id.*

106. *Id.*

services.”¹⁰⁷ It has also been asserted that “correctional staff”¹⁰⁸ have sold these protective custody inmates to wolves for “sexual favors”¹⁰⁹ or intentionally permitting inmates into the safe harbor for the victims to be attacked. Instead of escaping the abuse in general population by voluntarily submitting oneself into protective custody, the victim could possibly endure further victimization in the supposed safe unit. Research has indicated that the relationship between the staff and the prisoners is “complex”¹¹⁰ and influences the lack of reporting.¹¹¹

Besides the fear of corruption from staff, inmates fear other inmates/staff finding out about the abuse. The convict code stresses masculinity and strength, and revealing that they have lost some of that masculinity may result in other inmates viewing them as feminine¹¹² and an easy target for sexual assault. These inmates are embarrassed and scared of sharing their experiences. Dominant themes among those prisoners who have suffered victimization are “embarrassment and shame.”¹¹³ In one study, the researchers found that inmates refused to report the sexual abuse they suffered due to three main reasons: “(1) embarrassment, (2) retaliation from other inmates, and (3) a fear of harassment and continued victimization from other inmates.”¹¹⁴ These results correspond with other studies, with the reason of embarrassment being the focus of underreporting. Because of these natural feelings and responses to such victimization, inmates endure the assaults or fight against their oppressors.

Why does such an obvious problem in the correctional world continue despite studies indicating the rampant victimization occurring in prison? One author has concluded that “most penal settings are operating well beyond their rated capacity, with problems of overcrowding, understaffing, and inadequate resources being common.”¹¹⁵ This author analyzed that prisons’ inability to provide safe and secure institutions have led to the continuing assaults.¹¹⁶ The officers are clearly unable to appropriately supervise the inmates because they are outnumbered and ill-equipped. Overcrowding of the prison, which means there are more inmates living in confinement than intended, implies that numerous characteristics and personalities of the prisoners are clashing with

107. Miller, *supra* note 102, at 694.

108. *Id.*

109. *Id.* at 694–95.

110. *Id.* at 695.

111. *Id.*

112. Miller, *supra* note 102, at 694.

113. *Id.* at 695.

114. *Id.* at 700.

115. Robert W. Dumond, *Inmate Sexual Assault: The Plague That Persists*, in CURRENT PERSPECTIVES ON SEX CRIMES 115, 115 (Ronald M. Holmes et al. eds., 2002).

116. *Id.*

one another. At Menard, for example, there were approximately 3700 inmates but only 600 officers on all shifts total. Those 600 officers can neither watch every inmate nor can they ensure that all inmates are behaving. Further, only a fraction of those 600 officers would be on any given shift; they are spread out between three, sometimes four, shifts. Day shift may have only 100 officers on duty at a given time, yet the inmate total remains the same.

Research conducted by other authors suggest that it is not just the physical facility and those inmates housed inside those walls who contribute to the perpetration of further victimization; they found in their study that the perceptions of inmate fear of sexual assault by prison officials is drastically different from the point of view of the inmates.¹¹⁷ Instead of finding that fear of sexual assault was a commonality in prison by the wardens, the study indicated otherwise. The results pointed out that the “majority of the 226 wardens surveyed believed that the prevalence of inmate fear of sexual assault was relatively low”¹¹⁸ and “no warden believed that the inmates within their facilities were extremely fearful of sexual assault.”¹¹⁹ Contrary to inmate perceptions, an overwhelming sixty-five percent of wardens believed that the fear of sexual assault within their prisons was low.¹²⁰

Does this mean that prison authorities are blind to the assaults that occur or are the assaults uncommon? The authors propose that wardens simply believe that the fear of sexual assault is not a “significant factor in the culture, social structure, or administration of their prisons.”¹²¹ Even though it has been insisted through research that inmates are scared they will be victims of sexual assault while incarcerated, this study and others have shown that sexual assault is not viewed as a problem to many staff members.¹²² Due to inmates not reporting the abuse or voicing their fears about sexual assault, staff and administration members may not be aware of the problem of victimization at their institutions. It is possible that some may view the assault as “a deserved response to an individual’s criminal behavior”¹²³ instead of as a crime against that inmate. Skepticism may also influence whether the staff believe that victimization or fear of sexual assault is an issue because “many of the reports of sexual victimization were found to be either unsubstantiated or unfounded.”¹²⁴

117. Christopher Hensley & Richard Tewksbury, *Wardens’ Perceptions of Inmate Fear of Sexual Assault: A Research Note*, 85 PRISON J. 198, 200 (2005).

118. *Id.*

119. *Id.*

120. *Id.*

121. *Id.* at 202.

122. Miller, *supra* note 102, at 695.

123. *Id.*

124. *Id.*

Despite the problem of staff ignorance or avoidance of sexual assault, one researcher emphasizes the importance of the physical characteristics of the inmate and how his “physical size and inexperience in hand-to-hand combat make him an easy mark”¹²⁵ for sexual abuse and victimization, as well as an inmate exuding his “overt homosexuality”¹²⁶ upon arrival to the institution. This researcher also acknowledges the major role that prison masculinities play in the likelihood of a prisoner enduring a sexual attack during his confinement.¹²⁷ Whether the cause of the prison rape resulted from overcrowding or the inmate’s inability to protect himself, sexual assault rages unbridled behind prison walls. The several cases discussed above have demonstrated correctional liability for failure to protect inmates from sexual assault, illustrated examples of officer and supervisor negligence, and discussed the importance of the standard of deliberate indifference when examining the facts and circumstances of each case.

III. SOLUTIONS AND THE IMPORTANCE OF SOLITARY CONFINEMENT

A. *Solutions*

How can the correctional staff maintain and control security, order, and the inmates if the prison code allows for the roles of this subculture to stress toughness and fighting? One possible solution is emphasizing staff training and treating it as vital to the operation of the facility.¹²⁸ One author explains that by focusing on developing professional training for inmate sexual assault awareness¹²⁹ and showing correctional staff the “excellent resource video titled *The Correctional Officer: Recognizing and Preventing Closed-Custody Male Sexual Assaults*,”¹³⁰ prisons can become proactive and act more responsibly¹³¹ in their reversal of stereotypical attitudes staff may have towards prison rape¹³² that may have influenced the reporting or further allowance of sexual assaults. Staff training can lead to further awareness of the problem and its causes, helping officers understand how to protect inmates. At the prisons I worked at, all staff participated in annual training about inmate sexual assault. Also, there was a Crisis team who was trained to respond to such situations. This team consisted of supervisors and medical staff. The Crisis team was one way to

125. Kupers, *supra* note 69, at 111.

126. *Id.*

127. *Id.* at 115.

128. Dumond, *supra* note 115, at 118.

129. *Id.*

130. *Id.*

131. *Id.*

132. *Id.*

encourage the inmates to speak up about the assaults and aid in prevention of such assaults.

Another possible solution, which would probably not be wholly implemented due to the expensive nature of such facilities, is to house all inmates in solitary confinement. If the inmates never have physical contact, like those in closed maximum facilities, they cannot rape, molest, or assault one another. Some inmates do choose such solitary confinement, and will “mutilate themselves in order to be locked up in a psychiatric ward”¹³³ in order to receive a single-bed cell and segregation from open population. Other inmates will attack a correctional officer, like many of those who were incarcerated at my previous facility, Tamms, in order to obtain a transfer to a closed maximum security prison with complete segregation and single-bed cells. Some inmates take action to avoid the assaults, even though such action usually forces the inmates to lose certain privileges and statuses. Unfortunately, many prisoners do not want to lose their non-segregation privileges and endure the sexual assaults. Those who stay in general population and do not report the crimes often remain the wolves’ sexual slaves until they leave prison, maiming them physically and mentally.

B. Importance of Solitary Confinement

Solitary confinement is, despite its expensiveness, the only genuine option that can adequately prevent sexual assault. As one inmate noted, “When I was sentenced I didn’t hear that part . . . that stated, While there, you will be beaten daily, savagely raped, and tortured mentally, to the point of contemplating suicide.”¹³⁴ From my experience in working in super-maximum and maximum security prisons, inmates were only protected from rape and physical assaults while they were housed in solitary confinement. When I transferred to an open population, maximum prison, I discovered that inmates are beaten and raped daily. One article noted this sentiment exactly, stressing that the United States’ prison rape rates are excessively high.¹³⁵ Further, rape is expected in prison by society, which compounds the effectiveness of prevention.¹³⁶ Inmates have a right to be free from sexual assaults, but that right is costly and often ignored because solitary confinement has such negative connotations.

A recent article that focused on the negative characteristics of solitary confinement described such confinement as “extreme social isolation” due to

133. BOWKER, *supra* note 1, at 1.

134. Philip Ellenbogen, *Beyond the Border: A Comparative Look at Prison Rape in the United States and Canada*, 42 COLUM. J.L. & SOC. PROBS. 335, 336 (2009).

135. *Id.*

136. *Id.* at 342.

the “near-total absence of external stimuli.”¹³⁷ The cells that inmates are housed in during solitary confinement are described as “tiny,” and inmates housed in these cells have “limited contact with other people.”¹³⁸ The author’s depiction of solitary confinement is bleak and scary, but it fails to take into account the non-solitary confinement prison cells’ depictions. In such non-solitary conditions, inmates are housed in the same size cells as solitary confinement ones, yet they share it with another inmate. When these open population prisons go on lockdown, which is a frequent occurrence in maximum security facilities, these inmates are forced to reside in that tiny cell together for days on end. They are not allowed to leave the cell for their normal recreational hours, chow times, chapel visits, or commissary lines. Their external stimuli are limited, just as those inmates who are single-celled in solitary confinement. When I worked at Menard, the open population prison, lockdown would occur when an inmate assaulted another inmate, when an inmate assaulted staff, or when major contraband was discovered. For something minimal, the entire prison would be locked down for approximately one day. However, for a staff assault, the prison may be on lockdown status for a week. Some cell houses, particularly the most violent ones, could go weeks in such solitary confinement housing if the inmates who caused the disturbance were from that house.

Is solitary confinement worth the psychological pain that inmates may endure being housed in a cell by themselves? I have never been an inmate, but I did work at a solitary confinement prison for three years. Most of the inmates were satisfied with their own personal cell, shower, and yard time. They were content to have their three meals a day, their leisure times at their convenience, and their television time uninterrupted. These inmates had a central heating and cooling air system. Tamms’ inmates were generally calm and happy. At Menard, the inmates were typically angry or at the least frustrated. They shared a shower room with twenty other inmates, and this room did not have any stalls or partitions to block others from watching them shower. Menard’s inmates had to live in a small cell with another inmate and all of their property. If his cellmate wanted to work out, the other inmate had to wait his turn for the floor space in the cell. If his cellmate was on night medication, the other inmate was also awoken at 3:00 a.m. by the nurse and officer escorting her. These inmates had to share the toilet and sink in their cells. Further, such prisons as Menard lacked any central air system, so some cell houses would reach over 100 degrees in the summer. Inmates were given small fans to cool themselves but most simply sweated through their underclothes. Arguments and fights were normal occasions at Menard, especially during the summer months when the

137. Jacob Zoghlin, *Punishments in Penal Institutions: (Dis)-Proportionality in Isolation*, 21 HUM. RTS. BRIEF 24, 24 (2014).

138. *Id.*

temperatures were sweltering. From my experiences watching these inmates live their lives behind bars, solitary confinement in a modern facility was the safer and more enjoyable option.

IV. PRISON RAPE ELIMINATION ACT

A. *PREA Defined*

The issue of sexual assault has received attention from more than just prison officials and the courts but from Congress as well. Congress implemented the Prison Rape Elimination Act (PREA)¹³⁹ in 2003 in order to illuminate the inmate sexual assault crisis that is plaguing prisons in this country and to eradicate that crisis.¹⁴⁰ The PREA established a “zero-tolerance standard” for inmate sexual assault and proposed new techniques, specialized training, and general education sharing amongst staff and inmates.¹⁴¹ Standards were developed as well as a Prison Rape Elimination Commission (PREC).¹⁴² The PREA was created to reduce and prevent sexual assaults behind bars, and the PREC was created to ensure the new standards were issued, followed,¹⁴³ and that research was conducted on this subject. The PREA, coupled with the PREC enforcing it, was meant to “increase the data and information on the incidence of prison rape to help improve management and administration in regard to sexual violence in correctional facilities.”¹⁴⁴

The PREA further established a set of specific guidelines for prisons to follow. First, the agency must create a zero-tolerance written policy.¹⁴⁵ This policy must be aimed at responding to sexual assaults, and how the agency will meet this goal through prevention and detection.¹⁴⁶ The agency must also have a PREA coordinator.¹⁴⁷ This coordinator ensures that the agency is complying with the PREA standards and implementing agency efforts.¹⁴⁸ The agency must also have a PREA compliance manager if the agency has two or more facilities. This manager coordinates the PREA compliance amongst all the facilities within the agency.¹⁴⁹ Both the coordinator and the compliance

139. Cari Gerlicher & Jeff Shorba, *PREA and the Investigative Process*, CORRECTIONS TODAY, Oct. 2007, at 70.

140. *Id.*

141. *Id.*

142. *Id.*

143. Pat Kaufman, *Prison Rape: Research Explores Prevalence, Prevention*, 259 NAT'L INST. JUST. J., March 2008, at 24, 24.

144. *Id.*

145. 28 C.F.R. § 115.11 (2014).

146. *Id.*

147. *Id.*

148. *Id.*

149. *Id.*

manager are employed by the agency in order to help them develop and oversee their compliance with the PREA standards.¹⁵⁰ These guidelines are vital to aiding agencies in combatting sexual assault in prison.

B. Prevention Considerations

Another crucial way the PREA has tried to prevent sexual assault in prison is through supervision and monitoring. Agencies must make their “best efforts” to address sexual assault concerns through their staffing plans and video monitoring.¹⁵¹ The staffing plan is utilized to provide adequate staffing in the agency in order to protect against sexual assault of inmates.¹⁵² Video monitoring is not required but, where applicable, addresses the same problem as the staffing plan.¹⁵³ The PREA then lists eleven considerations that facilities should take into account when formulating the staffing plan and whether video monitoring is necessary.¹⁵⁴ These considerations range from the practices that are generally accepted in corrections to inadequacy findings from varying authorities, such as investigative agencies.¹⁵⁵ An example of one factor affecting a staffing plan would be the particular shift’s programs;¹⁵⁶ inmates only sleep, receive their night medications, and eat their breakfast meals on the night shift so less staff would be necessary to adequately protect them on that shift. At Menard, for example, these were the only institutional programs that occurred on that shift, so roughly half the amount of officers were placed on this shift compared to the day shift. Another important consideration that the PREA includes in the determination of the staffing plan is the makeup of the inmate population.¹⁵⁷ A minimum security unit, such as a work camp, only requires a few officers because the inmates are nonviolent offenders. A maximum security unit, on the other hand, requires more officers to protect the inmates from sexual and physical assaults. Menard also had a work camp, which provided the maximum security inmates their food, haircuts, laundry, commissary, and other services. The staff necessary to run the entire work camp was approximately fifty people. Such factors should always be considered when evaluating how many staff are needed at a particular agency.

The PREA increases inmate protection by applying the standards to an agency’s considerations of new facilities or modifications of current

150. 28 C.F.R. § 115.11.

151. 28 C.F.R. § 115.13.

152. *Id.*

153. *Id.*

154. *Id.*

155. *Id.*

156. 28 C.F.R. § 115.13.

157. *Id.*

facilities.¹⁵⁸ An agency must ensure that the different facility will not perpetuate inmate sexual assault but rather will promote the PREA's goals of protection.¹⁵⁹ Such modifications can include an agency installing a video monitoring system.¹⁶⁰ When installing such a system, an agency should still focus on the goal of enhancing inmate protection, and the role that the system will play in that enhancement.¹⁶¹ At Tamms, for example, the prison was the newest facility in the Illinois Department of Corrections. This prison had video monitoring systems in the hallways, every gallery, and at various points in the institution. Although inmate sexual assault was not a problem at Tamms, the cameras helped monitor not only inmate behavior but also correctional staff conduct, too. If an incident occurred, supervisors could pull up the video footage and determine whether any staff misconduct took place; they could also find out if an inmate's claim of foul play was true (or possible). The video monitoring system was a regularly used and important tool for the agency, and is considered in the PREA as a possible tool in enhancing inmate protection.

C. *PREA Ineffectiveness*

Has the PREA accomplished its goals of protecting inmates and preventing inmate sexual assault? In my experience, the PREA has not accomplished its goals because inmate sexual assault is too large of an issue to control without additional help. The PREA needs more than guidelines and implementation—it needs solitary confinement, staff training, and other solutions. Physical contact between inmates plays a substantial role in inmate sexual assault, and the PREA does not eliminate such contact. The PREA is a huge step in the right direction of preventing inmate sexual assault, but it is unable to stamp out the problem alone. One author believes that this Act has at least given a “more complete picture of sexual violence in prisons, providing prison officials and policymakers with the information and assistance they need to address this complex problem.”¹⁶² Because of the PREA, researchers were offered grants in order to conduct research on prison rape. One study found that race is a substantial factor in the aggressor's choice of victims; age also affects the victim's likelihood of being assaulted; those who are “mentally ill or intellectually impaired”¹⁶³ have a higher probability of sexual assault; and solid cell fronts increase privacy, while also increasing opportunities for inmate sexual assault.¹⁶⁴ Another study indicated that the pervaded inmate culture

158. 28 C.F.R. § 115.18.

159. *Id.*

160. *Id.*

161. *Id.*

162. Kaufman, *supra* note 143, at 24–25.

163. *Id.* at 26–27.

164. *Id.* at 27.

greatly influences sexual assault because of the “complex system of norms on sexual conduct,”¹⁶⁵ and that it “allows inmates to disagree on the meaning of sexual violence.”¹⁶⁶ Without these grants and the specific order to delve into the subject of prison rape, researchers may not have been able to conduct such studies and discover such information.

With a positive mindset, at least studies are being conducted to determine why prison rape occurs, to whom it occurs, and what can impact the reduction and prevention of inmate sexual assault. However, very little research has examined whether the PREA has accomplished its goals of reduction and complete prevention. Rather, studies are the guaranteed results of this Act at the present moment because they are providing useful information to manage a prison efficiently and safely for all those incapacitated. Once these findings have successfully been converted into appropriate policies and procedures, which might take years, then it should be possible to examine the PREA’s actual impact, and whether or not this Act is protecting inmates from the sexual assaults too many of them face on a daily or weekly basis.

Although the victimization impact of the PREA cannot clearly be determined at this moment, liability of officers due to the PREA has increased because of the higher standards that officers are scrutinized by prison officials and the courts. Sexual assault has become a top priority in prisons, and officers must accept this responsibility to prevent, report, and stop abuse. Prisons are complying with the PREA in different ways, such as Tamms implementing a Crisis team to help inmates. Another way that prisons have responded to the PREA is requiring officers to annually recertify on inmate sexual assault materials and how to respond to such abuse during the officers’ training sessions. Both Tamms and Menard had such training sessions for their officers and other staff members to attend as a mandatory requirement. One of the biggest differences of liability after the PREA is accountability. Government leaders and prison administrators not only have to keep the inmates safe and secure but also now are being held accountable for stopping prison rape.¹⁶⁷ The key ingredient for ending prison rape is accountability, and prisons will be judged on their effectiveness for following the Act’s provisions as well as lowering the incidence and prevalence of rape.¹⁶⁸ Also, not only will prison officials be held accountable for failing to prevent and stop inmate sexual assault, but also their federal funds are contingent on their abilities to follow the Act’s rules and uphold its standards. Hopefully, this will raise awareness of

165. *Id.*

166. *Id.*

167. Kevin R. Corlew, *Congress Attempts to Shine a Light on a Dark Problem: An In-Depth Look at the Prison Rape Elimination Act of 2003*, 33 AM. J. CRIM. L., 157, 177 (2006).

168. *Id.*

the high degree of responsibility prison officials must adopt in order to avoid liability and losing their funds.

V. CONCLUSION

Fault can be found for and against the inmates because the cause of the sexual assault is not a single reason or explanation but a complex myriad of factors. The staff could have ignored the abuse, the administrators could have failed to supervise their staff, or the prison structure itself could be outdated and too old to withstand the prison subculture. The inmates also are not innocent in these attacks either. On one side of this issue is the correctional staff who is directly responsible for the well-being and safety of the inmates. However, it is easier to stress this important statement than it is to actually perform the actions. The correctional staff in an open population cannot supervise every inmate in every room of the building. They cannot go into each bathroom stall, shower room, or abandoned attic twenty-four hours a day. Yet these officers must not deliberately or negligently allow sexual assaults to occur. They must carry out their job tasks and duties with a rational and level-headed mindset, be prepared for such victimizations, and attempt to prevent or stop the assaults.

The other side of the issue is the inmates perpetrating the assaults. The prison code emphasizes extreme displays of manliness and dominance, and sexual assault is a perfect illustration to prove their power and control in the prison subculture. The wolves will rape those they can dominate, the punks will stomach the rapes until their breaking points, and the fish will fear the wolves until they obtain their own statuses and cliques in the institution. Those inmates who take their destiny into their hands by becoming committed to a mental ward or protective custody unit can briefly escape the victimizations. The inmates' participation in this dominance cycle furthers the abuse and increases the workload for the correctional officers. They not only are protecting society from the inmates but also are attempting to protect the inmates from one another. The expected awfulness continues not only because of correctional staff failing to protect those under their supervision but also due to the fact that many of the inmates want the assaults to occur. The dominant inmates are fighting the system and the staff, and the staff is fighting these inmates for control. Only the future can indicate whether that control will ever be exclusively held by the correctional staff and administration.

Ultimately, more research needs to be conducted on the effectiveness of the PREA and on the other solutions to inmate sexual assault. The PREA has good intentions, but it cannot eradicate this major problem on its own. It needs a companion and that companion should be solitary confinement. Solitary confinement prevents the physical contact between inmates, which is a central element in inmate sexual assault. Inmates cannot rape one another if they cannot touch one another. However, solitary confinement is criticized for

taking away physical contact, despite the importance of eliminating it in high-level security prisons. The solutions of officer training and Crisis teams can also assist the PREA, but they are not strong enough options in such a dangerous world as a maximum security prison. They can aid in staff awareness and compliance with the PREA standards, but they cannot prevent a prisoner from raping his cellmate. The only way to know for certain that an inmate is protected from sexual assault is to remove the cause of such assault—physical contact with other inmates. Until that is removed, the possibilities of inmate sexual assault and physical assault remain inevitable in prisons.

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