INMATE-ON-INMATE RAPE OF ADULT MALES IN PRISON

Approved: Cheryl Brackowski-Fuller
Advisor
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INMATE-ON-INMATE RAPE OF ADULT MALES IN PRISON

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Teresa Panek Ives
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Acknowledgements

As with any endeavor, it is not the destination as much as it is the journey.

First, I must acknowledge all the victims of inmate-on-inmate prison rape.

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Abstract
Inmate-on-Inmate Rape of Adult Males in Prison

Teresa Panek Ives
Under the Supervision of Dr. Susan Hilal

Statement of the Problem
Rape of male inmates is a risk that is associated with imprisonment. This study estimates that, over the past five years, it is likely that over one million adult male prison inmates have been victims of nonconsensual sexual acts and abusive sexual contacts, or inmate-on-inmate rape. Although adult male inmates are raped in every prison, inmate-on-inmate rape is a problem that has been largely ignored by members of free society, government officials, and criminal justice academics. As free society has chosen incarceration as a chief means of managing criminals, society is tasked with the responsibility of protecting inmates from inmate-on-inmate sexual violence. This study presents numerous factors that have confounded efforts at reform: ambiguous terminology, historical and methodological errors in prison rape research, vacillating statistics, inmate silence regarding prison rape, existence of a prison subculture and victimizing and victimized inmate membership in the subculture, and correctional authorities’ indifference concerning, or indefensible efforts regarding, prison rape prevention, intervention, and prosecution. The medical, mental, social, penological, and societal consequences of prison rape on inmates, their families, communities, social institutions, and Federal, State, and local governments have stimulated reform and served to influence the U.S. Supreme Court’s ruling in Farmer v. Brennan, 511 U.S. 825 (1994) and the passage of the Prison Rape Elimination Act of 2003.
Method of Approach

This study gathers empirical and theoretical data, containing classical and contemporary scholarly (peer-reviewed) journals and texts on prison rape, by way of library research. This study collects anecdotal data, consisting of personal accounts of prison rape experiences, through internet research of inmate rights advocacy and human rights organization websites. This study references research findings to select a theoretical framework as explanation for inmate-on-inmate prison rape, and rape risk, and to establish recommendations on how inmate-on-inmate rape of adult males in prison can be prevented.

Results of the Study

This study uses the subculture of violence theory as an explanation for inmate-on-inmate prison rape. Most inmates are members of a prison subculture that places a premium on hypermasculinity and accepts sexual violence as a normative problem-solving mechanism. This study utilizes the routine activities theory as an explanation for sexual victimization risk. The routine daily activities of prison life put inmates at increased risk of sexual victimization because inmates live in a crime prone milieu where, in the absence of effective guardians, motivated offenders have the opportunity to rape suitable targets. These theories form the keystone of this study’s recommendations. Inmates can be empowered to be agents of prevention in dealing with the problem of inmate-on-inmate prison rape. This study proposes that inmate-on-inmate prison rape of adult males in prisons can be prevented by inmate-oriented training and an inmate buddy support system. Inmate-oriented training promotes a normative value system by fostering inmate maturity of altruistic attitudes that value nonviolence. An inmate buddy system promotes a normative social system by encouraging inmate development of nonsexual protective relationships.
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SECTION I: INTRODUCTION

Inmate-on-Inmate Rape of Adult Males in Prison

Statement of the Problem

Rape of male inmates is perceived to be a risk associated with imprisonment, and has been firmly established in the myths surrounding prison life. In 1974, Weiss and Friar noted that most inmates are convinced that “prison rape is an integral part” of the punishment system and that society sanctions prison rape (p. x). Over thirty years later, such inmate beliefs are substantiative as public attitudes about prison rape have remained unchanged. A vengeful public, determined to end what it perceives to be the coddling of criminals, continues to appear to take the stance that victimized inmates deserve their cruel and unusual punishment, that prison rape is a penalty that is due for crimes against society, and that prison rape is a deterrent to crime (Cahill, 1985, p. 33; Struckman-Johnson, Struckman-Johnson, Rucker, Bumby, & Donaldson, 1996, p. 68). Behind this attitude lies the image of incarcerated violent criminals reaping what they have sown (Donaldson, 1995). But, from the standpoint of victimizing inmates, imprisonment simply means switching from victimizing the weak and defenseless in free society, to victimizing the weak and defenseless in a captive society (Bowker, 1982, p. 66). To be sure, incarceration generates a high risk of sexual victimization for males (Wooden & Parker, 1982, p. 2). In fact, most male rape victims are inmates (Calderwood, 1987, p. 53; Lipscomb, Muran, Speck, & Mercer, 1992, as cited in Saum, Surratt, Inciardi, & Bennett, 1995, p. 415).

Discourse on the problem of prison rape is complicated by the fact that prison rape is a taboo topic (Dallao, 1996). With few exceptions, most notably prison rights advocates or people associated with human rights organizations, members of free society and government officials are largely unaware of, trivialize, or fail to discuss, the problem of prison rape and the daily plight of prison rape victims (National Institute of Corrections [NIC], 2004). The fact that prison rape happens, and happens with such frequency in U.S. prisons, is one of
the most serious problems plaguing the criminal justice system (Kunselman, Tewksbury, Dumond, & Dumond, 2002, p. 46). In remarks before the National Prison Rape Elimination Commission (NPREC), Senator Edward M. Kennedy stated that one in ten inmates is raped in prison (The Cost of Victimization: Why Our Nation Must Confront Prison Rape [June 14, 2005]). Yet, the problem of prison rape is like the elephant in the room; most people know it is there for it is impossible to ignore, but it is shrouded in silence because nobody knows what to do about it.

Rape, as it occurs in free society, is a serious matter that deserves attention, while references to prison rape, if they are made at all, are often made in jest (Stop Prison Rape [SPR], 2005). Prison rape is the subject of recreational media. For example, in 2002, 7-Up aired a television ad, dubbed A Captive Audience, that showed a 7-Up pitchman handing out 7-Up soda cans to prison inmates; the pitchman dropped a can but refused to pick it up; at the end of the ad, the pitchman is depicted uneasily sitting in a prison cell while a much larger male inmate seductively puts his arm around the pitchman's shoulder while the prison cell door slams: 7-Up pulled the ad after being subject to protests from human rights organizations (SPR). Members of the public and government officials are starting to appreciate the fact that the problem of prison rape is no laughing affair.

Acts of sexual violence against inmates in U.S. prisons not only jeopardize inmate safety, but also institutional security. Prison rape is a fundamental violation of incarceration, and defiles the guiding philosophy of correctional institutions: the custody, control, and care of inmates (Dumond, 2000, p. 410). Justice Souter, in his opinion in the landmark case, Farmer v. Brennan, 511 U.S. 825 (1994), affirmed that the 8th Amendment prohibition against “cruel and unusual punishment” implies that corrections staff have a duty to employ reasonable measures to guarantee the safety of inmates, including protection of inmates from violence at the hands of fellow inmates, reasoning that inmates, with demonstrated criminal, and often violent proclivities, are housed, and stripped from nearly every means of self protection, and barred from right to use outside aid (Cornell University Law School [CULS], 2005a). Justice Souter also declared
that corrections staff “are not free to let the state of nature take its course” as such punishments serve no legitimate penological purpose, do not square with advancing standards of decency, and are not part of the penalty that inmates pay for their crimes against society (CULS, 2005a). The Farmer Court also ruled that States which do not take deliberate steps to adopt and employ standards to abate prison rape violate inmates’ safeguarded rights under the Cruel and Unusual Punishment Clause of the 8th Amendment, which is protected by the Due Process Clause of the 14th Amendment, of the U.S. Constitution (NIC, 2004).

As a result, in September of 2003, President George W. Bush signed the Prison Rape Elimination Act (PREA) of 2003 into law (Bureau of Justice Statistics [BJS], 2005a, p.1). PREA assigned the Bureau of Justice Statistics (BJS) to the specific task of gathering data and carrying out a comprehensive statistical review and analysis of data on the incidence, prevalence, and effects of prison rape in our nation’s correctional facilities. From January 1, 2005 through June 15, 2005, and on behalf of the BJS, the Governments Division of the U.S. Census Bureau conducted the first administrative records data collection; the 2004 Survey of Sexual Violence (SSV) comprised six questionnaires, each corresponding to a type of correctional facility (pp. 1-2, 11). Depending on the type of correctional facility, the U.S. Census Bureau mailed one of six self-administered questionnaires, and facility administrators were tasked with completing the questionnaire and mailing or faxing it back to the U.S. Census Bureau. The survey was administered at 2,730 publicly and privately operated correctional facilities holding approximately 79% (1,754,092) of all juveniles and adults of both sexes in custody (p. 1). BJS reported that, during 2004, there were 8,210 allegations of sexual violence reported to correctional authorities by inmates: of all allegations, 42% were reported by State and Federal prison systems (23% by local or private juvenile facilities, 21% by local jails, and 11% by State juvenile systems) (p. 1). Further, BJS found that 37% of the reported allegations of sexual violence involved inmate-on-inmate nonconsensual sexual acts, and 10% involved inmate-on-inmate abusive sexual contacts (42% involved staff sexual misconduct and 11% involved staff sexual harassment of inmates) (p. 1). BJS reported that
correctional authorities substantiated a fourth of the allegations (2,090 of the 8,210); lack of evidence was the most common outcome of investigations (pp. 1, 6). The authors of the report recommended caution in interpreting the 2004 survey results, and affirmed that the abovementioned figures were gross underestimates (Anonymous, 2005; BJS, p. 2). BJS indicated that data collection was limited to reported incidents only, that administrative records alone could not provide reliable estimates, and that there are no reliable estimates as to the extent of unreported sexual victimization among inmates (p. 2).

**Purpose of the Paper**

Rape is a crime that occurs in every prison, and is ideally viewed within a cultural-historical milieu. Regrettably, this illumination is not included in the context of this paper due to editorial constraints. This paper will only address inmate-on-inmate rape of adult males in prison for three reasons: analytically, the sexual victimization of male inmates appears to be qualitatively different from that of female and juvenile inmates (see Eigenberg, 2000a, p. 447); statistically, male inmates comprise the vast majority of those incarcerated, and as such, sexual victimization of this population is of greater quantitative significance; and, pragmatically, there is more empirical evidence on men’s prisons (O’Donnell, 2004, pp. 242–243).

The purpose of this seminar research paper is to stimulate scholarly discourse on a topic that has been largely ignored by academia. This paper is also to serve as an educational tool for those with interest in this crime victim group, and for criminal justice academics and correctional authorities. The paper will make known a collection of (recent) findings of empirical research on topics central to prison rape. This paper will offer one theory as explanation for criminal offending and one theory as explanation for sexual victimization risk, and apply these theories to the topic. This paper will also recommend two strategies that can be used to prevent inmate-on-inmate rape of adult males in prisons.
Significance of the Problem

Most victims of inmate-on-inmate prison rape fail to disclose sexual victimization. For victims who fail to disclose rape, it is unlikely to be discovered in another way (Mignon, Larson, & Holmes, 2002, p. 57). This is problematic because victim silence does nothing to stimulate reform. Society has a vested interest in the problem of male inmate-on-inmate prison rape (Cotton & Groth, 1982, p. 50) because society has chosen incarceration as a primary tool in dealing with criminal behavior (Mair, Frattaroli, & Teret, 2003, p. 605). Incarceration strips inmates of all political power, so inmates essentially have no voice in society. Having made this choice, society is morally and legally responsible for protecting inmates (Mair, et al., p. 605). Yet, when considering the extent of prison rape in America’s prisons, it has been argued that “it would be difficult to design an environment more suited to the production of angry, brutalized, vengeful, and dangerous men” (Gilligan, 2000, p. 165, as cited in O’Donnell, 2004, p. 246). To be sure, violence begets violence; victims become victimizers; traumas left untreated, persist; what is not talked out is acted out; the cycle of violence continues (Cotton & Groth, p. 50).

Methods of Approach and Limitations

This paper is the capstone of nearly two years of graduate study and more than a few months of scholarly investigation. In undertaking research on this topic, secondary data was used to review empirical, theoretical, and anecdotal findings. The primary method of gathering empirical and theoretical data was via library research. The primary sources of empirical and theoretical data were classical and contemporary scholarly (peer-reviewed) journals and texts on prison rape and ancillary topics. Internet research was also conducted, and was primarily focused on discovery of anecdotal accounts of prison rape victims. The primary sources of anecdotal data were the websites of inmate rights advocates and human rights organizations. A video program made available through the NIC was also viewed. Findings from empirical, theoretical, and anecdotal sources were used to
ground recommendations on how inmate-on-inmate rape of adult males in prison can be prevented.

The information for this paper will be presented in 3 subsequent sections. In Section II, the literature review will include the following: definitions of key terms, historical summary and methodological analysis of prison rape research, statistics, reporting of prison rape, the prison subculture, victimizing and victimized inmates, prison rape consequences, civil liability, PREA, and criminal justice response. In Section III, the subculture of violence and the routine activities theories will be presented and applied to inmate-on-inmate rape of adult males in prison in order to help ground the recommendations presented in Section IV. In Section IV, two prevention strategies will be recommended: inmate-oriented training and an inmate buddy support system. Conclusions are presented in Section V.

There were three major limitations encountered in conducting scholarly investigation of this research topic. First, classical and contemporary information on this topic has been plagued by disparate definitions of key terminology. Second, there is a dearth of empirical research on the epidemiology of prison rape. Third, correctional authorities and prison rape researchers have a history of dismissing nonconsensual sexual activity as consensual in nature. These limitations are necessarily associated with problems in measurement of the true level of inmate-on-inmate rape of adult males in prison (Gaes & Goldberg, 2004, p. 60).
SECTION II: LITERATURE REVIEW

The following section is divided into ten parts. Initially, definitions of key terms are defined and clarified. Next, a historical review of, and methodological problems associated with, prison rape research is presented. In part three, statistical data is tendered. Then, reporting procedures/mechanisms are brought forth. After that, the prison subculture is described. In part six, information regarding victimizing and victimized inmates is detailed. Then, the consequences of prison rape are assessed. After that, civil liability that is associated with inmate-on-inmate prison rape is discussed. In part nine, a synopsis of PREA is presented. Lastly, the criminal justice system’s response thus far to the problem of male inmate-on-inmate rape is examined.

Definitions of Key Terms

The following section defines and clarifies the key terms that are used in this paper, which include: prison rape and rape (as operationalized by BJS as nonconsensual sexual acts and abusive sexual contacts), victim(s) and target(s), and victimizing and victimized inmate(s).

PREA standardized the following key terms: carnal knowledge – contact involving the penis and the vulva and/or anus, including any kind of penetration, however slight; oral sodomy – contact involving the mouth and the penis, vulva, anus, and/or mouth; sexual assault with an object – use of the hand, finger, an object, and/or any other instrument to penetrate the genital and/or anal opening of the body of another person, however slight; and sexual fondling of a person – touching any body part, including genitals, anus, groin, breast, buttocks, and/or inner thighs of another person for sexual gratification. Therefore, PREA defines prison rape as the rape of an inmate in the control of corrections staff, and rape as the carnal knowledge, oral sodomy, sexual assault with an object, or sexual fondling of a person, forcibly or against that person’s will, where the person is incapable of giving consent because of youth or temporary or permanent mental
or physical incapacity, or achieved through the exploitation of fear, or threat of, physical violence or bodily injury (NIC, 2004).

Per PREA directive, BJS operationalized the definition of rape by disaggregating sexual violence into two types of inmate-on-inmate sexual acts (nonconsensual sexual acts and abusive sexual contacts) and two types of staff sexual misconduct (staff sexual misconduct and staff sexual harassment) (2005a, p. 4). For the purposes of this paper, the two types of inmate-on-inmate rape will be defined: *nonconsensual sexual acts* – contact of any person without his or her consent, or of a person who is unable to consent or refuse; and carnal knowledge, oral sodomy, and sexual assault with an object; and *abusive sexual contacts* – contact of any person without his or her consent, or of a person who is unable to consent or refuse; and sexual fondling of a person.

By including the phrase “incapable of giving consent…or achieved through the exploitation of fear, or threat of, physical violence or bodily injury” and “unable to consent or refuse” (BJS, 2005a, p. 3), the terms nonconsensual sexual acts and abusive sexual contacts imply sexual activity that is forced, pressured, and/or coercive in nature. Upon a finding in the literature, such terms will be referred to in this paper as prison rape. Also, in keeping with researchers, who most often use the term prison rape interchangeably with the terms sexual assault, sexual violence, and sexual victimization, this author will do so as well. Since most researchers using the term prison rape have not distinguished whether the term refers to inmate-on-inmate rape alone, or both inmate-on-inmate rape and staff-on-inmate rape, when possible, sample subjects in studies are specified.

Out of respect for the reader, further clarification of terms is justified. As it is used in this paper, the term victim(s) denotes inmate(s) who (m) could not prevent nonconsensual sexual acts and abusive sexual contacts, and the term target(s) denotes inmate(s) who (m) may, or may not, have prevented nonconsensual sexual acts and abusive sexual contacts; the term target(s) is used in a catch-all manner, meaning that the term target(s) will be used in cases where literature references to the terms victim(s) and target(s) are used interchangeably. Review of literature reveals that various terms, such as aggressor(s), assailant(s),
assaulter(s), attacker(s), offender(s), perpetrator(s), and rapist(s), have been used to denote both inmate-on-inmate prison rapist(s) and inmate-on-inmate prison rape victim(s). For clarities sake, the term victimizing inmate(s) will be used to denote inmate-on-inmate prison rapist(s), and the term victimized inmate(s) will be used to denote inmate-on-inmate prison rape victim(s). Further, although PREA defines the term prison as any Federal, State, or local, public or private, confinement facility, and includes jails and juvenile facilities (NIC, 2004), the subject of this paper is adult male inmates in publicly run prisons. Ergo, for the purpose of this paper, the term prison will be used to denote only publicly run Federal, State, or local prisons tasked with confining adult male inmates.

**Prison Rape Research: History and Methodological Problems**

This section is divided into two: the first half presents a historical review of prison rape research, including a concise description of empirical studies that are cited in this paper; and, the second half discusses methodological problems that have plagued this research topic.

**Historical Review of Prison Rape Research**

Given the fact that many in society view discussions on the subject of sex as unpleasant, it should come as no surprise that the topic of prison sex has not been, and is not, at the forefront of scholarly research. Until very recently, there has been very little support or incentive offered to academics to conduct prison sex research because the topic is risky and challenging; as a result, prison sex research is fairly scarce in the field of criminal justice (Tewksbury & West, 2000, pp. 377, 368). Prison sex researchers are often marginalized by their colleagues, and mainstream academia does not endorse follow-up research (Tewksbury & West, pp. 368, 374-375). Further, since inmates are a special population, the U.S. Department of Health and Human Services (HHS) requires that researchers affiliated with government agencies and non-government organizations, including universities, abide by federal regulations that protect human research subjects (Maxfield & Babbie, 2005, pp. 64-66). Most prison sex research uses inmates as a study population, so research is also subject to institutional review board (IRB)
scrutiny and guidelines (Maxfield & Babbie, p. 66). Federal regulations and IRB guidelines often dissuade academics from prison rape research. Yet, in order to better understand, and control the consequences of prison rape, it is vital that research is conducted on prison sex (Tewksbury & West, p. 369).

In the U.S., anecdotal accounts first documented the problem of male inmate-on-inmate prison rape. The first recorded observation appeared in a letter, dated April 12, 1826, written by a layman to a public official (Wooden & Parker, 1982, p. 205). Over 100 years later, Fishman (1934), a former federal prison inspector, was one of the first experts to document prison rape, and explain how the inmate code prevents victimized inmates from reporting prison rape (as cited in Hensley, Struckman-Johnson, & Eigenberg, 2000, p. 362).

It was not until the 1960s that researchers began to employ research-focused methodologies in the study of prison sex (Hensley, Struckman-Johnson, et al., 2000, p. 360). Davis (1968) surveyed and interviewed 3,304 male inmates and 561 corrections staff to examine sexual assaults in the Philadelphia prison system. This study is remarkable because it was the first to explore the prevalence of prison rape (Hensley & Tewksbury, 2002, p. 237). No other study has used polygraph examination in collaborating inmates’ statements regarding prison rape (Gaes & Goldberg, 2004, p. 19; Hensley, Struckman-Johnson, et al., p. 362). The reported prevalence rate of sexual assault in Davis’ study was 2.9%.

Research in the 1970s and early 1980s focused on nonconsensual sexual acts (Hensley, Struckman-Johnson, et al., 2000, pp. 360, 362). In Rape in Prison, Scacco (1975) challenged accepted notions regarding male sexual violence in prisons. In Male Rape: A Casebook of Sexual Aggressions, Scacco (1982) edited an anthology of work that was partly devoted to the topic of male inmates as prison rape victims. In Men Behind Bars: Sexual Exploitation in Prison, Wooden and Parker (1982) surveyed and interviewed male inmates in one California prison to gather data on consensual and nonconsensual inmate sexual behavior. This study is remarkable because it makes a distinction between inmates based on whether they occupy the “insertor” or “insertee” role. One of the co-researchers, Parker, was able to assume the role of complete participant because he happened
to be serving a four-year prison sentence for a nonsexual offense. Nacci and Kane (1983, 1984a, 1984b) interviewed 330 male inmates and surveyed 500 corrections officers on the incidence of sex and sexual violence among inmates in 17 federal prisons. To date, this two-part study is remarkable because it is the most extensive study on prison rape ever conducted in the federal prison system. Nacci and Kane found that 9% of inmates were targets of sexual aggression at sometime during their time in (Federal or State) prison, .6% of inmates were victims of unwanted sexual contact, and .3% of inmates were victims of rape, in Federal prison.

From the late 1980s to the mid 1990s, the majority of prison sex research focused on male inmates or on the identification of rates, types, and consequences of prison sexual activity, including inmate-on-inmate prison rape (Tewksbury & West, 2000, p. 370). In 1989, the editors of *The Prison Journal* made a concerted effort to stimulate scholarship on prison sex and prison rape (Tewksbury & West, pp. 370-371). Several researchers responded (see Chonco, 1989; Smith & Batiuk, 1989; Tewksbury, 1989; and, Struckman-Johnson, et al., 1996), and in 2000, replicated efforts to stimulate scholarship on prison sex and prison rape research (see Struckman-Johnson & Struckman-Johnson, 2000; Hensley, 2002; Hensley, Tewksbury, & Castle, 2003, Hensley, Wright, Tewksbury, & Castle, 2003; and, Hensley, Koscheski, & Tewksbury, 2005).

**Methodological Problems of Prison Rape Research**

The inconclusive nature of prison rape research is due to methodological difficulties encountered in research (Saum, et al., 1995, p. 418). Classical and modern prison sex research lacks statistical support of empirical findings, and represents the perceptions of researchers rather than inmates or staff (Hensley, Struckman-Johnson, et al., 2000, p. 364; Hensley & Tewksbury, 2002, p. 228).

The most common research designs used in prison rape research are in-person interviews and self-administered surveys (Hensley, Tewksbury, et al., 2003, p. 604). When considering the nature of the topic and the populace involved, these research designs result in under-, and over-, reporting. Although in-person interviews may provide inmate participants with confidentiality or anonymity, in exploring the sensitive and taboo topic of prison rape, many inmate
participants would prefer not to be physically recognized at all (due to shame). Self-administered surveys fail to account for illiteracy.

Researchers are tasked with studying, and obtaining factual information from, a populace whose entire life, arguably, is devoted to pulling the wool over people’s eyes (Sykes, 1958, p. 135). Inmate participants often erroneously hope to personally benefit from cooperation (Maxfield & Babbie, 2005, p. 57), so there is a very real possibility that some data is fabricated.

Researchers face unique challenges in compiling statistical data on the incidence of prison rape as the body of prison rape research evidences disparate definitions of key terminology. PREA standardizes definitions for use in collecting data on the incidence of prison rape (NIC, 2004). Although a comprehensive catalogue of key terms is forthcoming, this development is no remedy for classical and contemporary evidence of inconsistent terminology. Further, the majority of studies have failed to define terminology for sample participants or for readers (Saum, et al., 1995, p. 418). In fact, researchers have yet to agree on a definition of rape, or make a distinction between sexual acts that are consensual and sexual acts that constitute rape (Kunselman, et al., 2002, p. 28)! Sample participants and readers are left with their own subjective interpretations of what terms really mean. Thus, variant definitions and diverse interpretation of terminology by study participants and readers results in research that generates disparate statistics (Dallao, 1996). Conceptualization of terminology is an essential first step in measurement; without it, measurement is meaningless (Maxfield & Babbie, 2005, p. 115).

Over the past thirty-five years, there have been only fifteen studies that have examined the epidemiology of prison rape (Dumond & Dumond, 2002b)\(^1\). These studies have: used disparate definitions of key terminology; failed to define terminology; been small in scale; suffered from poor response rates; evidenced great variability in sample size and selection; covered only a few correctional

facilities; and, made comparisons and generalizations of correctional populations that were not appropriate (BJS, 2004; Saum, et al., 1995, pp. 414, 419). The result, lack of correspondence between projected and actual reports of male prison rape (Dumond, 1992, p. 136).

**Statistics**

The incidence of inmate sexual victimization is variable, and difficult to predict with accuracy (Dumond, 1992, p. 136). Nevertheless, anecdotal accounts on the frequency of male inmate-on-inmate prison rape lend support to the assertion that reports of prison rape are only a shadow of the reality (Sommer, 1975, as cited in Dumond, p. 136). Discrepancy between actual and projected incidents of prison rape can be explained by the fact that prison rape is most often not reported (Alarid, 2000, p. 395).

After decades of research, there is little consensus among researchers about the actual percentage of victimized inmates (O’Donnell, 2004, p. 246). The percentage of victimized male inmates disclosing male inmate-on-inmate prison rape range from less than 1%, in a study conducted by Nacci and Kane (1984b, p. 10), to 41%, in a study conducted by Wooden & Parker (1982, p. 100) (see also Bartollas & Sieveides, 1983; Carroll, 1977; Davis, 1968; Fuller & Orsagh, 1977; Hensley, 2000; Hensley, Tewksbury, et al., 2003; Hensley, Koscheski, et al., 2005; Jones, 1976; Keys, 2002; Lockwood, 1980; Moss, Hosford, et al., 1979; Nacci, 1978; Saum, et al., 1995; Struckman-Johnson & Struckman-Johnson, 2000; Struckman-Johnson, et al., 1996; Tewksbury, 1989). Though rape rates are inconsistent, experts cautiously estimate that at least 13% of U.S. inmates have been raped in prison (NIC, 2004). In 2004, of the 2,135,901 inmates in Federal and State prisons and local jails in the U.S. (BJS, 2005b), over a quarter of a million (277,667) inmates were projected to be victimized. The 13% estimate translates into over one million victims in the past five years. To be sure, even the most conservative of estimates results in a large number of prison rape victims (Struckman-Johnson, et al., p. 68).
**Reporting Prison Rape**

Victimized inmates rarely report sexual victimization (O’Donnell, 2004, p. 246). In fact, research has shown that the majority of victimized inmates do not disclose sexual victimization. Davis (1968) found that approximately 60% of male inmates were either targets or victims of sexual assault, but that these inmates neglected to report (pp. 10-11). Nacci and Kane (1983) found that corrections staff did not learn about sexual assaults 63% of the time, and that 68% of inmate targets took no “official” actions (p. 36). Struckman-Johnson, et al. (1996) conducted a study in which inmate targets were asked about one “worst case” incident, and found that exactly half of inmate targets did not tell anyone about the incident (p. 74). Of the 50% of victimized inmates who did disclose, 23% confided in friends and family, and 29% told either administrative or non-administrative prison staff members; 18% confided in counselors/clergy, and 10% in medical staff (Struckman-Johnson, et al., p. 74).

Victimized inmates can report prison rape using internal grievance mechanisms; grievance procedures are initiated when a victimized inmate fills out a grievance form (Mariner, 2001). The grievance mechanisms available to inmates are flawed; grievance mechanisms typically involve a great deal of paperwork, are plagued by lack of confidentiality, evidence bias against inmate testimony, and inmate allegations of prison rape are not seriously investigated (Mariner). These flaws may explain why victimized inmates do not disclose rape.

There are a few methods that may increase the likelihood that victimized inmates will report their rape experience, like anonymous reporting (Wooden & Parker, 1982; Struckman-Johnson, et al., 1996, as cited in Struckman-Johnson & Struckman-Johnson, 2000, p. 380). In fact, to date, anonymous inmate surveys provide the best available evidence of the scope of prison rape (Mair, et al., 2003, p. 602). An alternative network of non-threatening agencies, which respect victims’ requests for anonymity and/or confidentiality, should also be made available for those otherwise unwilling to report cases to corrections staff (Anderson, 1982, p. 157).
PREA requires that a national standard be created for reporting incidents of prison rape that ensure confidentiality of prison rape complaints (NIC, 2004). Per PREA directives, BJS-implemented survey components (i.e. Audio Computer Assisted Self-Interviews (A-CASI)) are expected to become fully operational sometime in 2006 (2004). A-CASI is expected to improve inmate’s willingness to report prison rape (BJS, 2004), but, to date, no study comparing survey modes has been conducted, so researchers simply do not know which method is most likely to yield the most inmate reports of rape (Gaes & Goldberg, 2004, p. 37). Yet, literature review lends support to the idea that A-CASI may increase reporting of sensitive information by increasing the legitimacy of the context and privacy, thus lowering embarrassment and overcoming stigmatization (Tourangeau & Smith, 1998, as cited in Gaes & Goldberg, 2004, pp. 50-51).

**Reasons for Non-Disclosure**

Societal and inmate beliefs are such that males are expected to be able to defend themselves against rape (Groth & Burgess, 1980, p. 808). This belief fosters the most challenging obstacle in trying to reduce the occurrence of male inmate-on-inmate prison rape: victims’ unwillingness to report (Dallao, 1996). The two main reasons that victimized inmates do not report rape is because they fear for their lives, or fear that rapes will not only continue, but become more violent (Hansen, 2001). Victim silence prevents inmates from obtaining treatment for the consequences of prison rape, promises that the crime will go unpunished, and ensures risk of re-victimization (Cahill, 1985, p. 32; NIC, 2004).

Inmate victims of rape do not disclose their rape experience for many of the same reasons that rape victims in free society fail to disclose (RAINN, 2006).

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2a In response to PREA, on September 22, 2005, Governor Arnold Schwarzenegger signed into law the Psychological Abuse in Detention Elimination Act of 2005. As part of PREA, in FY 2004, the largest prison system in the country, the California Department of Corrections and Rehabilitation (CDCR), was awarded a PREA grant, through the Bureau of Justice Assistance (BJA), in order to aid the CDCR in complying with PREA mandates ensuring confidentiality; the CDCR is now a national leader in the fight to pierce the veil of silence surrounding inmates’ prison rape experiences. The legislation “creates the Office of Sexual Abuse in Detention Ombudsperson to ensure confidential reporting” of sexual abuse complaints (NIC, 2006, pp. 1-5; SPR, 2005).

2b Also, in FY 2004, the Colorado Department of Corrections (CDOC) and the Idaho Department of Corrections (IDC) were awarded PREA grants, through BJA, in part, to install confidential telephone hotline systems for inmates to report their prison rape experiences (NIC, 2006, pp. 3-5).
Disclosure is psychologically distressing (Groth & Burgess, 1980, p. 808), and may be perceived by victimized inmates as another indication of personal defeat and disgrace (Cotton & Groth, 1982, p. 52). Rape victims, especially men, find it hard to disclose to strangers intimate details about such a personal and traumatic event (Eigenberg, 1994, as cited in Struckman-Johnson, et al., 1996, p. 74). Given the dynamics of the prison subculture, it is entirely consistent that most victimized inmates are guarded in their overt manifestation of trauma (Donaldson, 1993b; Wooden & Parker, 1982, as cited in Dumond & Dumond, 2002a, p. 72).

Inmates are prevented from reporting prison rape because of the inmate code of silence (Fishman, 1934, as cited in Hensley, Struckman-Johnson, et al., 2000, p. 362). The inmate code of silence demands that inmates keep silent information that could be detrimental to other inmates (Sykes, 1958, p. 87). Victimized inmates who break the code of silence are labeled “snitches” or rats” and are unable to “walk the main line”, meaning that they cannot live among the general prison populace due to the great risk of reprisal (Struckman-Johnson & Struckman-Johnson, 2000, p. 380; Wooden & Parker, 1982, p. 107).

Victimized inmates want to protect their reputations (Hensley & Tewksbury, 2002, p. 240). Disclosure results in loss of status because inmates perceive victimized inmates as weak and vulnerable (Dumond, 1992, p. 142; Man & Cronan, 2001, p. 153). Disclosure makes re-victimization more likely because the victimized inmate is likely to be targeted by other inmates who feel entitled to him (Man & Cronan, p. 153). Once a male inmate is stripped of his manhood, other inmates may perceive less harm in raping the victimized inmate because the victimized inmate’s manhood has already been taken by someone else (Man & Cronan, p. 153).

Victimized inmates may not disclose rape because of issues surrounding their sexuality. Victimized inmates with homosexual orientations may not disclose because there is little support for their sexual lifestyle inside and outside prison walls (Mignon, Larson, & Holmes, 2002, p. 68). Victimized inmates with a heterosexual orientation may not disclose because they fear that their sexuality will be suspect (Groth & Burgess, 1980, p. 808). In cases where victimizing
inmates are successful in forcing victimized inmates to ejaculate, victimized inmates may confuse ejaculatory response with orgasm, and be so bewildered by their physiological response that they fail to disclose (Groth & Burgess, p. 807).

Victimized inmates who fail to disclose do so for several other reasons. Victimizing inmates often subject victimized inmates to a phenomenon known as “secondary victimization”, where victimizing inmates expose victimized inmates to negative experiences associated with reporting rape (Carrington & Watson, 1996, as cited in Eschholz & Vaughn, 2001, p. 390). Victimized inmates who later become victimizing inmates have obvious reasons for not disclosing (Cahill, 1985, p. 33). Also, if, at the time of the rape the victimized inmate was engaged in illicit prison behavior, disclosure is unlikely (Eigenberg, 2000a, p. 438).

Institutional factors can also shed light on why victimized inmates fail to disclose rape. The punitive and painful nature of protective custody is often perceived by victimized inmates as worse than continued sexual victimization (Rideau & Sinclair, 1979/1982, p. 21). Staff may pressure victims to remain silent, and disclosure may result in poor treatment by corrections staff because rape reports indicate that staff failed in their duty to protect (Davis, 1968, p. 11; Scacco, 1975, p. 31; Struckman-Johnson, et al., 1996, p. 74). Some victims distrust, or are hostile to, authority and refuse to cooperate with the system by reporting rape despite the harms associated with non-disclosure (Davis, p. 13).

**The Prison Subculture**

In prisons, inmates, and inmate sexuality, are subjects of governmental control. Most researchers have conceptualized the prison as a total institution (Carroll, 1977/1982a, p. 128). Total institutions are closed, single-sex societies that are physically and socially removed from society (Goffman, 1961, as cited in Hensley, Wright, et al., 2003, p. 290). From this perspective, prisons are set off from, and impervious to the influence of, free society (Carroll, 1982b, p. 182). In total institutions, corrections authorities make all decisions about the structure and content of inmate life, and inmates share all aspects of their daily lives with each other (Hensley, Wright, et al., p. 290). Prison life reinforces, in inmates, feelings
of loss and control over their lives; “prisons represent the ultimate of control, helplessness and hopelessness” (Cooper, 1974, as cited in Dumond, 1992, p. 141).

In total institutions, “territories of self are violated, the boundary that the individual places between his being and the environment is invaded and the embodiment of self profaned” (Goffman, 1961, p. 23, as cited in Scacco, 1975, p. 8). Private sexual behavior is compromised as most prisons have policies that prohibit inmates from engaging in any sexual activity whatsoever (Hensley & Tewksbury, 2005, p. 189; Kassebaum, 1972, p. 45; Saum, et al., 1995, p. 414).

One area in which inmates “retain some degree of control is in their individual and collective abilities to develop unique values, norms, and means for exercising social control”; these unique values, norms, and means are referred to as the prison subculture and help form the inmate code (Hensley, Wright, et al., 2003, p. 290). Most researchers have interpreted inmate social organization as a system of sex/gender roles defined by reference to the normative inmate code (Carroll, 1977/1982a, p. 128). Inmates are socialized to the inmate code during the process of prisonization (Sykes, 1958, pp. 82-83; Carroll, 1977/1982a, p. 128).

The inmate code is the core of the prison subculture, and provides inmates with informal means to gain power and status, serves to mitigate inmates’ sense of social rejection, and compensates for inmates’ loss of autonomy and security (Einat & Einat, 2000, p. 309, as cited in Hensley, Wright, et al., 2003, p. 290). Inmates use vocabulary and speech patterns to reflect the inmate code; distinctive language, slang, and labels are referred to as the prison argot (Hensley, Wright, et al., p. 290). Inmates’ use of prison parlance is primarily a function of analysis, classification, and labeling of inmates’ experiences within prison walls (Sykes, 1958, p. 84). The prison argot is a map of the inmate social system and serves to channel and control the behavior of inmates who use it and to the inmates in which it is applied (Sykes, pp. 84, 86). Labels are central elements in structuring inmate social interactions (Hensley, Wright, et al., p. 291). Just as victors in war write history, the power to label a victimized inmate is retained by the victimizing inmate (O’Donnell, 2004, p. 244). Inmate use of the prison argot is secondarily an
expression of group membership and solidarity as inmates indicate their allegiance to the inmate populace by using prison parlance (Sykes, p. 85).

A central component of the prison subculture is the prison sexual hierarchy. Every society, including the society of captives, has either a sex/gender system or a social organization of gender (Chodorow, 1978; Rubin, 1975, p. 168, as cited in Keys, 2002, p. 259). Prison is a society within a society with its’ own sexual hierarchy (Sykes, 1958, p. xiv). The prison sexual hierarchy is built on argot sexual roles and argot sexual relationships, and is accompanied by rigidly proscribed behavioral expectations; the hierarchy determines how inmates express sexuality and with whom (Hensley, Wright, et al., 2003, pp. 290-291). The prison sexual hierarchy dictates that physical violence and/or bodily injury (or the threat thereof) is a means to status attainment and sexual outlet (Keys, p. 268).

**Inmate Sexuality and the Prison Sexual Hierarchy**

Within the prison subculture, inmate sexuality and hierarchy of sex/gender roles (the prison sexual hierarchy) are intensified (Keys, 2002, p. 259). Inside prison, inmate sexuality assumes a role far beyond its importance outside prison walls (Wooden & Parker, 1982, p. 43, as cited in Keys, p. 269). Definitions of masculinity gravitate toward the extreme (Sykes, 1958, p. 98) as the prison subculture exaggerates male status; inmates validate their sense of manhood via sex and violence (Rideau & Sinclair, 1979/1982, p. 4).

Fluidity of argot sexual roles and sexual relationships plays a salient role in ordering the economic system in an environment devoid of all forms of currency or specie (i.e. alcohol, candy, cigarettes, drugs, etc) (Keys, 2002, p. 270). Inmates have limited resources with which to bargain their way through a sentence, so prison sex functions as a form of sexual currency (Keys, p. 271). Victimizing inmates perceive victimized inmates as sexual property. In most cases, a victimized inmate becomes a sex slave, and is forced to satisfy the sexual appetite of the victimizing inmate (Mariner, 2001). In extreme cases, victimized inmates are forced into the prison sex trade; as a prostitute, the victimizing inmate uses the victimized inmate as sexual currency that is “rented out”, “sold”, or “auctioned off” (Mariner; Struckman-Johnson, et al., 1996, p. 72).
Sex/gender systems found in male prisons do not resemble any form of family (Keys, 2002, p. 259). Rather, argot sexual roles and argot sexual relationships play a salient role in ordering and maintaining an alternative system of symbiotic identities, and in status attainment (Keys, p. 270). Symbolic protective partnerships are formed in response to male inmates’ needs for physical security, psychic survival, and occupancy in a rigid status hierarchy; these needs supersede internalized sex/gender roles as found in free society (Keys, p. 259).

Inmate sexual activity and argot role formation are acclimatized to address the absence of the female sex, and serve to construct a social support system where same-sex sexual behavior is re-contextualized, reinterpreted, and redefined (Keys, 2002, p. 270). Male inmates’ sexuality, sense of masculinity, and sexual frame of reference is structured around women, but since the populace is composed entirely of men, inmates “rewrite” their conceptualization of same-sex sexual activity into either “masculine” or “feminine” sex/gender roles (Richmond, 1978, as cited in Dumond, 1992, p. 140; Lees, 1997, as cited in Man & Cronan, 2001, p. 148; Rideau & Sinclair, 1979/1982, p. 4; Scacco, 1975, p. 79). Re-contextualization, reinterpretation, and redefinition of argot sexual roles and argot sexual relationships is carried out along dichotomous lines (dominant-submissive) in which males and females exist, but masculinity becomes hypermasculinity and femininity is everything else (Keys, p. 270). Manhood is established by: divorcing oneself from femininity, sustaining hierarchical dominance, and devaluing the opposite sex (Kirkham, 1971; Stoltenberg, 1996, as cited in Keys, p. 265; Man & Cronan, p. 148). The split is unequivocal. There is a continuum of the dominant and strong (i.e. males) and submissive and weak (i.e. females), and an elaborate inmate code exists in regard to the treatment and behavior of an inmate depending on where he falls on the continuum (Rideau & Sinclair, p. 9). Whereas inmates who occupy the masculine role are active in sexual acts, and maintain high status, inmates who occupy the feminine role are passive in sexual acts, and are held in low esteem (Davis, 1968, p. 15; Dumond, p. 140; Sykes, 1958, pp. 95-96).

Inmate-on-inmate male rape emasculates victimized inmates by forcing them into feminine roles, thus stripping them of their masculinity (Man & Cronan, p. 149).
Argot Sexual Roles and Argot Sexual Relationships

In the prison subculture, the prison sexual hierarchy is built on argot sexual roles that define the nature of argot sexual relationships. Upon entering prison, inmates’ preoccupations with the outside world are minimized, profoundly changed, or discarded altogether, and inmates undergo a transitional process of disassociation from the free world that is referred to as the “shakedown” (Keys, 2002, pp. 159, 266). Inmate acceptance of the prison subculture is referred to as prisonization (Hensley, Wright, et al., 2003, p. 290). The prison argot defines inmates’ status and sexual habits simultaneously; the social status and sexual behavior of inmates are intertwined in such a way that it is difficult to make distinctions between the two (Dumond, 1992, pp. 138, 140). Argot sex/gender roles are not randomly assigned as sexual scripts define inmates’ sexual orientation (Dumond, p. 138). Newcomers possessing stereotypical characteristics of victimized inmates will be approached by many individual inmates in many different ways within a short period of time (Wooden & Parker, 1982, p. 101). Inmates are assigned a sexual role based upon how they react to either the set-up process or a blatant sexual attack (Brorby, 2001, as cited in Man & Cronan, 2001, p. 154). Once assigned, an inmate’s argot sex/gender role is a relatively permanent and fixed status (Sagarin, 1976, p. 248).

The Power Relationship

There are common underlying features associated with abusive sexual contacts and nonconsensual sexual acts that transcend victims of the crime of rape (Peeples, 1982, p. xix). Researchers have long known that sex, both among humans and animals, is used to establish a dominant-submissive relationship or symbolize individual or group hostility (MacNamara, as cited in Scacco, 1975, p. ix). Inmate-on-inmate rape occurs for the same reason rape occurs in free society: it is a sign of the power relationship; in this way, rape in prison mirrors heterosexual rape in society at large (Cotton & Groth, 1982, p. 50; Dallao, 1996; O’Donnell, 2004, p. 243). Outside of prison, humanistic, legal, and moral interests most often curtail even the most aggressive of males from committing male rape in a quest for power (Man & Cronan, 2001, p. 152). Yet, since the prison
The prison subculture is unreceptive to the influence of free society, the aforementioned interests are of little consequence (Davis, 1982, as cited in Man & Cronan, p. 152). Rape in prison is a means to an end, not an end in itself. In the prison subculture, sex is the primary, and one of the few, weapons available to inmates that allow them to achieve power. Inmates are powerless, but the prison subculture is based on power (Hensley & Tewksbury, 2002, p. 240). Inmate-on-inmate rape is a symbolic expression of power in a powerless situation; rape is a way for victimizing inmates to achieve the illusion of empowerment through the establishment of power over the sexuality of victimized inmates (Mariner, 2001).

The prison subculture places a premium on hypermasculinity and violence and thus, lends itself to prison rape (Man & Cronan, 2001, pp. 147, 149). Inmates live in a society where an inmate’s sexuality is his claim to masculinity (Scacco, 1975, p. 75). Victimizing inmates’ sense of masculinity is bolstered by the use of rape (Man & Cronan, p. 149). From the perspective of victimizing inmates, rape is the ultimate act of humiliation (Rideau & Sinclair, 1979/1982, p. 5) because it emasculates victims (Keys, 2002, p. 265). Victimizing inmates also perceive rape as the ultimate proof of domination (Miller, 1982, p. ix) because even weak males are considered to be more powerful opponents than any female (Man & Cronan, p. 149). From the perspective of victimizing inmates, forcing their victim to ejaculate symbolizes complete power.

The prison argot references inmate-on-inmate rape in a non-sexual way (i.e. turning out). This is a clear indication that prison rape is an act of power and emasculation; the power to redefine victimized inmates as women is held by victimizing inmates (Knowles, 1999, p. 273; O’Donnell, 2004, p. 244; Rideau & Sinclair, 1979/1982, p. 4). In prison, sexual violence is a form of generic violence (Nacci & Kane, 1984b, p. 18). The primary motivate for rape is not violent

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3 It is a groundless myth that males cannot ejaculate under coercion: researchers have demonstrated that males can be physiologically aroused by pain, fear, and anger, among other emotions (Groth & Burgess, 1980, p. 807). Inmate-on-inmate rape is not an act of mutual fulfillment (O’Donnell, 2004, p. 243). To be sure, autoerotic stimulation, and masturbation, achieves a measure of physical release and pleasure similar to that which is produced by heterosexual sexual activity (Masters & Johnson, 1966, as cited in Davis, 1968, p. 15).
expression of sexuality, but rather, sexual expression of violence (Cotton & Groth, 1982, p. 50). In the extreme, sexual expression of violence is inmate-on-inmate prison rape (Knowles, p. 274).

**Set-Up Process**

Victimizing inmates use a variety of tactics to determine targets’ reactions (i.e. capacity for retaliation) to sexual contact (Carroll, 1977/1982a, p. 123). Targets are most often newcomers to the prison (Chonco, 1989, p. 77). Inmates demand more than the appearance of membership as a male (Keys, 2002, p. 267). And, for newly-detained inmates, testing is used to determine whether the inmate possesses the coercive power to assume a male role, or whether the inmate must concede and become a female (Keys, p. 266). Inmates informally administer what may be referred to as the “if-must” and “if-can” tests: if an inmate is a man, then he must prove it through violence; and, if an inmate can be seen as a member of a relevant category (i.e. male), then categorize him that way (West & Zimmerman, 1987, p. 133, as cited in Keys, p. 267). Target non-reaction to testing accelerates sexual victimization (Chonco, p. 77) as targets lose their ability to retain control over their victimization if they remain passive to sexual advances (Alarid, 2000, p. 398). The set-up is used more often than blatant sexual attack (Keys, p. 268). At times, victimizing inmates dispense with all techniques and simply take by force whatever sexual favors they desire (Fagan, Wennerstrom, & Miller, 1996, p. 54). The set-up process does not follow any certain pattern; a key influencing factor is the victimizing inmate’s interpretation of target reaction (Chonco, p. 76).

Inmates play certain key roles (observer, contact, turner, and point man) in the set-up process that targets inmates for rape: “observation, selection, testing, approaching, and actual victimization” (Chonco, 1989, p. 75). In the observation stage, observers monitor targets from a distance, and in the selection stage, contacts and turners befriend targets; information (i.e. background; criminal history; crime committed, if, and where, the target has served time; and names of allies) is gathered on targets’ via personal conversations or eavesdropping (Chonco, pp. 75-76). Targets are selected based on information that observers,
contacts, and turners provide. In the observation and selection stages, observers, contacts, and turners test targets’ level of reaction (Chonco, p. 76).

The testing stage is decisive (Chonco, 1989, p. 76). Victimizing inmates, observers, contacts, and turners use the “soft sell” or a combination of the “soft and hard sell” in the testing stage. The soft sell is a form of seduction in which targets are offered friendship, loans, gifts, and/or commissary (Carroll, 1977/1982a, p. 123; Eigenberg, 2000b, p. 420). Inmates then demand sex and/or threaten violence unless loans are repaid or gifts and/or commissary are returned by targets (Eigenberg, p. 420). The soft and hard sell is a form of seduction in which targets are alternatively befriended and terrorized; inmates alternatively offer and revoke protection to target inmates (Carroll, p. 123; Eigenberg, p. 420).

The approaching and victimization stages occur in tandem. Point men stand guard and become witness to what occurs (Chonco, 1989, p. 76). If the target fails testing, then the victimizing inmate approaches the target directly and demands sex (Chonco, p. 76). If the target refuses to give in or refuses to be manipulated, then it is in this stage that the victimizing inmate uses the “hard sell”: the hard sell is one in which a target finds himself in a situation where he either consents to sex acts, fights, or faces the threat of violence, rape, and repeated victimization (Carroll, 1977/1982a, p. 123; Eigenberg, 2000b, p. 420). Testing is an effectual means of breaking the target’s spirit by reinforcing his feelings of powerlessness (Man & Cronan, 2001, p. 154). If the target fights and wins, then the “predator” may become the “prey” (Chonco, p. 76). It is in the last stage that actual victimization takes place (Chonco, p. 76).

**Prison Environment**

The physical environment of a prison can facilitate rape. Prison systems with large and crowded inmate populations and greater ethnic diversity have more problems with inmate-on-inmate rape (Struckman-Johnson, et al., 1996, p. 75). Prisons which reported the highest rates of rape had an inmate population greater than 1,000, racial conflict among Black and White inmates, and lax security (Struckman-Johnson & Struckman-Johnson, 2000, p. 386). The prison rape rate is higher in maximum security prisons than in minimum security prisons, and higher
security prisons generally have more victims than lower security prisons (Brief of Amicus Curiae for SPR, 1994; Donaldson, 1990, as cited in Man & Cronan, 2001, pp. 173-174). Maximum security prisons with 24-hour lockdown, where inmates are confined to their quarters for the better part of the day, eliminated virtually all opportunities for rape (Struckman-Johnson & Struckman-Johnson, p. 388).

Most prison rapes occur in inmate common areas, areas with no camera coverage, or areas that offer some privacy (Alarid, 2000, p. 401). Inmate living quarters (i.e. sleeping areas and cells) are the most common place where rape occurs; victimizing and victimized inmates usually live in the same unit (Chonco, 1989, p. 77; Davis, 1968, p. 9; Nacci & Kane, 1983, p. 35). Prisons with the highest rates of rape had barrack style housing, or large, open bay dormitories (Nacci & Kane, 1984b, p. 18; Struckman-Johnson & Struckman-Johnson, 2000, p. 386). Other trouble spots include bathrooms and showers, gymnasiums, storage areas, and transportation vans (Chonco, p. 77; Davis, p. 12; Mariner, 2001).

Institutional factors involving staff can facilitate prison rape. Racial, geographic, cultural, or ethnic disproportion of staff or disproportionate ratio of staff and inmates facilitates prison rape (Nacci & Kane, 1983, p. 34). Staff action, or inaction, contributes to incidents of rape (Alarid, 2000, p. 401). Staff that adheres to a zero tolerance approach to inmate sex in assigned work areas decreases incidents of rape (Alarid, pp. 402-403). In contrast, prison rape is facilitated by poorly trained or uncaring staff (Nacci & Kane, 1983, p. 34).

**Stranger versus Acquaintance Rape**

It is unknown what percentage of inmate-on-inmate prison rapes occur between strangers or amongst acquaintances. One study found that the percentage of stranger and acquaintance rapes were split evenly (Struckman-Johnson, et al., 1996, p. 71). Another study found that 85% of rapes were committed by victimizing inmates who were strangers to victimized inmates, whereas 15% were acquaintances (Hensley, Tewksbury, et al., 2003, pp. 602-603). Researchers suspect that violent rapes, or rapes that occur under threats of violence, involve strangers, whereas pressured or coercive sexual relationships that take time to
develop and involve escalating sexual contact involve acquaintances (Mariner, 2001; Mignon, Larson, & Holmes, 2002, p. 55).

**Prototypical Victimizing Inmates**

Victimizing inmates are generally described as possessing the following personal characteristics: heterosexual orientation; older; larger physical build; a minority (non-White); experienced with prison life, serving longer sentences for more serious, violent offenses, and previous convictions for sex crimes (Man & Cronan, 2001, pp. 157-175). Victimizing inmates are generally hypermasculine and exhibit atypical inmate sexual and social behaviors.

Outside of confinement, victimizing inmates are most often “heterosexual in identity, preference, and practice” (Cotton & Groth, 1982, 1984; Dumond, 1992; McCorkle, 1992; Nacci & Kane, 1983; 1984a; Wright, 1991, as cited in Fagan, et al., 1996, p. 53). It is a groundless myth that most victimizing inmates have a homosexual orientation (Mariner, 2001).

Most victimizing inmates are older than their victims, but younger than the average age of the prison population; victimizing inmates are generally well under the age of 35 (Chonco, 1989, p. 74; Mariner, 2001). Davis (1968) found that victimizing inmates were, on average, three years older than their victims (p. 14).


Estimates regarding the racial characteristics of victimizing inmates reveal that the majority are Black. The percentage of Black victimizing inmates is disproportionate compared to their percentage in the general adult inmate population (Hensley, Tewksbury, et al., 2003; Moss, Hosford, et al., 1979; Nacci & Kane, 1983; Scacco, 1975; Struckman-Johnson & Struckman-Johnson, 2000; Struckman-Johnson, et al., 1996).
Inmates convicted of more serious, violent crimes that carry longer, or life, sentences are more experienced with prison subculture; inmates with this type of criminal history are more likely to become victimizing inmates (Chonco, 1989, p. 74; Davis, 1968, p. 14; Man & Cronan, 2001, pp. 173-174; Mariner, 2001; Nacci & Kane, 1984a, p. 47). Inmates serving long sentences feel a greater need for sexual partners, and are more willing to take the risks associated with seeking them out (Donaldson, 1990, as cited in Man & Cronan, pp. 174-175). Victimizing inmates may also have a criminal history of voyeurism, stalking, and/or other sex crimes (Cotton & Groth, 1982, 1984; Dumond, 1992; McCorkle, 1992; Nacci & Kane, 1983; 1984a; Wright, 1991, as cited in Fagan, et al., 1996, p. 53).

Victimizing inmates also exhibit atypical inmate sexual behaviors including: touching other inmates in a sexual way or making sexually suggestive comments (Chonco, 1989, p. 74). Victimizing inmates may exhibit voyeurism, stalking, or sexually exhibitionistic type of behavior (Cotton & Groth, 1982, 1984; Dumond, 1992; McCorkle, 1992; Nacci & Kane, 1983; 1984a; Wright, 1991, as cited in Fagan, et al., 1996, p. 53).

Victimizing inmates often exhibit atypical inmate social behaviors, including: being overly nice or friendly, giving things away to other inmates, and/or doing favors for other inmates (Chonco, 1989, p. 74). Other behavioral characteristics include: an inability to control impulses, difficulty controlling anger, poor coping and problem-solving skills, use of force as influence style, and over-confidence in their physical prowess to control others (Cotton & Groth, 1982, 1984; Dumond, 1992; McCorkle, 1992; Nacci & Kane, 1983; 1984a; Wright, 1991, as cited in Fagan, et al., 1996, p. 53; Nacci & Kane, 1983, p. 34).

**Victimizing Inmate Motivations and Justifications**

There are five primary motivational patterns typically used by men who commit rape: 1) conquest and control; 2) revenge and retaliation; 3) sadism and denigration; 4) conflict and counteraction; and, 5) status and affiliation (Groth & Burgess, 1980, p. 808). Victimizing inmates, who are motivated by conquest and control, use rape to express their power over the victim (Fagan, et al., 1996, p. 54; Groth & Burgess, p. 808). These inmates use rape to compensate for feelings of
vulnerability or inadequacy (Fagan, et al., p. 54; Groth & Burgess, p. 808). For victimizing inmates who are motivated by revenge and retaliation, rape is triggered by anger toward the victim, and is regarded as a form of retaliation (i.e. for insults, or interference with drug trafficking, gambling, prostitution operations, etc.) (Groth & Burgess, p. 808; Nacci & Kane, 1983, p. 34). For victimizing inmates who are motivated by sadism and degradation, rape is erotic (Groth & Burgess, p. 808). These inmates experience excitement and gratification by sexually degrading victims (Groth & Burgess, p. 808). For victimizing inmates who are motivated by conflict and counteraction, rape is a way for victimizing inmates to manage unresolved or conflicted sexual identity or sexual orientation (Groth & Burgess, p. 808). These victimizing inmates punish victims for arousing sexual interests or feelings (Groth & Burgess, p. 808). For victimizing inmates who are motivated by status and affiliation, rape is committed in response to peer pressure (Groth & Burgess, p. 808). These victimizing inmates rape in order to: retain status, achieve peer acceptance and recognition, impress peers, gain or maintain gang membership, defend their honor, or build or defend their reputation (Groth & Burgess, p. 808). These victimizing inmates often belong in prison gangs, and mutual participation in gang rape is a means of strengthening and confirming social bonds (Groth & Burgess, p. 808; Mariner, 2001).

Victimizing inmates commit rape for a myriad of other reasons. Rape may release pent-up tension (Chonco, 1989, pp. 78-79). Forced, pressured, and coerced sex in prison is a no-win situation where inmates choose, or are forced to assume, the role as victimizing inmate or victimized inmate (Dumond, 1992, p. 140). It is not uncommon for victimized inmates to become victimizing inmates if transferred to another prison (Wooden & Parker, 1982, p. 116). Rather than be victimized by the inmate sexual code, victimized inmates become, if they can, part of the very group that perpetuates the code (Wooden & Parker, p. 116).

There are a number of myths that victimizing inmates use to justify sexual violence. Justifications for sexual violence include, but are not limited to: blaming the victim, no means, yes, he owes me, he is doing me a favor, denial of injury, victim cried rape, real men cannot be raped against their will, homosexuals or

**Prototypical Victimized Inmates**

Victimized inmates are generally described as possessing the following personal characteristics: openly homosexual; younger; smaller physical build; White; lacking gang-affiliation; inexperienced with prison life, imprisoned for the first time, or a first-time offender, serving shorter sentences for less serious, non-violent offenses (Man & Cronan, 2001, pp. 157-175). Victimized inmates are generally described as: exhibiting feminine behaviors or those that exude weakness (i.e. failure to fight), and verbalizing pro homosexual ideation.

The physical strengths and weaknesses of inmates are likely to determine their vulnerability to rape (Toch, 1977, as cited in Hensley, Tewksbury, et al., 2003, p. 597). Inmates have stereotypes as to what kind of an inmate is likely to become a victim (Chonco, 1989, p. 79). Perceived vulnerability is a major predictor in sexual targeting (Hensley, Koscheski, et al., 2005, p. 675). In target selection and victimization, demographics are of little import except when inmate personal characteristics reflect the characteristics of inmates that are traditionally raped (Chonco, p. 73). There are several factors that may influence the risk of rape, but one factor alone does not determine whether an inmate will be raped as factors are cumulative, and are not mutually exclusive (Chonco, pp. 73, 79).

Sexual orientation is an important risk factor (Hensley, Koscheski, et al., 2005, p. 675). Openly homosexual, bi-sexual, overtly effeminate, pre-operative transsexual, or transvestite inmates are particularly vulnerable to rape as victimizing inmates perceive these inmates as more willing or open to occupy feminine sex/gender roles (Man & Cronan, 2001, pp. 157-175; Nacci & Kane, 1984, p. 47). Though homosexual inmates are four times more likely to be raped than heterosexual inmates (Chonco, 1989, p. 79; Wooden & Parker, 1982, as cited in Hensley, Tewksbury, 2003, et al., p. 603), heterosexual inmates are present in
greater numbers and are thus, at greatest risk of rape (Man & Cronan; Struckman-Johnson & Struckman-Johnson, 2000; Struckman-Johnson, et al., 1996).

Most victimized inmates are younger than victimizing inmates, usually between the ages of 18 and 30 (Bartollas & Sierverdes, 1983; Chonco, 1989; Cotton & Groth, 1982, 1984; Dumond, 1992; Jones & Schmid, 1989; Nacci & Kane, 1983; 1984a; Tewksbury, 1989, as cited in Fagan, et al., 1996, p. 55). In their study, Hensley, Tewksbury, et al. (2003) found that the mean age of sexual targets was 20½ even though the mean age for their sample was 36 (p. 600). The aura of femininity often overlaps with age (Chonco, pp. 73-74). Victimizing inmates perceive younger inmates as feminine and desirable (Chonco, pp. 73-74; Man & Cronan, 2001, p. 164). Yet, older, and elderly, inmates are not immune to rape. Victimizing inmates view the geriatric population as victims who can be easily overpowered (Calderwood, 1987, p. 54).

Inmates that are smaller in stature are more likely than inmates with average or large stature to be rape targets and victims (Bartollas & Sierverdes, 1983; Chonco, 1989; Cotton & Groth, 1982, 1984; Dumond, 1992; Jones & Schmid, 1989; Nacci & Kane, 1983; 1984a; Tewksbury, 1989, as cited in Fagan, et al., 1996, p. 55). Inmate-on-inmate rape is most commonly accomplished by force, or the threat thereof; the physical size of an inmate is a strong predictor of rape (Human Rights Watch, 2001, as cited in Man & Cronan, 2001, p. 167).

Most prison rape victims are White. The percentage of White victimized inmates is disproportionate compared to their percentage in the general adult inmate population (Hensley, Tewksbury, et al., 2003; Moss, Hosford, et al., 1979; Nacci & Kane, 1983, 1984a, 1984b; Scacco, 1975; Struckman-Johnson & Struckman-Johnson, 2000; Struckman-Johnson, et al., 1996). With the exception of White inmates, prison rape is mostly perpetrated intra-racially, reflecting an inmate code that prohibits inmates of one race from initially turning out inmates of another race (Mariner, 2001). Once an inmate has been turned out, prison parlance for “raped”, the inmate victim is fair game, and inmates of any race can then rape the inmate victim (Cahill, 1985, p. 32; Mariner). White inmates are more apt to be targeted or victimized if held in prisons where their percentage is
marginal or in prison with high racial tension (Lockwood, 1980, 1994; Knowles, 1996; Wooden & Parker, 1982, as cited in Dumond, 2000, p. 409).

Inmate social relationships are chiefly determined by race, and gang affiliation is largely dictated along racial lines (Human Rights Watch, 2001, as cited in Man & Cronan, 2001, p. 160). White inmates lack a sense of racial identity and cohesiveness that Black, or other minority group, inmates are apt to possess (Human Rights Watch, 2001, as cited in Man & Cronan, p. 159). White inmates’ deficiency in numbers, gang membership, kinship bonds, and group solidarity may be interpreted by Black, or other minority race, inmates as a sign of weakness (O’Donnell, 2004, p. 248).

Gang affiliation may make inmates more vulnerable to rape if their names appear on gang or prison enemy hit lists, or if inmates have gang rivalries (Chonco, 1989, p. 78). Yet, lack of gang affiliation makes inmates vulnerable to rape as well. Inmates who are not street-wise are at-risk because “they don’t know the street language, roles and games and don’t know how to protect themselves” (Irwin, 1970, as cited in Man & Cronan, 2001, pp. 171-172).

Inmates convicted of less serious, non-violent offenses that carry shorter sentences are more inexperienced with prison life; inmates with this type of criminal history are more likely to be rape targets and victims (Chonco, 1989, p. 74; Davis, 1968, p. 14; Man & Cronan, 2001, pp. 173-174; Mariner, 2001; Nacci & Kane, 1984a, p. 47; NIC, 2004). Male inmates with a short history of criminality are often unfamiliar with the tactics of self-defense, or the operating strategies of prison gangs (Bartollas & Sierverdes, 1983; Chonco, 1989; Cotton & Groth, 1982, 1984; Dumond, 1992; Jones & Schmid, 1989; Nacci & Kane, 1983; 1984a; Tewksbury, 1989, as cited in Fagan, et al., 1996, p. 55). Since the intricacies of prison life are not intuitive, these inmates are at risk of rape as they lack allies, and are unfamiliar with, and/or traumatized by, the prison subculture (Mariner). Also, at-risk inmates often inadvertently violate the inmate code, which dictates that an inmate is to do nothing to save another inmate from being raped and that an inmate must leave his cell when his cellmate is being raped; violation of the inmate code invites sexual victimization (Brorby, 2001, as cited in
Man & Cronan, p. 169). Newcomers are readily identified by victimizing inmates because they have not been seen previously, and are also often temporarily made to wear special prison garb upon entry (Wooden & Parker, 1982, p. 101).

There are other personal characteristics that make inmates vulnerable to sexual victimization. A large percentage of inmate targets and victims have a history of being convicted for sex offenses (Struckman-Johnson, et al., 1996, p. 71). The top three target groups for male inmate-on-inmate prison rape are: inmates who have been convicted of sex crimes against children (a.k.a. “diddlers”), inmates who have been convicted of sex crimes against women (a.k.a. “skinners”), and inmates who have violated the inmate code of silence (a.k.a. “rats” or “snitches”); these inmates are most likely to become victim to inmates’ collective sense of prison justice (Dumond, 1992, p. 138; Human Rights Watch, 2001; Sennott, 1994, as cited in Man & Cronan, 2001, p. 174). Mentally ill or developmentally disabled inmates are vulnerable as these inmates may not possess the cognitive ability or self-assertiveness necessary to recognize and cope with victimizing inmates (Bartollas & Sierverdes, 1983; Chonco, 1989; Cotton & Groth, 1982, 1984; Dumond; Jones & Schmid, 1989; Nacci & Kane, 1983; 1984a; Tewksbury, 1989, as cited in Fagan, et al., 1996, p. 55; NIC, 2004). Inmates who isolate themselves from others by declining membership in prison groups, and those who engage in solitary activities are at an increased risk of rape (Bartollas & Sierverdes, 1983; Chonco, 1989; Cotton & Groth, 1982, 1984; Dumond, 1992; Groth & Burgess, 1980, p. 807; Jones & Schmid, 1989; Nacci & Kane, 1984a; Tewksbury, 1989, as cited in Fagan, et al., 1996, p. 55).

**Victimized Inmate Nonconsensual Involvement**

In inmates’ reluctance to become involved in prison sex, choice is blurred (Alarid, 2000, p. 396). Non-violent sex may be perceived as “voluntary”, but “consent” is not possible when inmates do not have the power to refuse. Many isolated and continuing sexual liaisons originate in response to the fear-charged atmosphere that is found in prisons (Davis, 1968, p. 13). Continuing sexual liaisons are often referred to as protective sexual partnerships because of the defense such pairings provide (Fagan, et al., 1996, p. 54). Victimized inmates fear
for their lives, and think that they have no alternative but to submit; from this perspective, submission is perceived to be the only path to survival (Sagarin, 1976, p. 253). Victimized inmates also submit to avoid more severe forms of prison violence (Groth & Burgess, 1980, p. 807). In many ways, submission is viewed by victimized inmates as: choosing the path of least resistance; attempting to make the best of a bad situation; and/or, retaining control over sexual victimization (Eigenberg, 1992, as cited in Eigenberg, 2000a, pp. 437, 446; Donaldson, 1993, as cited in Man & Cronan, 2001, p. 156; Mariner, 2001). If, given the choice, inmates could refuse sex, but instead engage in sex against their will since they believe they have no choice, they are being raped (Mariner).

Forced, pressured, or coerced sex is prevalent in male prisons (Hensley & Tewksbury, 2002, p. 241). Rape in prison is based on extortion techniques where pressure and coercion are as important as outright force (Eigenberg, 2000b, p. 417). Sexual coercion in prisons ranges from “force tactics” to “pressure tactics” (Alarid, 2000, p. 393). Most victimized inmates reported that more than one tactic was used to obtain sexual contact (Struckman-Johnson, et al., 1996, p. 71). Force tactics are most commonly used, and include: physical intimidation, restraint, and/or harm, threats to harm, use of weapon, rape, and gang rape (Struckman-Johnson & Struckman-Johnson, 2000, p. 382; Struckman-Johnson, et al., p. 72). Pressure tactics include: persuasion, sexual harassment, bribery, blackmail, love withdrawal, genital touching, and the use of drugs and/or alcohol (Struckman-Johnson & Struckman-Johnson, p. 382; Struckman-Johnson, et al., p. 72).

**Consequences of Prison Rape**

(Bowker, 1982, p.69), and negatively impacts inmates, prison operations, and society. The true impact on inmates, prisons, and society is unknown as few studies have been conducted on the issue (Mair, et al., 2003, p. 603).

Physical and Medical Consequences on Victim

Victimized inmates are likely to evidence various ill effects as a consequence of rape. The risk that victimized inmates will sustain serious physical injuries is compounded by the fact that male victims have an increased likelihood of being subjected to multiple sexual assaults by multiple victimizing inmates (Dumond & Dumond, 2002a, p. 73). One study found that 16% of victimized inmates sustained physical injuries as a result of rape (Struckman-Johnson, et al., 1996, p. 72). Victimized inmates are likely to evidence various physical indicators of rape, including, but not limited to: pain, itching, swelling, burning, bruising, bleeding, fissures, and/or tears in the anal area, poor sphincter control; difficulty walking or sitting; swelling on the penis or scrotum; chronic sore throat, a torn frenulum, damage to pharynx, missing or loosened teeth; bruises, welts, lacerations, abrasions; bite marks; skeletal injuries; and/or death (Calderwood, 1987, p. 54; Dumond, 1992, p. 145; Wallace, 2002, pp. 41, 72).

Victimized inmates are likely to evidence various ill medical effects as a consequence of rape. Compared to free society, inmates who engage in prison sex, whether nonconsensual or consensual, are at greater risk, and are infected at higher rates, of communicable disease, such as tuberculosis (TB), and sexually transmitted diseases (STDs), such as hepatitis, and HIV/AIDS (Human Rights Watch, 2001; Tewksbury, Vito, & Cummings, 1998, as cited in Tewksbury & West, 2000, p. 369). Victimized inmates who are forced into anal sex are at an increased risk of contracting AIDS (Struckman-Johnson, et al., 1996, p. 75). After natural causes, AIDS is the leading cause of inmate death, and since the AIDS infection rate in inmates is six times greater than the free population, prison rape can result in a potential death sentence for victimized inmates (Dean-Gaitor & Fleming, as cited in Lehrer, 2001; NIC, 2004). The psychological terror of victimized inmates may also be heightened by knowledge, or the suspicion, that the victimizing inmate may have HIV/AIDS (Kupers, as cited in Lehrer).
Psychological and Emotional Consequences on Victim

Rape Trauma Syndrome (RTS) is a variation of post-traumatic stress disorder (PTSD) characterized by depression, severe anxiety, and despair (Mariner, 2001). In some form or degree, RTS affects virtually all victims of attempted or completed rape (Donaldson, 1994). RTS can be exacerbated for victimized inmates who have been subjected to repeated rapes involving numerous victimizing inmates (Mair, et al., 2003, p. 602). For victimized male inmates, RTS is prone to be severe, perhaps life-threatening, especially if the victim does not receive treatment (Donaldson). Victimized inmates who are unable to withdraw from the setting of sexual victimization face grave handicaps in attempting to recover from trauma as they are often repeatedly victimized; these victims are prone to undergo the most extreme form of RTS as the possibility of re-victimization is incessant (Donaldson; Dumond, 2000, p. 409). A number of gender-specific issues add greatly to male prison rape victims’ trauma. Since males do not grow up to develop a lifelong fear of rape, the rape experience is more shattering for the male ego (Calderwood, 1987, p. 54; Donaldson). The victim’s sexual identity as a male is compromised, demolished, or even reversed as male rape is an assault on victims’ concept of masculinity; male victims often develop homophobic questioning of their sexual orientation and fear of being labeled homosexual (Calderwood, p. 54; Cotton & Groth, 1982, p. 52; Donaldson). Key psychological issues surrounding vulnerability to internal violability, inability to defend oneself against attack, and feelings of total helplessness are incompatible with masculinity (Donaldson).

There are three stages inmate victims undergo in the aftermath of rape; not all rape survivors will exhibit these symptoms in the order described, but the typology provides a useful general outline (Mariner, 2001). In the first (short-term reaction) stage, or acute phase, victims experience sleep disturbances, intense fear, worry, suspicion, severe depression, and feelings of shame (Calderwood, 1987, p. 54; Donaldson, 1994; Mariner). In the second (intermediate-term reaction) stage, or reorganization phase, victims exhibit earlier reactions, and experience anxiety, anger, self-blame, and self-contempt, victims obsess over
body areas involved in the rape, and engage in neurotic behaviors (Calderwood, p. 54; Donaldson; Mariner). In the third stage (long-term reaction which may be deferred, perhaps for decades, until after release), or latent phase, victims exhibit earlier reactions, engage in mechanical compliance with sexual demands while remaining numb to the rape experience, practice self-destructive behavior, and are hyper-vigilant to danger (Calderwood, p. 54; Donaldson; Mariner). Many victims experience systematic and repetitive infliction of psychological trauma as they continue to live in a state of terror, helplessness, and fear (Toch, 1992, as cited in Dumond, 2000, p. 409). Victimization is associated with stress that results in suicide (the third leading cause of inmate death) (Mariner).

**Social Consequences on Victim**

Victimized inmates who suffer from RTS are likely to experience social problems. The social consequences of prison rape include loss of status in prison, stigmatization, and labeling (Dumond, 2000, p. 409). In the interim, victims have impaired social functioning due to dissociating with the trauma (Calderwood, 1987, p. 54; Donaldson, 1994; Mariner, 2001). In the intermediate-term, victims experience sexual dysfunction, and continue to experience impaired social functioning as they socially isolate themselves and resist intimacy; victims may develop the inability to trust others, which results in increasingly chaotic and conflicted relationships (Calderwood, p. 54; Donaldson; Mariner). In the long-term, victims continue to experience sexual dysfunction, lifestyle disorganization, and diminished quality of life (Calderwood, p. 54; Donaldson; Mariner). There is also the chance that the victimized inmate will enter into a state of codependency with the victimizing inmate through traumatic bonding (Mignon, Larson, & Holmes, 2002, p. 100). Akin to Stockholm syndrome, the trauma bond makes victimized inmates incapable of detaching themselves from victimizing inmates (Mignon, Larson, & Holmes, p. 100). Victimized inmates come to associate the victimizing inmate with the protection that he provides (Tucker, 1982, p. 71). Lastly, prison rape can impact sexual orientation; victimized heterosexual inmates may believe that they are latent homosexuals, and come to identify post-prison sexual orientation as homosexual (Sagarin, 1976, pp. 245, 252).
Consequences of Inmate-on-Inmate Rape on Prisons and Staff

The potential for violence surrounding prison sexual activity is vast (Saum, et al., 1995, p. 415; Tewksbury & West, 2000, p. 369). Incidents of inmate-on-inmate sexual violence often lead to additional, more serious incidents of inmate-on-inmate prison violence (Fagan, et al., 1996, p. 52). As a result, health care expenditures are increased, security concerns are amplified, and there are profound implications for prison management (Dumond, 1992, pp. 146-147). In prison, rape results in increased: homicide levels, levels of violence perpetrated against inmates and staff, risk of riots, and racial tensions (NIC, 2004). Same-sex sexual activity is reciprocally related to prison violence; same sex-sexual activity produces, and is a byproduct of, prison violence (Nacci & Kane, 1983, p. 31; Tewksbury & West, p. 369). Most prison violence results from rape or sexual harassment (National Conference on Correctional Health Care, 1985, as cited in Cahill, 1985, p. 33). Ignoring, or being passive to, sexual advances are akin to rejection and a show of disrespect; the result is retaliation, and inmate targets become victims of other forms of prison violence (Alarid, 2000, pp. 396, 398).

In response to fear of rape, or threat thereof, many inmates have launched pre-emptive strikes (O’Donnell, 2004, p. 252). Targets often resort to violence to protect themselves and stop victimization (Mariner, 2001). Targets know that victimizing inmates will exploit their weaknesses unless they strike hard and first (Nacci & Kane, 1984a, p. 46). Targets’ willingness to use violence is actualized frequently, and may be a result of overcompensating for anxieties associated with fear of rape (Nacci & Kane, p. 46). In fact, targets are apt to foresee the use of violence in all types of interpersonal conflicts (Nacci & Kane, p. 46).

Consequences of Inmate-on-Inmate Rape on Society

The physical/medical, psychological/emotional, and social/interactive effects of prison rape hinder victims’ ability to re-integrate into free society (NIC, 2004). The harms spread by prison rape survivors are incalculable (Specter, as cited in Weiss & Friar, 1974, p. 73).

Prison rape endangers public safety. The frequent interracial nature of prison rape increases the risk of civil strife, and significantly exacerbates racial tensions in free society (NIC, 2004). Prison rape survivors sustain the cycle of victimization through an increased likelihood of criminality, thereby further burdening the criminal justice system (Dumond, 1992, p. 145; NIC). They often manifest aggressive behaviors towards free society and specific demographic groups, such as children, women, and homosexuals (Dumond, p. 145; NIC). They perceive the world to be a dangerous place, and may use violence and force to get what they want or need (Mignon, Larson, & Holmes, 2002, p. 41). Upon release, the cycle of violence is apt to persist as survivors have incorporated the belief that power can be accomplished through violence (Mignon, Larson, & Holmes, p. 235). Many become living time bombs without clocks to program their outbursts; their “rage can end up misdirected and self-destructive” (Cahill, 1985, p. 34). Free society is self-deceptive if it supposes that there is no link between sudden and inexplicable street violence and incendiary emotions evoked as a consequence of prison rape (Rothenberg, 1978, p. 466, as cited in Cotton & Groth, 1982, p. 50).

The consequences of prison rape increase local, State, and Federal expenditures in free society (Mair, et al., 2003, p. 603). Prison rape survivors are more likely than other members of free society to require government assistance and/or be homeless; the physical/medical, psychological/emotional, and social impact of prison rape negatively influences prison rape survivors’ ability to maintain employment (NIC, 2004). Further, the high incidence of prison rape undermines the efficiency and effectiveness of federally funded grant programs, has a significant negative impact on interstate commerce, and involves actual and potential violations of the U.S. Constitution (NIC).
Civil Liability

Correctional institutions, as well as their agents, are subject to court liability for condoning or failing to take adequate preventative measures in dealing with the problem of inmate-on-inmate rape. Successful litigation against corrections staff is an effectual means of stimulating prison reform (Man & Cronan, 2001, p. 129). The bulk of this section will address the seminal U.S. Supreme Court case Farmer v. Brennan, 511 U.S. 825 (1994). The Farmer Court ruled that deliberate indifference is the applicable legal standard for 8th Amendment claims in cases involving rape of prison inmates (Man & Cronan, p. 132). The remainder of this section will address civil liability of corrections staff.

Constitutional Claims

In prison rape cases, constitutional claims against Federal corrections staff are brought pursuant to Bivens v. Six Unknown Fed’l Narcotics Agents, 403 U.S. 388 (1971), and constitutional claims against State corrections staff, as well as staff employed by private prisons, are brought pursuant to 42 U.S.C. §1983 (Man & Cronan, 2001, p. 132). Constitutional claims against State staff brought pursuant to 42 U.S.C. §1983 prevail if inmates prove that corrections staff consciously and recklessly disregard a substantial risk of harm to an inmate (Vaughn & Del Carmen, 1995, p. 72). Prison rape is highly predictable; this is a decisive factor given that the existing legal standard for 8th Amendment claims in prison rape litigation is deliberate indifference (Man & Cronan, p. 175). In conducting constitutional analysis of prison rape litigation, assessment of whether corrections staff act with deliberate indifference is tied to prison circumstances; if staff are familiar with indicators of victimization, then, preventative measures must be taken to protect at-risk inmates; failure to do so constitutes deliberate indifference (Man & Cronan, pp. 130-132).

Pre-Farmer Interpretation of Deliberate Indifference

In 1976, the U.S. Supreme Court, in Estelle v. Gamble, 429 U.S. 97, made a distinction between the terms deliberate indifference and negligence (Vaughn & Del Carmen, 1995, p. 72). Since Estelle, many U.S. Circuit Courts of Appeals
have applied the deliberate indifference standard, or some variation of the term, in cases alleging unconstitutional confinement conditions, including inmate-on-inmate prison rape cases (Vaughn & Del Carmen, p. 76). Yet, pre-Farmer, there was confusion among the U.S. Circuit Courts of Appeals as to the level of culpability required to satisfy deliberate indifference (Vaughn & Del Carmen, p. 76). Since the term deliberate indifference is inherently contradictory, a viable definition of the term was needed; definitional variation deprived the term “of clarity and consistency” and made “it difficult to apply with any degree of precision” (Vaughn & Del Carmen, pp. 71, 76-77).


The U.S. Supreme Court granted certiorari to resolve dispute about the appropriate definition of deliberate indifference (Vaughn & Del Carmen, 1995, pp. 71, 76). The Farmer Court established that deliberate indifference resides on a continuum between negligence and purpose to do harm, or knowledge that harm will result (Vaughn & Del Carmen, p. 72). Subjective recklessness is consistent with the 8th Amendment’s Cruel and Unusual Punishment Clause, and is to be adopted as the deliberate indifference test (Farmer v. Brennan, 511 U.S. 825 (1994) (Souter, J.) (CULS, 2005a; 2005b). States that deliberately fail to adopt and employ standards to abate rape violate inmates’ 8th Amendment rights [under the Cruel and Unusual Punishment Clause, as protected, and made applicable to the States, by the Due Process Clause of the Fourteenth Amendment] (Farmer v. Brennan, 511 U.S. 825 (1994) (Souter, J.) (CULS, 2005a).

The two-prong Farmer test requires that 1) conditions of incarceration pose a substantial risk of harm, and 2) that corrections staff act with deliberate indifference in disregarding risk (Man & Cronan, 2001, p. 176). The 8th Amendment’s prohibition against “cruel and unusual punishment” implies that corrections staff have a duty to provide humane confinement conditions insofar as they must employ reasonable measures to guarantee that inmates are protected from inmate-on-inmate violence (Farmer v. Brennan, 511 U.S. 825 (1994) (Souter, J.) (CULS, 2005a; 2005b). Inmates’ 8th Amendment rights are violated upon placement in unsafe conditions that pose a substantial risk, so if confinement
conditions facilitate rape, the first prong of the Farmer test is satisfied as “rape clearly constitutes a serious harm” (Man & Cronan, p. 176). Corrections staff are not free to ignore obvious dangers to inmates (Vaughn & Del Carmen, 1995, p. 72). Inmate-on-inmate victim personal characteristics are obvious indicators of victimization. Corrections staff need not be aware of a precise threat (Man & Cronan, p. 135). It is of no import whether risk is from single or multiple sources, whether an inmate faced the risk for personal reasons, or whether all inmates are at-risk, rather what is of import is whether corrections staff are aware of substantial risk of serious harm (Farmer v. Brennan, 511 U.S. 825 (1994) (Souter, J.) (CULS, 2005a). The second prong of the Farmer test is satisfied if staff fails to take preventative protective measures to ensure the safety of at-risk inmates.

**Civil Liability of Corrections Staff Post-Farmer**

Civil liability depends upon inquest into corrections staffs’ subjective “state of mind” (Farmer v. Brennan, 511 U.S. 825 (1994) (Souter, J.) (CULS, 2005a; 2005b). Deliberate indifference attaches upon a finding of recklessness only when staff disregard a risk of harm of which they are aware; in other words, in order to hold staff liable, staff “must both be aware of facts from which the inference could be drawn that a substantial risk of harm exists and [they] must also draw the inference” (Vaughn & Del Carmen, 1995, p. 72). In cases where inmates seek “injunctive relief to prevent a substantial risk of serious injury from ripening into actual harm”, deliberate indifference is determined by taking into account the attitudes and conduct of staff at the time suit is brought and persisting thereafter (Farmer v. Brennan, 511 U.S. 825 (1994) (Souter, J.) (CULS, 2005a).

The Farmer interpretation of deliberate indifference may increase liability risks of corrections staff. Many administrative methods heighten correctional facilities’ legal duty to protect at-risk inmates (Vaughn, 1996, p. 143). Protective custody, administrative segregation, and transfers are interpreted as institutional orders of protection (Vaughn, p. 144). If staff ignores these orders, and the result is inmate-on-inmate rape of an at-risk inmate, civil liability will result (Vaughn, p. 144). Supervisory staff must pass salient information about institutional orders of protection to other staff or risk liability (Vaughn, p. 144).
A finding of deliberate indifference may be triggered in cases where staff refuses to verify, or declines to confirm inference of, risk, or in cases where rape is “long-standing, pervasive, well-documented, or expressly noted” by staff (Vaughn, 1996, p. 143; Vaughn & Del Carmen, 1995, p. 73). If constitutional violations are rife within correctional facilities, and staff do little to remedy unconstitutional conditions by failing “to enforce court orders and consent decrees mandating protection” for at-risk inmates, then liability may result (Vaughn, p. 147). A showing that staff failed to enforce court orders or consent decrees is germane in civil suit as it helps to prove deliberate indifference (Vaughn, p. 148).

Qualified immunity can be evoked in inmate-on-inmate prison rape cases. State (and Federal) staff are entitled to qualified immunity when accused of violating the constitutional rights of inmates, only if, at the time constitutional rights were violated, they were not clearly established (Man & Cronan, 2001, pp. 133-134). Post-Farmer, it is harder for staff to argue that their duty to prevent rape was not clearly established (Man & Cronan, pp. 133-134). Private prison staff is not entitled to any form of immunity (Man & Cronan, pp. 133-134).

Post-Farmer case law has shown that civil liability of staff is avoidable. Staff is not liable if they are unaware of an obvious risk or if a known risk was responded to reasonably, even if harm was not ultimately averted (Farmer v. Brennan, 511 U.S. 825 (1994) (Souter, J.) (CULS, 2005b). Yet, head turning does not absolve liability (Vaughn, 1996, p. 143). Staff can assert ignorance, but it is seldom effective in preventing prison rape cases from being presented to a jury as these cases have been prolific enough to make indisputable the notion that staff is intimately aware of the problem (Man & Cronan, 2001, pp. 136-138; Vaughn, p. 143). When responding to risks, staff is not liable if reasonable precautions are taken, though the courts have not established which preventative measures are reasonable (Vaughn, pp. 147, 149). Post-Farmer, liability only attaches when the two-prong Farmer test is satisfied (Vaughn & Del Carmen, 1995, p. 72). It is not easy for plaintiffs to meet the deliberate indifference standard as staff is not liable “for risks they should have known about or for reasonable actions taken against known substantial risks” (Vaughn & Del Carmen, p. 83).
The Prison Rape Elimination Act (PREA) of 2003

The three key reasons that led to the passage of PREA are: disruption of prison operations where prison rape occurs, consequences of prison rape, and the demand placed on society once prison rape survivors are released (Halley, 2005).

PREA establishes a zero-tolerance standard for prison rape and makes prevention of prison rape a priority for each prison system (NIC, 2004). PREA improves the management of correctional facilities by increasing the amount of information on prison rape; standard definitions are used for gathering data (NIC). PREA makes staff accountable for detecting, preventing, and reducing prison rape, punishing victimizing inmates, and protecting victimized inmates’ rights (NIC). PREA demands increased efficacy of federally funded grant programs, and cuts costs that are imposed by prison rape on interstate commerce (NIC).

Within the Department of Justice (DOJ), PREA assigns tasks to several agencies related to the purpose of the law (Halley, 2005). PREA creates a Review Panel on Prison Rape that conducts annual public hearings on the operation of the three correctional facilities with the highest, and the two facilities with the lowest, incidence of prison rape (NIC, 2004). PREA creates “a national clearinghouse for the provision of information, assistance, and training” to the criminal justice field.

PREA requires that BJS solicit views from representatives of Federal and State corrections staff, child-welfare, prison-rights, victim advocates, researchers, former inmates, and other experts to guide in development, implementation, and methodologies of an annual comprehensive statistical review (NIC, 2004). BJS’ annual comprehensive statistical review and analysis gathers data on the incidence and consequences of prison rape within correctional facilities; it is based on random sample of at least 10% of all U.S. prisons and a representative sample of municipal prisons, and includes identification of victimizing and victimized inmate characteristics, and the characteristics of prison systems and prisons with a high incidence of rape (2004). BJS developed and is testing a self-report survey that is based on the National Crime Victimization Survey. BJS uses Audio Computer Assisted Self-Interviews (A-CASI); A-CASI guides inmates through a
questionnaire using touch-tone screens and audio prompts heard via headphones. Elimination of personal interviews and implementation of audio-CASI should improve inmate’s willingness to report prison rape, while at the same time allowing inmates with limited literacy to report victimization (2004). Ancillary self-report survey methods, such as computer assisted interviews (CASI) and paper and pencil interviews (PAPI), will be administered to soon-to-be, and recently, released inmates, to determine whether prison rape reports differ by incarceration status. BJS survey components will be fully operational in 2006.

PREA establishes the National Prison Rape Elimination Commission (NPREC), which is not part of the DOJ (Halley, 2005). The NPREC conducts a comprehensive legal and factual study of the “penological, physical, mental, medical, social, and economic” consequences of prison rape on inmates, their families, communities, social institutions, and Federal, State, and local governments, and includes, but is not limited to: assessment of the causes of prison rape; assessment of the relationship between prison rape and prison conditions, prison violence, and staff training, supervision, and discipline; victimizing and victimized inmate characteristics; examination of the feasibility of proposed prison reforms and of conducting undercover activities and surveillance to reduce prison rape; and, assessment of whether existing reporting systems grant inmates with adequate assurance of confidentiality (NIC, 2004). Within two years, the NPREC must recommend national standards that enhance the detection, prevention, reduction, and punishment of prison rape (NIC). And, within one year of receiving the recommendations, the Attorney General must adopt a national standard (NIC). Participation by correctional facilities is required. Facilities that fail to be in full compliance with national standards will lose 5% of their funding unless receipt of funding ensures compliance in the future (NIC).

**Criminal Justice System Response to PREA**

In response to PREA, many prisons are beginning to review, revise and/or write new policies that address inmate-on-inmate prison rape (Halley, 2005). Prevention, intervention, and prosecution are key strategies for change (Dumond,
1992, p. 149). Though prisons have increased efforts to prevent, intervene in, and prosecute inmate-on-inmate prison rape, many of these efforts are ill-conceived.

**Prevention**

Most prisons have policies that prohibit inmates from engaging in any sexual activity, including masturbation, one of the most widely practiced forms of sexual release (Hensley & Tewksbury, 2005, p. 189; Kassebaum, 1972, p. 45; Nacci, 1978, p. 30; Saum, et al., 1995, p. 414). Zero level tolerance prison sex policies are unrealistic insofar as they cannot be enforced; it is possible to curtail prison sexual activity only in total lockdown prison facilities (Wooden & Parker, 1982, p. 214). Despite the existence of zero tolerance policies prohibiting prison sex, prison sex continues to be a reality of prison life (Hensley & Tewksbury, p. 194; Wooden & Parker, p. 214). In prison, almost all male inmates (99%) masturbate (Hensley, Tewksbury, & Wright, 2001, as cited in McGaughey & Tewksbury, 2002, p. 137). Estimates regarding the percentage of inmates engaged in prison sex range from 2% (Saum, et al., p. 425) to 65% (Wooden & Parker, p. 50), and are higher than the percentage of victimized inmates disclosing rape; 1% (Nacci & Kane, 1984b, p. 10) to 41% (Wooden & Parker, p. 100).

Prison programs and administrative policies tasked with preventing inmate-on-inmate prison rape include: conjugal visitation; furlough; vocational, educational, psychological, and athletic programs; and, normalization of the prison environment by increasing the number of female staff (Bowker, 1982; Davis, 1968; Ibrahim, 1974; Karpman, 1948; Lee, 1965; Lockwood, 1980; Nice, 1966; Scacco, 1975; Vedder & King, 1967; Wooden & Parker, 1982, as cited in Eigenberg, 2000a, p. 436; Eigenberg, 2000b, p. 415). None of these preventative efforts has been based on empirical data, most lack a conceptual basis, and little research has been conducted to determine which efforts work best, if at all (Eigenberg, 2000b, p. 415; O’Donnell, 2004, p. 248; Struckman-Johnson, et al., 1996, p. 76). Empirical research that has been conducted in this area has focused on conjugal visitation. Hensley, Rutland, & Gray-Ray (2000) found that conjugal visitation does not have a statistically significant effect on prison sex (p. 20).
Correctional officer and inmate attitudes suggest that, based on potential for victimization, inmate screening, classification, and segregation may be successful in decreasing prison rape (Cotton & Groth, 1982, p. 53; Struckman-Johnson, et al., 1996, p. 74). This preventative measure requires identification of at-risk inmates, assignment of inmates into compatible typologies, and placement of inmates into appropriate housing (Dumond, 1992, p. 149). This measure assumes that: inmate characteristics are predicable indicators of argot sex/gender roles; and that the prison rape rate can be reduced as long as there are two inmate populations which have different prison rape probabilities (Fuller & Orsagh, 1977, p. 48; Man & Cronan, 2001, pp. 131, 158). The argument can be made that this measure does not warrant great confidence as screening, classification, and segregation of inmates based on victimization risk is imperfect, and may result in misclassification and displacement of prison sex (Nacci & Kane, 1984a, p. 52).

Environmental safety prevention strategies include: improved surveillance of blind spots (i.e. holding cells, shower rooms, stairways) and other areas that are prone to victimization, increased lighting, and enhanced security (Dumond, 1992, p. 149; Fagan, et al., 1996, p. 60). This strategy assumes that the prison rape rate varies inversely with the probability that victimizing inmates will be sanctioned, and later commit rape; in other words, the greater the degree of supervision, the greater the probability that victimizing inmates will be punished, and the less likely prison rape will be committed (Fuller & Orsagh, 1977, p. 47).

Staff-oriented training is another preventative strategy that prisons use. A key emphasis in staff-oriented training is staff awareness and responsiveness to the problem of prison rape (Dumond, 1992, pp. 148-149). Training is based on the idea that the “primary agents of influence” on inmate behavior are staff (Nacci & Kane, 1982, as cited in Dumond, p. 148). The goal of this training is improved staff: professional response, awareness of civil liability, and understanding of the consequences of prison rape (Dumond, pp. 148-149). Although there is no empirical evidence to suggest that staff-oriented training reduces prison rape, research results support the idea that such training may result in increased staff reports of prison rape (Dumond, 2000; Eigenberg, 2000b; Nacci & Kane, 1983).
**Intervention**

Corrections officers are responsible for rule enforcement in prisons, and are more likely than other correctional staff to introduce prison rape cases into the prison disciplinary system (Eigenberg, 2000b, p. 416). Most officers report that they would or should respond to any same-sex sexual activity, but inmate reports contradict these claims and suggest that officers do not respond (Eigenberg, 1994; Nacci & Kane, 1983, 1984a, 1984b, as cited in Eigenberg, p. 417). Inmate reports alleging officer non-response may be legitimate. Eigenberg found that 96% of officers reported that they sometimes found it hard to distinguish between nonconsensual and consensual inmate sexual activity, and that the majority of officers had never issued a report for inmate sexual activity; of the minority of officers who had issued a report, only 14% did so for prison rape (pp. 425, 429).

Intervention strategies are designed to meet the immediate protective, medical, mental, social, and legal needs of victimized inmates (Dumond, 1992, p. 150). Staff intervenes in inmate-on-inmate rape cases by placing victimized inmates in protective custody, administrative segregation, or by transferring victimized inmates to other prisons. Victimized inmates do not prefer protective custody and administrative segregation (Chonco, 1989, p. 78). These strategies are perceived as punitive; as prisons within a prison (Cahill, 1985, p. 32). These strategies negatively impact inmates and result in: loss of inmates’ rights and privileges, isolation of inmates from the normal flow of prison operations, alienation of inmates from staff and other inmates, and stigmatization (Chonco; SPR, as cited in Coolman, 2003; Cotton & Groth, 1982, p. 49; Dumond, p. 150; Hensley, Tewksbury, et al., 2003, p. 604; Smith & Batiuk, 1989; Wooden & Parker, 1982, p. 108). Since protective custody and administrative segregation are permanent, transfers do not work. Once an inmate is raped, “he is marked as a sexual victim for the duration of his confinement”; even if he is transferred to a new facility, the inmate rumor mill, the label of snitch, and the mark of victim follow him from prison to prison (Chonco, p. 78; Davis, 1968, p. 9; Wooden & Parker, p. 108).
Prosecution

The two main goals of prison prosecution policies are compliance and deterrence (Dumond, 1992, p. 151). Most (86%) prisons reporting substantiated incidents of inmate-on-inmate prison rape claimed that legal sanctions (i.e. arrest, referral for prosecution, or new sentence) were imposed on victimizing inmates (BJS, 2005a, p. 9). Most (89%) State prison systems claimed that a change in custody (i.e. solitary confinement, assignment of a higher custody level, and transfer to another prison facility) was a sanction that was also imposed (BJS, p. 9). Over half (58%) of State prison systems claimed loss of good time as a sanction, and over half (56%) claimed loss of privileges as a sanction (BJS, p. 9).

In testimony before the U.S. Senate Committee on the Judiciary, Robert W. Dumond declared that “criminal prosecution is virtually non-existent” in prison rape cases (Prison Rape Reduction Act, 107th Cong. [July 31, 2002]). Organizations that are set up to provide legal assistance for inmates have failed to help victimized inmates, citing conflict of interest in inmate-on-inmate rape cases (Donaldson, 1995). Private attorneys are not interested in taking on such cases as they are not lucrative (Hansen, 2001). Most prosecutors have little, or no, interest in prosecuting prison rape cases because these cases are hard to prove (Mariner, as cited in Hansen). Corrections staff are not trained to conduct investigations properly (Clayton, 2005, p. 37), so staff “rarely do the kind of investigation necessary to support a finding of prison rape” (Mariner, as cited in Hansen). Further, the majority of witnesses refuse to cooperate, and when cooperation is gained, witnesses are saddled with extensive records that make them less than ideal witnesses (McCann, as cited in Hansen). When victimizing inmates succeed in getting victimized inmates to ejaculate, victimized inmates’ ejaculatory response may discredit claims of non-consent and impeach credibility (Groth & Burgess, 1980, p. 809). For these reasons, prosecutors prefer to treat prison rape cases as internal matters that are best left to staff to handle administratively (Mariner, as cited in Hansen). Many victimizing inmates escape sanctions; when victimizing inmates are disciplined, they are often charged with a lesser offense that results in a short time in solitary confinement (Mariner, as cited in Hansen).
SECTION III: THEORETICAL FRAMEWORK

In this section, Marvin E. Wolfgang and Franco Ferracuti’s subculture of violence theory will be offered as an explanation for prison rape. At the center of this approach is the idea that, within the dominant culture, there is a concentration of violence in specific subcultural groups; persons living in a subcultural milieu, designated as a subculture of violence, view nonviolence as a counter-norm, and instead, possess a range of violence expectations. As well, in this section, Lawrence E. Cohen and Marcus Felson’s routine activities theory will be offered as explanation for sexual victimization risk. This approach is based on the crime triangle. At the center of this approach is the idea that, in the absence of effective guardians, motivated offenders will prey upon suitable victims.

The Subculture of Violence Theory

The subculture of violence theory presupposes the existence of subcultures within a dominant culture. The modus operandi of the subculture of violence suggests the existence of a potent theme of violence in the cluster of values that make up the lifestyle, the socialization process, and the interpersonal relationships of members living in similar conditions (Wolfgang & Ferracuti, 1982/2003, p. 156). Members reflect the values, norms, and behavioral patterns characteristic of the subculture. Members of the subculture of violence view violence as a normative problem-solving mechanism.

Wolfgang and Ferracuti’s subcultural theory has seven propositions: 1) a subculture of violence is not completely different from, or in conflict with, the dominant culture of which it is a part; 2) the establishment of the existence of a subculture of violence does not require that the members sharing in the subculture’s value system must respond violently in all situations; 3) the existence of range and variability of behavioral expression of violence amongst members of the subculture emphasizes the penetrating and diffusive character of the theme of violence; 4) the subcultural ethos of violence shows greatest localization, incidence, and frequency in limited age groups; 5) the counter-norm of the
subculture of violence is nonviolence; 6) the extent to which members assimilate the subculture’s value systems, and the range and variability of behavioral expressions of violence amongst members of the subculture entails learned behavior, and a process of differential learning, association, or identification; and, 7) the members of the subculture of violence do not possess feelings of guilt for using violence as violence is a valid problem-solving mechanism (1982/2003, pp. 156-158).

**Theoretical Application of the Subculture of Violence Theory**

In order to appreciate the dynamics of prison rape, it is imperative that attention is paid to the prison subculture and the inmate code, explicitly as it relates to violent expression of sexuality in prison (Wooden & Parker, 1982, p. 3). In every prison within the U.S., there exists a prison subculture. Most prison inmates are members of the prison subculture. All prison inmates, save those who have been wrongfully convicted, are guilty of crimes against society and are labeled deviants. Inmates reflect, and share in, the deviant values, norms, and behavioral patterns characteristic of the prison subculture (Dumond, 1992, p. 138; Schmalleger, 2005, p. G-18). The prison subculture’s value system places a premium on hypermasculinity and on violence. The prison subculture equates masculinity with violence and power, and masculinity is expressed through rape (Eigenberg, 2000a, p. 437). In prison, subcultural values uphold men’s rights to use force to gain sexual access (Lockwood, 1982, p. 257). Self-esteem and level of violence are often central to inmates’ views of self, and so, the victimization of others serves to enhance inmates’ masculine identity (Newman, 1974; Scacco, 1982, as cited in Dumond, pp. 140, 143). Inmates are members of a subculture that has found most nonsexual avenues of asserting masculinity closed; no more than physical prowess stands between these inmates and a sense of emasculation (Davis, 1968, p. 16). Members of the prison subculture view violence as a normative problem-solving mechanism. When applying the subculture of violence theory to prison sex in male prisons, it is readily apparent that the prison subculture, which values power, accepts violence as normative.
Proposition #1

A prison subculture of violence and hypermasculinity is not completely different from, or in conflict with, the dominant culture of which it is a part. The degree of difference and intensity in which violence and hypermasculinity are subcultural themes is variable; subcultural variation is quantitative and relative (Wolfgang & Ferracuti, 1982/2003, p. 156). Though the prison subculture’s value system is set apart from the dominant culture, the prison subculture shares some value elements with the dominant culture (Wolfgang & Ferracuti, p. 156). Some inmates hold values that associate sex with violence, or that consider violence to be appropriate behavior in dealing with others they perceive to be weak (Chonco, 1989, p. 79). Such values are not abandoned upon prison entry as the prison subculture is likely to reinforce such pre-incarceration beliefs. So that, even in prison, rape reinforces heterosexual norms (O’Donnell, 2004, p. 243). Inmate-on-inmate prison rape is tied to the two primary sources of male identity: sexuality and violence (Cotton & Groth, 1982, p. 47). It is with violence that victimizing inmates invade the sexual integrity of victimized inmates and take what they want (Scacco, 1975, p. 8). Inmate-on-inmate male “rape is a perverse extension of normative male behavior” and is a product of a male inmate’s need to attain power (Scully & Marolla, 1995, as cited in Man & Cronan, 2001, p. 148). Rape in prison is a demonstration of power, and thus, mirrors heterosexual rape in society at large (O’Donnell, p. 243).

Proposition #2

The establishment of the existence of the prison subculture of violence does not require that inmates sharing in the subculture’s value system must respond violently in all situations. Inmates do not, and cannot, engage in violence ad infinitum. Inmates constitute a subculture that more readily sanctions power attainment through violence (Tiger, 1970, p. 221, as cited in Scacco, 1975, p. 67). The prison subculture’s value system sanctions the use of violence in certain social interactions; inmates encountering these situations are expected to respond to them according to the dictates of the subcultural value system (Wolfgang &

**Proposition #3**

*The existence of range and variability of behavioral expression of violence amongst inmates emphasizes the penetrating and diffusive character of the prison subcultural theme of violence and hypermasculinity.* All inmates are expected to adopt the prison subculture (Hensley, Wright, et al., 2003, p. 290). Yet, inmates do not incorporate the inmate code in the same way. Inmate behavior is a product of the patterns of everyday interaction. Social learning of the prison subculture is a catalyst that facilitates sexual violence and inmate acceptance of violence to express masculinity (Scacco, 1975, p. 76). An inmate’s situational use of violence serves as an index of the extent to which he has assimilated the inmate code of violent and hypermasculine conduct (Wolfgang & Ferracuti, 1982/2003, p. 157).

**Proposition #4**

*The prison subcultural ethos of violence and hypermasculinity shows greatest localization, incidence, and frequency in limited age groups.* Most prison inmates range in age from late adolescence to middle age (Wolfgang & Ferracuti, 1982/2003, p. 157). The sharing of the themes of violence and hypermasculinity in the prison subculture reflects inmate-specific differences in learning violence as a problem-solving mechanism and same-sex sexual activity as a means of security, survival, and status attainment.

**Proposition #5**

*The counter-norms of the prison subculture are nonviolence and femininity.* Inside prison walls, free society, its attributes and delegates, are inherent inmate opponents. The inmate code, which accepts sexual violence, dictates that nonviolence and femininity are counter-norms; it is universal insofar as it cuts across all U.S. correctional facilities (Hensley, Wright, et al., 2003, p. 298; Rundle, as cited in Rideau & Sinclair, 1979/1982, p. 6). Inmates who fail to adhere to violence and hypermasculinity expectations and/or breach the prison sexual hierarchy are subject to sanctions by other inmates and reprisals (Hensley,
Proposition #6

The extent to which inmates assimilate the prison subculture’s value systems, and the range and variability of behavioral expression of violence and hypermasculinity amongst inmates entails learned behavior, and a process of differential learning, association, or identification. The prison subculture promotes a philosophy that legitimizes the power relationship (Miller, 1982, ix). Sexual violence in prison is a learned pattern (Scacco, 1975, p. 4). Inmates are trained in the prison subculture throughout their entire time in prison (Scacco, p. 9). Exposure to, assimilation of, and involvement in, the prison subculture is prison inmate-specific (Wolfgang & Ferracuti, 1982/2003, p. 157). Inmate argot sex/gender roles are dependent on the prison environment and prizonization (Keys, 2002, p. 258). The inmate code is linked directly to adaptation to prison life and to the process of socialization (Einat & Einat, 2000, p. 309, as cited in Hensley, Wright, et al., 2003, p. 299). Researchers have noted that, in terms of inmates’ adaptation to the inmate code, con-wise inmates are hard-core inmates who identify with the prison subculture and prison argot roles (Wooden & Parker, 1982, pp. 172-173). Whether or not an inmate is socialized into becoming con-wise is a matter of his own self-esteem (Wooden & Parker, p. 173).

The guiding force in the construction of the prison subculture is inmates’ involvement in impression management (Goffman, 1959, as cited in Tewksbury & West, 2000, p. 373). In prison, a man’s claim to his manhood is of the utmost value; men are expected to fight for their manhood (Man & Cronan, 2001, p. 153). Violence and hypermasculinity are socially facilitated and become more or less habitual behavioral patterns (Wolfgang & Ferracuti, p. 157). How a male inmate perceives himself as a man, and “how that perception is socially reinforced” determines whether he will rape (Lees, 1997, as cited in Man &
Cronan, p. 147). Violence and hypermasculinity become learned responses that are reinforced by pain and injury inflicted on victimized inmates and extrinsic rewards (Wolfgang & Ferracuti, 1982/2003, p. 157). The prison subculture is dominated by the zero-sum philosophy where inmates’ ability to raise themselves up depends on their ability to put other inmates down; this happens literally and/or symbolically (Wooden & Parker, 1982, p. 14). The degree of satisfaction derived from the rape act is in direct proportion to the degree of force and humiliation exacted on the victim (Davis, 1982, as cited in Man & Cronan, pp. 152-153), and determines the degree of power a victimizing inmate holds.

**Proposition #7**

*As members of the prison subculture of violence, inmates neither possess feelings of guilt for using violence as it is a legitimate problem-solving mechanism, nor do they perceive same-sex sexual activity as deviant as it is a legitimate means of surviving, and achieving security and status.* Violence and same-sex sexual activity are used between and amongst inmates who rely upon the same subcultural value system (Wolfgang & Ferracuti, 1982/2003, p. 158). The victimizing inmate and victimized inmate understand the power relationship (Tucker, 1982, p. 73); that violence and hypermasculinity occur in union. Because sexual violence is not perceived to be deviant, victimizing inmates avoid stigma associated with its use, and instead find that their use of violence serves to legitimize their position within the prison culture. Since victimized inmates perceive victimizing inmates as part of the same subcultural value system they represent, violent retaliation is normative. Inmates who do not hold membership in the subculture court violence if they fail to acknowledge the validity of prison subcultural norms as even tacit rejections amount to a challenge (Keys, 2002, p. 266). In fact, most inmates who have different value systems come to accept other inmates’ use of violence as normative.

**Routine Activities Theory**

According to routine activities theory, crime is most likely to be committed when situations occurring at the same point in time and space include
three elements: a motivated offender, a crime target, and the lack of a guardian capable of protecting the target (Cohen & Felson, 1979/2003, p. 43). The probability of the three elements occurring at the same time and place is influenced by a person’s routine activities. If a suitable target is not at the same place and time as a motivated offender, then the target will not be assaulted, damaged, or taken (Problem Oriented Policing [POP], 2003).

The routine activities theory presumes a steady supply of motivated offenders (Paternoster & Bachman, 2001, p. 20). Although the routine activity theory does not focus on offenders’ motivations, it assumes that offenders are motivated to commit crime because of self-interest (Paternoster & Bachman, p. 20). Moreover, the theory presumes that motivated offenders decide to commit crime based on subjective assessment of: target suitability (i.e. benefits), and absence of guardians capable of defending the target (i.e. risks and costs) (Paternoster & Bachman, p. 20). The presence of guardians can prevent rape. But, if guardians are absent, weak, or corrupt, motivated offenders will have the opportunity to locate suitable targets, and crime will take place (POP, 2003).

The term target refers to people or objects that provide some benefit. Motivated offenders perceive suitable targets as attractive. The most attractive targets provide motivated offenders with instant benefits (Paternoster & Bachman, 2001, p. 20). For personal crimes, the target is a person, and if the crime is successful, the person becomes a victim (POP, 2003).

The term guardian refers to people or objects that protect potential targets (Paternoster & Bachman, 2001, p. 20). Motivated offenders perceive guardians as obstacles. By increasing the risks and costs associated with crime, guardians make targets less suitable (Paternoster & Bachman, p. 20).

The term routine activity refers to the daily lives of people. Daily life puts people at risk of victimization. Risk of victimization is situational. People put themselves in circumstances and locations that influence risk of victimization (Paternoster & Bachman, 2001, p. 20; Schmalleger, 2005, p. 97). Lifestyle contributes significantly to the volume and type of crime found in society (Schmalleger, p. 97). The routine activities approach is based on the idea that, to
some extent, certain lifestyles are more crime prone than others. Lifestyles that contribute to criminal opportunity are likely to result in crime since they increase the risk of victimization (Schmalleger, p. 97). The routine activities theory relates patterns of victimization to everyday patterns of social interaction (POP, 2003).

**Theoretical Application of Routine Activities Theory**

Routine activity theory requires that motivated offenders encounter suitable crime targets that are not adequately guarded, and that these three elements occur at the same place and time. Inmate lifestyle contributes significantly to the extent and nature of sexual victimization found in the society of captives. Male inmates are raped where they live. It should come as no surprise that inmate-on-inmate rape is committed in prisons as the probability that these three elements will occur at the same place and time can be taken for granted. In this scenario, reference to the absence of a capable guardian is a key element.

**Motivated Offenders**

The prison populace is comprised of individuals with a history of criminal behavior. Prisons have a steady supply of motivated offenders, or victimizing inmates. It is expected that these motivated offenders are ready to commit rape if opportunity presents itself. Motivated offenders commit rape because of self-interests; these self-interests include, but are not limited to, motivated offenders’ needs for conquest and control, revenge and retaliation, sadism and degradation, conflict and counteraction, and/or status and affiliation (Groth & Burgess, 1980, p. 808). Motivated offenders will decide whether they will rape based on their assessment of victim suitability and absence of effective guardians. When guardians are absent, or present but weak or corrupt, the risk of rape increases as motivated offenders will have the opportunity they need to locate suitable victims.

**Suitable Targets**

Prisons have a steady supply of suitable targets. Rape is a personal crime, so targets are inmates, and inmates become victims. Not all inmates have the same risk of sexual victimization. Some inmates are more suitable targets of rape than are others. Motivated offenders, or victimizing inmates, have stereotypes as to which targets are most suitable. Some inmates possess personal and behavioral
characteristics typical of victims. From the perspective of motivated offenders, the most suitable inmate targets possess the following characteristics: openly homosexual; younger; smaller physical build; White; lacking gang-affiliation; inexperienced with prison life, imprisoned for the first time, or a first-time offender, serving shorter sentences for less serious, non-violent offenses; weak, isolated; and/or pro homosexual. Motivated offenders perceive suitable targets as attractive if inmate targets with the aforementioned personal and behavioral characteristics reflect the characteristics that are typical of victims.

**Capable Guardians**

Inmate targets with effective guardians are less likely to be raped than inmate targets lacking a guardian. Motivated offenders perceive guardians as obstacles, but in prisons, formal and informal guardians are absent, or if present, they are weak or corrupt. To many a surprise, on a continuum of guardianship, prisons can be found at the nadir. From the perspective of motivated offenders, the risks and costs associated with the crime of prison rape (i.e. ineffectual guardians) are decreased, thus making inmate targets more suitable.

Formal guardians are corrections staff. In prisons, the twin interests of custody and control do not hold even weight. The primary task of formal guardians is custody; custody is necessary before any other prison activity can be undertaken (Schmalleger, 2005, p. 602). The secondary task of formal guardians is control; control ensures order and safety (Schmalleger, p. 602). Inmates far outnumber formal guardians in prisons (Schmalleger, p. 602). Due to an inadequate number of formal guardians, prisons are necessarily more concerned with keeping inmates in custody than they are with keeping inmates safe.

Formal guardians have access to a number of environmental tools that can increase the risks and costs associated with prison rape. Although formal guardians have access to environmental tools (i.e. walls, fencing, lighting, cameras, bars, locks, alarms, and the like) that decrease victimization risk, the effectiveness of some of these tools is limited by too few formal guardians. Further, environmental tools are not omni-present as evidenced by the existence of blind spots and other areas that are prone to victimization.
Each prison is unique in terms of environmental factors that dictate routine prison activities. Environmental factors include: security level, type of population, ratio of single versus multiple cells, inmate-staff ratio, and the nature and extent of social interaction (i.e. structured versus unstructured free time), among others (Saum, et al., 1995, p. 428). The aforesaid factors play a salient role in the nature and frequency of prison sexual activity, and the risk of sexual victimization varies according to the conditions encompassing a specific prison (Saum, et al., p. 428).

Informal guardians are allies of suitable targets. Inmates that happen to be at the same place and time as suitable targets are not necessarily informal guardians as the inmate code dictates that inmates are to do nothing to save another inmate from being raped unless they are allies.

**Routine Activities**

The term routine activity refers to the daily lives of inmates. Daily prison life puts inmates at increased risk of sexual victimization as inmates live in a crime prone milieu. The routine daily activities of prison life relate patterns of offending to everyday patterns of social interaction (POP, 2003). It is in social interaction that the prison social system emerges (Sykes, 1958, p. 6). Inmates have no choice but to live in a society with forced intimacy (Sykes, p. 4). Inmates are placed at risk of being targeted or victimized while going about their daily lives, thereby providing motivated offenders with opportunity. Social interaction is a salient factor leading to rape since there can be no sexual violence without social contact (Fuller & Orsagh, 1977, p. 48). In prisons, motivated offenders constantly scrutinize the behavior of suitable targets (Sykes, p. 4). The behavior of suitable targets is also under surveillance of formal and informal guardians (Sykes, p. 4). But, formal and informal guardians are not ever-present. Even if present, formal and informal guardians may be weak or corrupt. Patterns of release and re-confinement set the stage for social interaction between motivated offenders and suitable targets and between suitable targets and formal and informal guardians (Sykes, p. 6). The routine daily activities of suitable targets contributes to the criminal opportunities that motivated offenders are afforded, and are likely to result in rape as they increase the risk of victimization.
SECTION IV: RECOMMENDATIONS

There is a great need for creative and effective measures to deal with the problem of male inmate-on-inmate prison rape, and the search for solutions to this problem must be far-ranging (Lockwood, 1982, p. 260). Formulation of a response to the problem of inmate-on-inmate prison rape must reference two elements: the prison subculture and capable guardianship. Inmate behavior is a product of the patterns of everyday interaction. Efforts at reform that ignore these two elements are as futile as the labors of Sisyphus (Sykes, 1958, p. 134). In addressing the problem of male inmate-on-inmate prison rape, prevention is a key strategy for change (Dumond, 1992, p. 149).

In making prevention recommendations, the bulk of the literature focuses on staff-oriented training. With few exceptions, the vast majority of prevention strategies presented in the literature have placed prevention in the hands of corrections staff. However, prevention strategies must be inmate-oriented because inmate-on-inmate prison rape is most effectively prevented and controlled by the inmates themselves; it is the inmates who tolerate sexual violence, and who fail to protect themselves and their peers (SPR, 1993, p. 7, as cited in Eigenberg, 2000b, p. 431). Inmates must be made to realize that their destiny is in their hands (Hardy, as cited in Weiss & Friar, 1974, p. 235). The proposition that inmates can be empowered to be agents of prevention in dealing with the problem of inmate-on-inmate prison rape is a rarity in existing literature. In referencing the prison subculture, prevention must include inmate-oriented training, and in referencing capable guardianship, prevention must include an inmate buddy system. In this section, recommendations include: inmate-oriented training, and formation of an inmate buddy support system as prevention strategies.

Recommendations that address the prevention of rape in prison are indispensable. The harms associated with inmate-on-inmate prison rape are incalculable. Prison rape negatively impacts inmates, their families, prisons, and

\[^{4}\text{In Greek mythology, Sisyphus was punished for his various crimes by being required to roll a huge stone to the top of a hill, only to have it roll back down, for all eternity (i.e. a symbol of futility).}\]
society. Prevention strategies that empower inmates: send a profound message to inmates that their suffering will no long be tolerated; have the potential to generate a positive and enduring impact on inmates, their families, prisons, and society; facilitate staffs’ clear obligation to prevent rape; and, prepare inmates for a nonviolent and law-abiding return to the free world.

**Inmate-oriented Training**

Most newly-detained inmates hold inaccurate beliefs about prison sexual activity. One study found that 88% of male inmates expected inmate sexuality to be characterized by blatant homosexuality or sexual abstinence, but instead were confronted with “a normative structure of sexual behavior that was adaptive, functional, and had consensus validation” (Keys, 2002, pp. 265-266). Most inmates agree that incidents of prison rape could be reduced if prisons improved training for inmates (Struckman-Johnson, et al., 1996, p. 74). Training of newly-detained inmates before they enter the prison environment is vital as the majority of inmate-on-inmate prison rapes first occur within a few days of imprisonment (Dallao, 1996). One of the most useful steps that corrections authorities can take is to honestly prepare inmates for the realities of prison life (Tucker, 1982, p. 77).

Typically, inmate training instructs inmates on the rules and regulations of prisons, and acquaints inmates with prison programs (Wooden & Parker, 1982, p. 102). Even to this day, most inmates receive no training on the biggest problem in prisons themselves (Lockwood, 1982, p. 261), prison sexual violence. Since unwanted sexual contacts remain unaddressed, inmates have no choice but to turn to their peers for direction. Unfortunately, the inmate code dictates that inmates manage prison sexual violence with violence (Lockwood, pp. 258-260). The following scenario is fairly common and illustrates the need for inmate-oriented training on inmate-on-inmate prison rape: Inmate A is targeted for unwanted sexual contact and goes to his peer, Inmate B, for advice; Inmate B informs Inmate A that he must has two choices, either fight or f*ck, and tells Inmate A to use violence to solve his problem. Had Inmate A or B been trained to handle

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5 [see also footnote 2] The State of California’s Sexual Abuse in Detention Elimination Act of 2005 requires that the CDCR provide inmates with informational handbooks regarding sexual abuse in prison (SPR, 2005).
incidents of unwanted sexual contact in a non-violent manner, then violence might have been avoided. Inmate-oriented training can empower inmates so that they do not place themselves at risk (Dumond, 1992, pp. 149-150).

Inmate oriented training can negatively influence and positively counteract the prison subculture’s value system and the process of prizonization. Inmate oriented training promotes normalization and the dominant culture’s value system. The same values and norms that check same-sex sexual activity and sexual violence in free society would check same-sex sexual activity and sexual violence in prison (Nacci & Kane, 1984a, p. 51). Training fosters discussion about, and promotes dissemination of information regarding, same-sex sexual activity and violence (Nacci & Kane, p. 51). Training promotes the message that violence is an unacceptable means of problem-solving; this message is likely to impact some inmates’ willingness to participate in, expect, and willfully prepare for, violence. Training destroys the legitimacy of the power relationship because sexual violence is stigmatized. Training discourages prisonization, thwarts inmates’ social learning of the prison subculture’s value system, and impedes inmate endorsement of the themes of violence and hypermasculinity. Inmate exposure to, assimilation of, and involvement in, the prison subculture will, to some extent, be offset by on-going inmate oriented training.

Before inmate-oriented training is offered, corrections authorities must ask inmates if they have ever been a victim of nonconsensual sexual acts and/or abusive sexual contacts. This author’s review of the literature yields a surprising number of anecdotal cases of victimized inmates alleging that corrections staff never asked them if they had been victims of inmate-on-inmate prison rape. If an inmate admits victimization, then staff must offer the victim medical and mental health treatment, and legal recourse, in addition to inmate-oriented training.

For inmate-oriented training to be effective, training components must instruct inmates on:

- the right to be free from unwanted sexual contact (Moss & Wall, 2005);
- the possibility of becoming a target or victim of nonconsensual sexual acts and/or abusive sexual contacts;
- victimizing inmate characteristics (Nacci & Kane, 1984a, p. 51);
- predicted individual rape risk (Cotton & Groth, 1982, p. 56);
- how predicted individual rape risk can be reduced (Cotton & Groth, p. 56);
- the dangers associated with prison routine daily activities;
- common-sense rape avoidance strategies (Dallao, 1996; Struckman-Johnson, et al., 1996, p. 74);
- the dangers of publicly endorsing pro-homosexual attitudes in prison;
- how to safely engage in discussions about sex;
- atypical inmate social behaviors;
- cues that communicate lack of interest in pursuing sexual liaisons (Nacci & Kane, 1984a, p. 51; Nacci & Kane, 1984b, p. 8);
- the power relationship;
- the inappropriateness of talking about male inmates using female references (Nacci & Kane, 1984a, p. 51);
- the inappropriateness of male inmates serving as female surrogates (Nacci & Kane, 1984a, p. 51);
- the prison environment (Dumond, 1992, p. 149; Fagan, et al., 1996, p. 60);
- the prison subculture (Dumond, p. 149; Fagan, et al., p. 60);
- the intricacies of the inmate code;
- the manipulative and seductive nature of prison sexual activity (Dumond & Dumond, 2002a, p. 72);
- how to distinguish between nonconsensual and consensual sexual activity (Chonco, 1989, p. 80; Moss & Wall);
- tried-and-true techniques in dealing with the nonconsensual nature of most prison sexual activity;
• the three main methods that victimizing inmates use to sexually assault victims: entrapment, intimidation, and physical force (Groth, Burgess, & Holmstrom, 1977, as cited in Dumond & Dumond, p. 71);
• the art of detecting set-ups (Chonco, p. 80);
• victimizing inmates’ motivations: conquest and control, revenge and retaliation, sadism and denigration, conflict and counteraction, and status and affiliation (Groth, Burgess, & Holmstrom, 1977, as cited in Dumond & Dumond, p. 72);
• non-violent ways of responding to sexual violence (Dumond, p. 143)\(^6\) and handling interpersonal conflicts;
• assertive skills (Nacci & Kane, 1984a, p. 51)\(^7\);
• the use of counterforce\(^8\);
• human relations skills\(^9\);

\(^6\) When confronted with sexual violence, inmates have four options, each with negative consequences: escaping the situation by requesting protective segregation and being housed in a prison within a prison; fighting back and risking greater physical injury and disciplinary sanctions; submitting to nonconsensual sex and being permanently branded as a victim, and/or a snitch if the rape experience is disclosed; and/or enduring rape in silence and secrecy and risking re-victimization (Cotton & Groth, 1982, p. 50). Assertiveness training can provide inmates with realistic ways of responding to unwanted sexual contact (Tucker, 1982, p. 77).

\(^7\) Among male inmates, violent sexual incidents fall into two groups. In the first group, victimizing inmates employ violence to gain sexual access, and in the second group, victimized inmates employ violence to prevent sexual access (Lockwood, 1982, p. 257). There is a typical transactional pattern found in both: body language and offensively perceived words provoke retaliatory insults, threats, and/or violence (Lockwood, p. 257).

\(^8\) Assertiveness skills can be conceptualized on a continuum that allows inmates to match verbal and physical levels of attack with an appropriate response (Anderson, 1982, p. 157). When victimizing inmates’ use of sexual advance escalates (i.e. from verbal to physical), so must victimized inmate response (Anderson, p. 157). Inmates must be able to access both informal and formal protective options. Training inmates to handle unwanted sexual advances nonviolently may increase inmate capacity for positive social interaction (Anderson, p. 158).

\(^9\) Human relations’ training increases inmates’ interpersonal skills, relieves interpersonal or group tensions, and develops individual and group problem-solving skills (Lockwood, 1982, p. 260). It is taught by inmates, and exercises are adapted to prison life (Lockwood, p. 260). Preparation of inmate trainers takes a few weekends; followed by a brief apprenticeship with an experienced trainer; then inmate volunteers run workshops (Lockwood, p. 260). Yearly in-house workshops must be offered to inmates seeking a refresher on nonviolent responses to violence (Lockwood, p. 260). Group sessions include role playing so inmates can practice being assertive. Group exercises, based on actual incidents, must be designed to defuse the escalating sequence of events typically found in cases of unwanted sexual contact (Lockwood, p. 260). Although this approach has not been evaluated, it has a solid conceptual basis and is intrinsically sensible.
• social literacy skills\textsuperscript{10};
• mechanisms of reporting inmate-on-inmate prison rape (Dumond, p. 149; Fagan, et al., p. 60);
• reporting options (Eigenberg, 2000a, p. 446);
• disciplinary policies and/or legal consequences of inmate-on-inmate prison rape (Cotton & Groth, p. 56; Dumond, p. 149; Fagan, et al., p. 60);
• the fact that sanctions cannot and will not be imposed if allegations are not substantiated (Moss & Wall);
• disciplinary actions that will be taken if an inmate fabricates a prison rape case (Moss & Wall);
• the effects of Rape Trauma Syndrome, and that being raped is not the end of the world (Tucker, 1982, p. 77);
• what services, treatment options, and follow-up care is available for victimized inmates (Cotton & Groth, p. 56; Eigenberg, 2000a, p. 446; Moss & Wall); and,
• which staff will provide crisis intervention services, and under what circumstances (Cotton & Groth, p. 54).

In formulating inmate-oriented training, corrections authorities need not reinvent the wheel. Corrections authorities would be well advised to model inmate-oriented training on staff-oriented training. Techniques that are used in training staff can be used to train inmates. Training programs must incorporate role playing, vignettes casting hypothetical inmate “actors”, and short stories with sexual and non-sexual themes that require inmates to select nonviolent and non-sexual solutions to interpersonal conflict and apply definitions of rape to concrete

\textsuperscript{10} Developed by Freire, literacy means identifying problems, considering the causes, and acting to solve the problem (Hyman, et al., 1979, as cited in Lockwood, 1982, p. 261). The social literacy training approach is indicated as sexual violence in prisons is often hidden (Lockwood, p. 261). Training in social literacy must offer specific problem-solving techniques that inmates can use to reduce sexual violence. The strength of the social literacy approach is that it is a process in which the specific form of improvement is provided by the inmates themselves (Lockwood, p. 262). Little expense or organizational change is necessary as recommendations come from inmates, who may be motivated to carry them out if they take ownership (Lockwood, p. 262).
situations (Eigenberg, 2000a, p. 442; Eigenberg, 2000b, p. 430; Nacci & Kane, 1984a, p. 46). Authorities can also refer to SPR as a resource for information.

Written training materials must be given to inmates, and be supplemented by oral briefing (Tucker, 1982, p. 77). Corrections authorities must be mindful of the fact that the average literate inmate has less than a sixth grade education (Weiss & Friar, 1974, p. 247). Reading materials that are distributed to literate inmates must be written at an appropriate level. Corrections authorities must also be attentive to the fact that roughly 60% to 75% of U.S. prison inmates are illiterate (Herrick, 1991; Ryan, 1990, as cited in Hensley, Tewksbury, et al., 2003, p. 604). This fact underscores the importance of supplementing written materials with oral briefings. Further, since there are a growing number of inmates whose native language is not English; corrections authorities must make efforts to provide inmate-oriented training materials and oral briefings in other languages.

**Inmate Buddy Support System**

The idea of an inmate buddy support system is similar to and modeled after three existing types of inmate relationships that are found in prisons; pseudo families as found in prisons that incarcerate females, protective partnerships as found in prisons that incarcerate males, and inmate social relationships. Most male inmates form friendships and socialize within their cliques; most find a "buddy" (Wooden & Parker, 1982, p. 78). The inmate buddy support system is grounded in this existing coping mechanism and mode of inmate adaptation.

In female prisons, same-sex social relationships are modeled after the family unit, and involve a gender dynamic of male and female roles. Female inmates engage in pseudo families that allow them to relate to, and identify with, each other as kin (Hensley & Tewksbury, 2002, pp. 231, 241). In male prisons, authorities can reproduce kinship bonds by placing male inmates in kinship groups, which offer informal guardianship.

In male prisons, inmates form same-sex symbolic relationships that meet their immediate needs for safety, security, and status. These relationships are referred to as protective partnerships, protective pairings, or in prison parlance, hooking-up (Dallao, 1996). Hooking up is a regular event in male prisons (Keys,
2002, p. 271); one study found that most (88%) homosexual inmates hooked up with another inmate for protection (Wooden & Parker, 1982, p. 254). Symbolic relationships involve a power and gender dynamic of dominant (i.e. male) and subordinate (i.e. female) roles. Hooking up often appears consensual, when in fact, it is a means of adaptation and survival; a punk hooks up with a man for protection (Dallao; Kunselman, et al., 2002, p. 29). In male prisons, authorities can reproduce protective partnerships by placing male inmates in pairings, which offer informal guardianship. Pairings would exist within kinship groups.

Inmate social relationships are most often determined by gang affiliation and dictated along racial lines. White male inmates lack a sense of solidarity that minority group inmates are apt to possess (Human Rights Watch, 2001, as cited in Man & Cronan, 2001, p. 159). The inmate buddy support system draws inmates of all races and places them in kinship pairings and groups regardless of race.

The inmate buddy support system produces informal guardianship. The routine activity theory assumes a steady supply of motivated offenders, or victimizing inmates, and holds that three elements must be present for victimization to occur: a motivated offender, a suitable target, and the absence of guardian capable of defending the target. Since formal guardians cannot stand witness to every inmate act, the system provides an added measure of protection, and takes advantage of the inmate code that prohibits inmates from messing around with another inmate’s punk (Wooden & Parker, 1982, p. 107).

The inmate buddy support system puts into place informal guardians that counter the risk of sexual victimization that is present in the routine daily activities of prison life. A major reason why attempts at prison rape are successful is due to the absence of formal guardians (Man & Cronan, 2001, p. 184). Most prison rapes occur at night, and in housing areas, when inmates are left alone and unsupervised (Human Rights Watch, 2001, as cited in Man & Cronan, p. 181). Prisons that lack funding to increase the number of formal guardians at night, or that place inmates in double-cells, will be able to use the system to their benefit. Prisons can place inmate pairs in double cells, offering a measure of informal guardianship. Prisons can also place inmate pairs within a kinship group in nearby
cells, offering an even greater measure of informal guardianship. Inmate pairs within a kinship group can also be placed in disparate areas so as to offer other inmates in the kinship group “safe cells” (O’Donnell, 2004, p. 249). Safe cells could be a place of protection where inmates can escape or call for help if they find themselves subject to unwanted sexual advances. Placement of informal guardians throughout the prison may result in reduced risk of sexual violence.

In terms of inmates’ adaptation to the inmate code, distinctions can be drawn between an inmate who is con-wise and an inmate who is newly-detained (Wooden & Parker, 1982, p. 172). Con-wise inmates are hard-core inmates who identify with the prison subculture, prison sexual hierarchy, and the inmate code (Wooden & Parker, pp. 172-173). Newly-detained inmates have often not been prisonized (Wooden & Parker, pp. 172-173). Con-wise inmates tend to be older than newly-detained inmates. The “prison sexual scene is more or less a young man’s activity” (Wooden & Parker, 1982, p. 176). Most male inmates typically desist from prison rape in their mid-thirties (Tucker, 1982, p. 76), and the majority of con-wise inmates are not sexually active (Wooden & Parker, p. 176).

In becoming involved in the inmate buddy support system, newly-detained and con-wise inmates would undergo a process that is akin to an on-line dating service. Involvement in the system would be voluntary. Con-wise and newly-detained inmate volunteers would be required to complete an in-depth survey, and would be screened on multiple dimensions. Con-wise inmates with liberal views would make ideal candidates. Inmate participants would be mindfully matched into pairs depending on compatibility. Once paired, inmates would have the chance to engage in bonding activities. An inmate buddy support system that is based on kinship groups and pairings would pair a newly-detained inmate with a con-wise inmate in an informal guardianship pairing, and then place the pair within an informal guardianship kinship group that cuts across racial lines.

The concept of kin selection is behind formation of pairings and kinship groups. The inmate buddy support system emulates normative social relationships as found in free society. Presently, male inmate social relationships have a power and gender dynamic where inmates are placed in dominant (i.e. masculine) or
subordinate (i.e. feminine) roles. The system negates this dynamic as pairings and kinship groups would exist within an egalitarian and fraternal society. Pairs would be delineated in such a manner that con-wise inmates would assume leadership positions (i.e. grandfather, father, or older brother), and newly-detained inmates would assume fledgling positions (i.e. grandson, son, or younger brother) in the pair, and inmates pairs within kinship groups would emulate kin relations (i.e. uncles-nephews, or first and second cousins, etc.). In this way, establishment of same-sex ties between male inmates emulates normative fraternal relationships (i.e. grandfather-grandson, father-son, or older brother-younger brother, and the like), and has the added benefit of being continuous, which is especially important in light of the fact that most inmates will one day recidivate.

The prison subculture accepts violence as a normative means of status attainment. The inmate buddy system provides inmates with an alternative, non-violent and non-sexual means to attain status. The inmate buddy support system counters existing egoistic attitudes and behaviors of participants. Inmates involved in pairings and kinship groups would ideally come to possess altruistic attitudes and behaviors toward their “kin”. For inmates with long sentences, kinship relationships can provide inmates with a sense of purpose; inmates have the opportunity to help their fellow inmates and are empowered (Keys, 2002, p. 268). In this way, the shakedown for male inmates would occur within a family network (Keys, p. 266). Most male inmates are subjected to direct and indirect propositions that: appeal to their sense of anxiety regarding prison rape, and stress the functional nature of same-sex sexual activity (Keys, p. 268). The inmate buddy support system does much to shield vulnerable inmates from such propositions; kinship relationships can serve to control inmate same-sex sexual activity by mitigating environmental stress (Keys, p. 268).

In the prison subculture, the inmate code bars intimate relationships. Although most inmates are starved for affection, no inmate would admit it as the inmate code dictates that inmates are to be cold, hard, and emotionally distant (Wooden & Parker, 1982, p. 73). Many inmates have not had the opportunity to form positive relationships with their parents and/or children. The inmate buddy
support system provides inmates with positive fraternal relationships that increase inmates’ sense of solidarity, belonging, security, support, companionship, and status (Giallombardo, 1966; Heffernan, 1972; Nelson, 1974; Propper, 1982; Greer, 2000; as cited in Hensley & Tewksbury, 2002, pp. 227-233).

Pairing and kinship groups provide inmates with system of social support, reasonable stability, and relative comfort (Wooden & Parker, 1982, p. 174). Inmates who are isolated or engage in solitary activities are at an increased risk of rape. Inmates in the inmate buddy support system would engage in prison-sponsored protective alliances that could decrease risk of rape, and/or inmate fears regarding vulnerability to sexual violence.

The inmate buddy support system counters the importance placed on the prison subculture (and, the prison sexual hierarchy, power differentials, and gendering found in male prisons) (Keys, 2002, p. 275). In the system, con-wise inmates acclimatize and orient newly-detained inmates to the prison subculture and the inmate code. Con-wise inmates instruct newly-detained inmates on typical inmate behaviors and on the testing and set-up process (Wooden & Parker, 1982, p. 105). These same-sex alliances help inmates overcome demographic isolation and the restrictive prison setting (Giallombardo, 1966; Heffernan, 1972; Nelson, 1974; Propper, 1982; Greer, 2000; as cited in Hensley & Tewksbury, 2002, pp. 227-233). The inmate buddy support system can help inmates manage depersonification, status anxiety, competition, and prison violence.

The inmate buddy support system can help inmates manage the prisonization process (Keys, 2002, p. 260). Newly-detained inmates can help to counter prizonization, thereby fostering normalization. Normalization means that the same norms that check same-sex sexual activity in society should check same-sex sexual activity in prisons (Nacci & Kane, 1984a, p. 51). Newly-detained inmates can promote normative same-sex views that it is not acceptable for male inmates to serve as female surrogates in sexual ways. Pairing newly-detained inmates with con-wise inmates can foster normalization in con-wise inmates. Con-wise inmates can instruct and encourage newly-detained inmates to avoid places that are difficult for staff to supervise (Nacci & Kane, p. 51).
SECTION V: CONCLUSIONS

In the U.S., prison rape is a near-universal problem, and is a savage extension of court sentences (Gilligan, 2000, p. 165, as cited in O’Donnell, 2004, p. 246). The claim that corrections authorities are unaware that inmate rape happens is preposterous. In many prison rape cases, ignorance on the part of correctional authorities is surely a sign of deliberate indifference.

Misinformed policymakers and correctional authorities can significantly handicap efforts at reform in the area of inmate-on-inmate rape of males in prison (Paparozzi & Lownkamp, 2000, as cited in Dumond & Dumond, 2002b, p. 91). Training can accomplish what management cannot (Maghan, 1997, as cited in Dumond & Dumond, p. 91). So too, informal inmate guardians can do what formal guardians cannot. The absence of real privacy in prison makes it almost impossible for rape to go unnoticed (Weiss & Friar, 1974, p. 156). A joke that has appeared in various anecdotal accounts is as follows: there are three inmates in a cell; one inmate is doing the raping, another inmate is being raped, and the third inmate didn’t see anything. Prison rapes do not go unnoticed.

The recommendations section of this paper advances sound advice for training of inmates and for formation of an inmate buddy support system with the goals that such preventative recommendations will prove valuable in empowering inmates to protect themselves and each other.

Prison rape is by no means an inevitable consequence of incarceration (Mariner, as cited in Hansen, 2001). Correctional authorities would be well advised to refrain from engaging in a “hit and run” approach to the problem of prison sex and prison rape as this approach is unlikely to provide long-term resolution. Good correctional management averts civil liability (Vaughn, 1996, pp. 143, 150). A high degree of staff professionalism will help reduce the incidence of prison rape and create an atmosphere in which civil liability is minimized (Vaughn & Del Carmen, 1995, p. 83). Staff must be cognizant of the dangers that inmates face and accept responsibility for preventing prison rape.
Staff must take seriously inmate claims of rape, and protect at-risk inmates and inmates who disclose rape.

Congress enacted the Prison Rape Elimination Act of 2003 absent popular demand, in part, because Congressional findings declared that the public was “largely unaware of the epidemic character of prison rape and the day-to-day horror experienced by victimized inmates” (Mair, et al., 2003, p. 602). The National Prison Rape Reduction Commission, which has been in the process of conducting a comprehensive study on the impact of prison rape is required to issue a report no later than July 6, 2006; the report is to include national standards for the detection, prevention, and reduction of prison rape, and punishment of perpetrators of prison rape. Within one year of receiving the recommendations of the National Prison Rape Reduction Commission, the Attorney General must adopt a national standard (NIC, 2004).

At present, the criminal justice system is trying to remedy a problem of dimensions that are ambiguous at best; statistics on the incidence of prison rape must be regarded as conservative (Cotton & Groth, 1982, p. 48). Nearly 200 years after the first record observation of prison sexual violence, the state of sexual violence in prisons appears relatively unchanged. By turning a deaf ear, society makes itself a party to the crime of inmate-on-inmate prison rape (Cahill, 1985, p. 34). The problem of prison rape is not only a criminal justice issue; it is a societal issue, an issue of social justice (Clayton, 2005, p. 37), and a violation of inmates’ human rights. In 1994, the Department of State, in its’ annual Country Reports on Human Rights asserted that human rights abuses “remain widespread” and multiply “in countries in which violators are not held accountable” (Department of State, 1994, p. xv, as cited in Baro, 1997, p. 80). To be sure, rudimentary humanity compels free society to do something (Man & Cronan, 2001, p. 129), for the man in prison today is the man who will be out tomorrow; if treatment of a man in prison is such that it turns a man out with worse criminal tendencies, then Mr. Average Citizen will be the one to suffer (Fishman, 1968, p. 249, as cited in Kunselman, et al., 2002, p. 30).
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