
| RESEARCH ARTICLE

An Overview of Prison Rape Elimination Acts (Prea) 2003

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| ABSTRACT

The main objective of this paper is to briefly focus on a reform related to prison called PREA which stands for Prison Rape Elimination Act, 2003. Prison Rape Elimination Act is a US federal law that was implemented in 2003 to eradicate rape in prisons. PREA created principles for recognizing, preventing, and responding to sexual abuse and harassment in correctional settings such as prisons, jails, juvenile facilities, and immigration detention centers. The law also requires data collecting and reporting on incidences of sexual abuse within these facilities, as well as staff training to avoid such incidents. However, PREA 2003 could not meet all the criteria included in its principles to eliminate rape culture in the prison. From this concern, the main aim of this paper is to focus on a reform related to prisons called Prison Rape Elimination Act (PREA) 2003, the reasons why this act was put into place, the current status of prison rape, the positive, and negative impact of PREA 2003, probable strategies that can be helpful for the appropriate implementation of PREA 2003. To accomplish this endeavor, this research followed systematic literature review methods due to the availability of scholarly work in this field. Although PREA 2003 has some positive aspects, the overall analysis of this study has uncovered that PREA 2003 was not implemented accurately due to some of the practical problems related to it. There are still some improvements that need to be accomplished for the appropriate implementation of PREA 2003 for the prisoners. Some suggested ways were discussed in this study to improve the implementation of PREA 2003.

| KEYWORDS

Prison Rape Elimination Acts; reform; sexual abuse and harassment

| ARTICLE INFORMATION

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1. Introduction

Reform refers to bringing change in power dynamics, reducing harm from underlying strategies, and ensuring equal opportunities indiscriminate of race, class, and gender (Whitlock & Heitzeg, 2021). As a part of prison reform, the PREA 2003, which also created National Prison Rape Reduction Commission, was enacted to eliminate and create guidelines for the prevention and handling of sexual assault in prison, the imposition of a zero-tolerance policy for the offense, and the instruction and training of prison personnel (Jenness & Smyth, 2011; Smith, 2002). In this sense, the Prison Rape Elimination Act 2003 passed fast into law, providing for the analysis of the incidence and effects of prison rape in Federal, State, and local institutions and offering information, resources, recommendations, and funding to protect individuals from prison rape (Smith, 2002).

Nevertheless, after the implementation of PREA 2003, according to the Bureau of Justice Statistics (BJS), the nationwide estimates of substantiated occurrences of sexual victimization climbed from 2005 to 2007, declined in 2008 and 2009, and then increased once again in 2010 and 2011 (Buday-Murray, 2022). There are substantial reasons for the failure of this act: limited staff to financial constraints, overcrowded prison conditions, failure to build separate spaces for transgender inmates that are challenging to monitor, the social/ cultural environment of prison, and so on (Barrett, 2005; Pavel, 2023). At present, it is important to address pitfalls concerning the PREA 2003 and highlight new policies to make a change to eliminate prison rape since several studies suggest that prisoners who are sexually assaulted in prison face serious physical, psychological, and emotional repercussions. Moreover, sexual assault can hinder a victim's future employment prospects and raise the risk of violent crime and homicide. The

transmission of HIV and AIDS is also facilitated by sexual assault in prison (Buday-Murray, 2022). This paper will examine the background of the PREA, the reasons why this act was put into place, the current status of prison rape, the positive and negative impact of PREA, and probable strategies that can be helpful for the appropriate implementation of PREA.

Within the American criminal justice system, the frequency of sexual harassment and rape poses a serious issue (Ashmont, 2014). Early in the history of American prisons, the plague of prisoner sexual assault was acknowledged when Rev. Louis Dwight of the Boston Discipline Society denounced this "dreadful degradation" in 1826 (Katz, 1976). Although most Americans were aware that prison sexual assault was a problem, the specific scope of the issue was unknown because there was no national database tracking these occurrences. Only limited studies showed the incidence of women prisoners being victims of sexual assault (Katz, 1976). Among some scholars, Cindy Struckman-Johnson and her colleagues (1996) report that 22 to 25% of prisoners were the victims of sexual pressure, attempted sexual assault, or completed rapes (Struckman-Johnson, Struckman-Johnson & Rucker, 1996). One prisoner (10%) out of every ten experiences at least one full-fledged rape while inside. An average of nine times has been experienced by two-thirds of individuals who report sexual victimization during their incarceration, with some male inmates reporting as many as 100 incidences of sexual assault annually (Struckman-Johnson, Struckman-Johnson & Rucker, 1996).

According to experts, there are specific factors in place in prisons that affect the likelihood of assault or rape within the prison (Barrett, 2005). Firstly, Barrett (2005) claims that one of the main causes of rape and assault among prisoners could be overcrowding. To make the most of the space available without having to build new, expensive facilities, American prisons have become overcrowded. In overcrowded institutions, inmates are frequently forced to share rooms, baths, and shower facilities, eliminating the space that is necessary for maintaining solitude. Limiting privacy and sharing personal space might create a setting that is favorable to sexual assault (Barrett, 2005). Secondly, limited staffing and facilities have no way to keep homosexual and heterosexual inmates apart from one another or sexual offenders (Buday-Murray, 2022). Thirdly, race has become a concerning issue for sexual assault. Studies show that before 1999, African American men were primarily responsible for most prison sexual assaults on White men, accounting for over 90% of interracial rapes (Knowles, 1999). Fourthly, the demographics of the prison population and their living arrangements may also have a significant impact on the quantity of sexual assaults and rapes that occur there. According to Porter, Bushway, Tsao, and Smith of the Pew Charitable Trust, between 1999 and 2013, the number of state and federal prisoners who are 55 years of age or older increased by 234% (from 43,300 to 144,500) (Porter, Bushway, Tsao, Hui-Shien, Smith, 2016). Lastly, Mental illness may play a role in the attacks and rapes in prison. According to Al-Rousan, Rubenstein, Sieleni, Harbans, and Wallace (2017), the prevalence of mental illness in prisons is thought to be two to four times higher than that in the general population (Al-Rousan, Rubenstein, Sieleni, Harbans & Wallace, 2017).

1.1 Inmates Who Were More Prone to Sexual Assault

In the case of falling victim to prison rape, males and females represented different experiences (Dumond, 2003; Pavel, 2023). Male inmates fall into a few specific criteria that make them particularly vulnerable: Individuals classified as follows: (1) inexperienced youth; (2) physically frail or small; (3) mentally ill or with developmental disabilities; (4) not "tough" or "streetwise"; (5) not associated with gangs; (6) homosexual, transgender, or overtly effeminate; (7) those who have broken the "code of silence"; (8) those who are despised by staff or other prisoners; and (9) those who have experienced sexual assault (Dumond, 2003). Conversely, though certain characteristics do not play a significant role, women who were mentally ill, young, and first-time offenders were more at risk (Dumond, 2003; Pavel & Pia, 2024).

1.2 Mental Health Consequences of Inmates After Being Sexually Assaulted

A sexual assault survivor has gone through a transformative experience that has a devastating and overwhelming effect on their life; even one incident might cause a victim to endure lifelong agony and sorrow (Ruch, Chandler & Harter, 1980). There are severe physical, mental, social, and spiritual ramifications from sexual assault, which are widespread and terrible (Fagan, Wennerstrom & Miller, 1996; Pia, 2018). Most of the inmates were mentally depressed after being sexually assaulted. They showed mental depressive disorder, anxiety, despair, and a worsening of mental illnesses that already existed, and most victims ran the risk of committing suicide, which is the most serious mental health concern for the inmates who were sexually assaulted (Burgess, 1985). In the United States, between 60,000 and 100,000 people are admitted to prison due to mental illness (Ditton, 1999). As of mid-1998, there were an estimated 283,800 mentally ill prisoners in American jails and prisons, making up 16% of state and local jail inmates and 7% of federal inmates (Harlow, 1999).

1.3 Physical Health Consequences of Inmates After Being Sexually Assaulted

The inmates who were sexually assaulted while staying in prison suffered from diverse physical diseases, such as HIV+ sexually transmitted diseases (STDs), active tuberculosis, post-traumatic stress disorder (PTSD), chronic hepatitis B, suicidal ideation, cancer, and so on. On December 31, 2000, there were 1,014 (0.8%) and 24,074 (2.2%) federal and state prisoners in the United States who were known to have HIV positive (Maruschak, 2002). Female prisoners were disproportionately affected, accounting for 3.6% of all inmates compared to 2.2 percent of male prisoners, indicating an "epidemic behind bars" (Degroot, 2001; Pavel & Pia, 2024). In

1997, there were 1,400 instances of active tuberculosis among American prisoners, accounting for 4% of the country's total population, and it was stated that 155,000 released prisoners had chronic hepatitis B in the same year (Dumond, 2003).

1.4 The Social Consequences of Sexually Assault Inmates

The major social consequence related to the inmates who were sexually assaulted in prison was that they face devastating trouble not only integrating with the incarcerated community but also with the reintegration of society (Pavel, 2023). Essentially, sexually assaulted inmates regard themselves as stigmatized persons in society; they get labeled by most of the social members (Dumond, 2000). The negative effects of sexual assault on inmates hinder their social life (Pia, 2017). According to Steels & Goulding, sexual assault in prison can hurt a prisoner's ability to properly reintegrate into society after their release, which increases their risk of reoffending (Steels & Goulding, 2009; Pia, 2019).

1.5 Employment Consequences of Sexually Assault Inmates

The moment they are released from jail, they are unable to maintain employment; thus, the government and the rest of society must pay for their treatment and financial support (Pavel & Pia, 2024). This help may come from Social Security disability or public welfare programs (Ashmont, 2014; Abu Sayed et al., 2023).

2. Prison Prison Rape Elimination Act (PREA) 2003

Although prison rape has been a persistent issue in American jails virtually since their creation, the Human Rights Watch (HRW) publication *No Escape: Male Prisoner Rape* in 2001 was the catalyst for the enactment of the Prison Rape Elimination Act. Even though HRW had published multiple reports on sexual violence in American prisons since the publication of *All Too Familiar: Sexual Abuse of Women in U.S. State Prisons*, its groundbreaking study on the rape of female inmates, in 1996, there was little movement in Congress to enact laws intended to put an end to sexual violence in custody. A preliminary attempt to pass Prison Rape Elimination Act (PREA). It was proposed by Democratic Congressman John Conyers, Jr., MI, to compile a list of employees who had been sexually abused in 1998 (Smith, 2007). In 2001, The National media demanded a stop to the cruel and unusual punishment of rape in prisons, claiming that the two million prisoners in America have been lawfully deprived of their liberty, but they have not been sentenced to physical and psychological abuse" of sexual assault. Together with national legislators, social scientists, and organizations dedicated to human rights, religion, and the arts, the scandals like prison rape have brought together a rare and bipartisan coalition that is committed to resolving the crisis by passing a landmark law known as the Prison Rape Elimination Act of 2003 (Dumon, 2003). Moreover, according to Smith (2007), the Act's passage was made possible by three significant events: (1) the rise in the number of people under custodial supervision, mainly white men; (2) the emphasis on male-on-male prison rape rather than the sexual abuse of women in detention; and (3) the growing concern among conservatives about the consequences of sexual violence in detention (Smith, 2007).

After all those trajectories, the US Congress enacted the Prison Rape Elimination Act (PREA) in 2003 to lower the incidence of rape, sexual assault, and harassment in US correctional facilities. On July 21, 2003, the act was introduced and approved by the Senate on the same day. On July 25, 2003, the measure was taken up by the House and passed. On September 4, 2003, the act was signed into law by President George W. Bush (Buday-Murray, 2022). The main goal of PREA was to implement a zero-tolerance policy in all prisons required to follow accountability for behaviors and policies inside their organizations, and every employee should receive the necessary training (Buday-Murray, 2022; Pavel & Pia, 2024). Additionally, PREA also created the National Prison Rape Reduction Commission (NPRRC) to gather data on the true prevalence of sexual assault by inmates in all prisons around the country and use science to authenticate it (Dumon, 2003; Buday-Murray, 2022).

2.1 Current Status of Prison Rape Elimination Act (PREA) 2003

To eliminate prison rape, PREA holds a zero-tolerance policy, reporting procedures, accountability and investigations, data gathering and reporting, support services, education and training, risk assessment, and placement. According to Smith, The National Survey of Youth in Custody (NSYC), the National Inmate Survey (NIS), the Survey of Sexual Victimization (SSV), and the National Former Prisoner Survey (NFPS) are the four distinct data sets that the Bureau of Justice Statistics (BJS) has used to date to measure sexual violence that occurs in prisons. These data sources show that prevalence rates and overall counts of sexual victimization have increased even though there has been a decline in the number of inmates since 2005 (Smith, 2020; Pavel, 2024). According to national figures, the number of claims of sexual abuse in jails and prisons has climbed from 1,406 (2005) to 5,809 (2015) and from 4,791 (2005) to 18,666 (2015), respectively (Rantala, 2018). This translates to rises in rates per 1,000 prisoners in jails and prisons from 3.33 (2005) to 12.58 (2015) and 1.86 (2005) to 8.03 (2015) respectively (Smith, 2020). In 2008, about 4.5% of state and federal prisoners claimed victimization: the definition of sexual violence includes a variety of behaviors from unwelcome touching to nonconsensual intercourse (Beck & Harrison, 2008). Empirical research shows that the ongoing application of PREA in local and state criminal justice settings is one element that led to this rise in the reporting of sexual assault, as the PREA consists of elements like mandated reporting, heightened staff and prisoner awareness initiatives, and instructional training (Smith, 2020).

A further contributing factor is the rise in prison rape is both the lack of determination that prison rape has not occurred and the lack of sufficient proof to support that prison rape has occurred (Rantala, 2018). Considering these variations, studies ranging from 1-41% suggest that the prevalence rate of sexual victimization in jail is 1.9% (Gaes & Goldberg, 2004). This translates to between 149,200 and 209,400 instances of sexual victimization taking place in jails and prisons annually (Kubica, Brenner, Bybee, Campbell & Fedock, 2018). Moreover, after ten years of PREA implementation, five out of ten transgender prisoners said they had experienced sexual assault (Aveledo, 2022).

2.3 Positive Impacts of Prison Rape Elimination Act (PREA) 2003

Regarding the achievements of PREA, legislators, public interest groups, and people in the field of corrections are confident that it is at least one big step in the right direction. The following are some of the achievements of PREA 2003.

a) Changing Attitudes and Perceptions in the Corrections Field

PREA aims to alter the way government representatives and those working in the prison industry view prison rape by prioritizing the prevention, investigation, and prosecution of prison rape across all the country's correctional facilities (Corlew, 2006). It deals with prison rape—a confusing issue that the criminal justice system has tragically come to accept as normal, even using it as a twisted management tool—instead of acknowledging it for what it is and working to eradicate it. Pat Nolan argues that a member of the National Prison-Rape Elimination Commission, the mindset of many corrections officials is the largest barrier to stopping prison rape. In addition, Corlew points out that many correctional officials either pretend the issue does not exist or they allow it, even though this is not the consensus. A significant portion of PREA's goals is to alter the culture in corrections regarding prison rape (Corlew, 2006).

b) PREA Confronts the Indifference of the personnel in all Correctional Facilities

One of the reasons for prison rape was due to correctional staff's ignorance, indifference, tolerance, and failure to ensure proper management for inmates. As George Bernard Shaw wrote, "The worst sin towards our fellow creatures is not to hate them but to be indifferent to them: that's the essence of inhumanity" (Shaw, 1901). PREA aims to eradicate this kind of disinterest by focusing on the difficult problem of rape in jail and by providing financial incentives to states that prioritize ending rape in prisons (Corlew, 2005). The prioritizing ending prison rape, PREA put into effect an extensive set of guidelines for policies, practices, and responses in prisons and jails to stop, identify, and deal with sexual assault and abuse. The policies include any form of sexual misconduct that will not be accepted, correctional staff training and education, and appropriate audit functions (Aveledo, 2022).

c) Emphasize In-Depth Data Collection on the Sexually Abuse Prisoners

From 2001, PREA enabled Corrections officials to collect accurate data on sexually abused prisoners. It is estimated that over 50% of state correctional agencies maintained records of sexual assaults committed by prisoners (Corlew, 2005). Furthermore, with the initiatives of PREA, the Bureau of Justice Statistics (BJS) is gathering data in several ways to have a comprehensive picture of the type and prevalence of rape in prison. For instance, it collects yearly administrative data on sexual victimization in correctional facilities through surveys of all juvenile and federal prison systems, as well as a sample of private and local institutions (Corlew, 2005).

d) Spread a Concern Among Inmates and Correctional Staff that Prison Rape is an Issue

PREA promotes accountability, awareness, and prevention. The idea of sexual violence awareness surfaced in the testimonies of both prisoners and correctional officers through PREA 2003 implementation. For example, PREA raises staff and prisoners' awareness of the value of reporting issues rather than turning a blind eye (Smith, 2021).

e) Victim Support

The PREA's implementation was especially helpful to those who had experienced sexual abuse. Officers preferred the phrase "victim protection," which indicates a preference for preventing sexual victimization, whereas inmate replies preferred the term "victim support," which refers to the services and assistance that follow a sexual assault, security, protection, and institutional safety were priorities for correctional officials (Smith, 2021).

Overall, twenty years have passed since the Prison Rape Elimination Act (PREA) 2003 was established, and several significant advancements have occurred. Research studies, conferences, toolkits for sexual assault response teams, financing and grant initiatives, and service provider engagement are a few examples. This also includes a focus on the critical role of prison administrators, the creation of partnerships that optimize community resources, and updated definitions of rape that acknowledge the experience of male survivors (Department of Justice, 2012). PREA adoption was seen as having the ability to enhance general culture and bring about constructive change in prison rape (Smith, 2021).

3. Negative Impact of Prison Rape Elimination Act (PREA) 2003

Although the Prison Rape Elimination Act ensured proper standards to safeguard prison conditions as well as improve the prisoners' management system, scholars claim that it was the only achievement of PREA. The reason for this is that life in prison

was particularly tremendous and threatening for transgender inmates (Aveledo, 2022). They face both physical and sexual attacks and disparate treatment not only from the other inmates but also from the correctional staff.

Aveledo points out some aspects where PREA fails to ensure safeguards for the transgender community (Aveledo, 2022).

3.1. Discriminatory Treatment Towards Transgender Inmates

Transgender inmates in prison receive discriminatory treatment compared to cisgender inmates (Aveledo, 2022). In 2015, A transgender survey conducted by the National Centre for Transgender Equality found that Participants who are transgender were over five times more likely to be sexually assaulted by facility staff than the U.S. population in jails and prisons and over nine times more likely to be sexually assaulted by other inmates. Afterward, The University of California Irvine's Center for Evidence-Based Corrections took the initiative to inform the state correctional office that PREA's standards have failed to reduce prison sexual assault for transgender inmates. This is why they are falling victim to it in greater numbers (Aveledo, 2022).

3.2. PREA's Standards Fails to Assess Gender Identity for Transgender Inmates

The identification of LGBTQ+ inmates, as well as whether they identify as gay, lesbian, bisexual, transgender, intersex, or gender nonconforming, is a crucial part of the admission process. It was taken place through a case-by-case assessment. This information enables their care, security, and housing while incarcerated to be customized. However, A significant flaw in PREA is that it prevents a facility from assigning inmates based on their gender identity because prison authority thought that the facility, like assessing an inmate's identity, increases the likelihood of sexual assault for him/her. In this way, transgender inmates fall victim to sexual assault by other inmates and correctional staff for not getting the facility to identify their gender.

3.3 PREA Standards Create Burden for Correctional Officials

Implementing PREA's standard is expensive (Pavel, 2023). It cannot provide additional funding to build tools and spaces for the inmates. PREA rules were rejected by former Texas governor Rick Perry in 2014, who regarded them as counterproductive, unduly cumbersome, and a costly regulatory mess (Aveledo, 2022; Pavel, 2024).

3.4. PREA's Standard Was Considered as Less Effective

Prison staff and wardens play significant roles in finding out about any kind of incident happening in prison, including prison rape. In a study, prison wardens claim that compared to staff development and greater inmate surveillance, their prison rape and sexual assault rules were considerably less successful (Aveledo, 2022).

4. Suggested Policies for the Successful Implementation of PREA

4.1 Improve Methodological Patterns to Collect Data on Prison Rape and Highlight Accurate Prevalence Rates

As PREA emphasizes in-depth research and collecting statistics on sexually assaulted inmates, it needs to be accomplished following the proper methodological patterns. Research concentrating on fully committed rapes typically shows low prevalence rates; however, studies that use a more inclusive definition—such as those that look at targeting and other types of sexual coercion—show substantially higher prevalence rates (Jones & Pratt, 2008; Pavel, 2024).

4.2 Correctional Staff and Wardens Training is Important

To ensure a substantial implementation of PREA, correctional staff, and wardens training is a must. Staff training was highlighted by Eigenberg as a crucial component of dealing with counterproductive staff attitudes proactively and responsibly (Eigenberg, 1994). In addition, a study conducted by Monster and Jeglic found that wardens want more effective training to supervise sexual assault in prison (Moster & Jeglic, 2009).

4.3 Employ Mental Health Practitioners for Both Inmates as well as Correctional Officers

Mental health professionals will play a bigger role in addressing sexual assault, developing more responsive treatment plans for individual victims, and assisting institutions in making more positive responses (Dumond, 2000). By doing so, more prisoners would be willing to talk about new concerns as they emerged as they had grown accustomed to healthily handling their difficulties (Buday-Murray, 2022).

4.4 Separate Spaces for Juveniles and Adults, transgender Inmates

The PREA should include building separate spaces for juvenile, adult, and transgender prisoners in its policy because overcrowded in prison makes it prone to engage in sexual assault of those inmates.

5. Discussion and Limitations

This study has focused on the Prison Rape Elimination Act 2003 (PREA) as a prison reform by highlighting the background of PREA and some positive and negative aspects of it. Along with some suggested ways to improve PREA for the prisoners well being and eradicate rape culture from the correctional systems. It is evident from the systematic literature review that a bunch of scholarly work highlights the pitfalls of PREA, and it still needs some improvement to reduce prison rape culture and prisoners' suffering

from the correctional system. The significance of this study is putting more emphasis on the development of new policies for PREA 2003.

Although the above strengths are strong, this study has a couple of limitations. Firstly, since PREA was enacted in 2003, this study has collected ideas from some of the research that was done many years ago. Those ideas may have changed in recent times. Lastly, this study fails to collect any empirical data on the impacts of PREA 2003 from the prisoner's perspective. If this study could do that, it may provide new insights into the appropriate implementation of PREA 2003 for prisoners.

6. Future Research

Despite some limitations, this study has accomplished a novel work to briefly talk about PREA 2003 as a reform in the correctional systems and highlighting some of the positive and negative aspects of PREA 2003. This analysis of this study may foster new ideas for future researchers who are interested in any type of reform in the correctional system. Future researchers can employ data on the prisoner's rape culture and reveal new insights regarding prisoners' rape culture. Moreover, since prison conditions are still not completely developed in the USA, the suggestions which were included in this research may contribute to the implementation of new policies and programs for the increasing number of prisoners who are victimized by rape culture from their fellow members inside the prison.

7. Conclusion

This paper highlights PREA 2003 as a reform to eliminate prison rape, the current status of PREA, and some positive and negative impacts of PREA. Additionally, some suggested ways are discussed as well for better implementation of PREA. It can be said that Prison Rape Elimination Act 2003 was put into place with the hope that it would largely bring a comprehensive reform in the criminal justice system by establishing zero tolerance for prison rape, collecting accurate data on prison rape as well as changing the attitude of correctional officers and staff, creating awareness about prison rape, victim support, and so on. Though it was effective to some extent in the case of data collection regarding prison rape and identifying victimization, increasing reporting both for correctional staff and inmates, however, the potential impact of PREA has failed to bring a comprehensive reform in the criminal justice system. As a reform, PREA has failed to establish safeguards and supervision for transgender inmates, provide additional funds for building separate spaces, and provide assessment tools to ensure their identity, giving rise to the probability of sexual assault in prison. Furthermore, while reform always follows the path of alternative strategies to bring changes for a problem, PREA could not completely change the rape culture in the prison when adult prisoners, juveniles, and transgender prisoners are more prone to be sexually assaulted in prison still today. Some critics also argue that while PREA focuses a lot of attention on altering the conduct of staff members and prisoners, it falls short of addressing the core issues that lead to unintended consequences of the problem by creating ineffective systems, over-dependency on incarceration, and fostering of institutionalizations. This raises relevant questions to dismantle these problems in future research

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