

Crime After Crime

An inmate's account of the horror of prison rape

By Jens Soering

I WAS SO SCARED I cannot even remember what I screamed. But it must have been persuasive, for Flickin' Joe loosened his grip just enough for me to slide out of his hold, scamper away from the showers, and lock myself in my cell. Somewhere on the top tier I left behind my soap dish and my shampoo, my towel and my dignity—but not my virginity.

Flickin' Joe must have been stalking me for months. Like the rest of the inmates and the guards, I had assumed he was no danger to men because his primary sexual outlet was “gunning down” female correctional officers. That was how he had earned his nickname: when a woman guard came into view, he would busily flick himself through his skin-tight shorts. Neither the staff nor other prisoners dared object because Flickin' Joe was the biggest, baddest, blackest weightlifter in our known universe. I figured that a young, white, “fresh fish” like me was out of the firing line. I was wrong.

Such was my personal introduction to penitentiary love, 13 years ago in B-left pod, Building 4, Mecklenburg Correctional Center in Boydton, Va. At that point I had already spent four years in jail in England, whence I had unsuccessfully fought extradition to the United States. Inmate-on-inmate rapes were unknown in the London prison where I had been housed; even consensual homosexuality was rare and frowned upon. In America, on the other hand, the “convict code” encourages both forced and unforced sex, as I nearly learned at Flickin' Joe's tender hands.

My first reaction upon reaching the safety of my cell was relief so intense it swept through my body like a wave. Feeling another man pressed against my back, sensing nothing between me and penetration than the ultra-thin fabric of his sports shorts, knowing that my attacker outweighed me by over 100 pounds, seeing the correctional officer in the dayroom control booth discreetly look down at her *National Enquirer*, realizing that no other prisoner would prevent Flickin' Joe from breaking in the new guy, and hearing him growl in my ear, “What choo gonna do if I drag you in my cell right now?”—all that was perhaps the single most terrifying experience of my life. Once the terror passed, I felt both exhausted and strangely elated. I had lived to fight another day! But then I began to realize that my problems were far from over. In some ways, they had just begun.

At the reception and classification center where I had spent a few months before coming to this prison, I and at least a dozen other new intakes had watched a young man get raped. His cell partner pulled a shank on him and forced him to perform fellatio through a broken-out window in their cell door on a prisoner in the hallway. Everyone—including, I am sorry to say, myself—cheered and applauded, perhaps because we were so intensely relieved that we were not the ones being abused.

When the victim reported the assault, he was placed in the punishment block “for his own protection,” while the aggressor remained in the general prison

population. No one dared to co-operate with the perfunctory institutional investigation since snitches were beaten, raped, and sometimes killed. And so the predator was never held accountable, while his victim could look forward to spending his entire sentence “protected” in a series of segregation units.

Knowing this, I did not tell the guards about Flickin' Joe's attack on me. Nor did I speak to the facility's psychologist: he simply doled out tranquilizers and, in my case, would report the assault to the security staff. If I turned to other inmates for emotional support, they would read this sign of weakness as an invitation to become my “prison daddy” or “friend”—both penitentiary euphemisms for jailhouse husbands. Telling my family was out of the question, too, since that would only cause them anxiety about something they could not change. So I kept my mouth shut and started lifting weights to work off my pent-up emotions.

Looking back, I realize how freakishly lucky I was that I had not been raped, like so many other fresh fish. Had I been, I might well be dead today because Flickin' Joe has since died of AIDS. That is the part that late-night comedians leave out when they crack jokes about dropping the soap in a penitentiary shower.

Prison rape is not an isolated, if tragic phenomenon, but a common occurrence in America's correctional systems. According to the former Republican attorney general of Virginia, Mark Early, “anywhere from 250,000 to 600,000” of

America's 2.1 million prison inmates are forced to have sex against their will each year. According to other estimates by university researchers and Human Rights Watch, nearly one in four prisoners faces sexual pressure, attempted assault, or rape, and one in ten is actually raped.

As a point of contrast, the FBI and the Bureau of Justice Statistics recorded 89,000 to 141,000 reports of men raping women in 1999—considerably less than half the number of male-on-male sexual assaults. Because the overwhelming majority of male rape victims are convicted criminals, however, “the only people who care are the relatives [of the incarcerated victims], and they are usually poor and uneducated,” explains Cal Skinner Jr., a Republican state representative from Illinois. He blames his efforts to introduce prison rape prevention legislation for his defeat in the 2000 elections.

Why should you care any more than former Representative Skinner's voters? While the U.S. civilian population has an HIV/AIDS infection rate of 0.3 percent, the Bureau of Justice Statistics found

And there is more bad news. While I am unaware of any academic research on the subject, numerous conversations with other convicts over 18 years have persuaded me that prison rape plays a significant role in this country's shamefully high recidivism rate of 67.5 percent.

Meet Pissed-Off Pete, an acquaintance at my current prison. In 1982, when he was 20 and “soft,” he was raped by two older convicts in their facility's “honor dorm,” a housing unit for especially well-behaved prisoners. Pete dealt with his pain by smoking marijuana—something he had rarely done before the assault—and by getting in as many fights as possible to prove his manhood to others. In 1993, Pete made parole and settled down to a good 9-to-5 job. But for the last 11 years, he had solved his problems through cannabis and fisticuffs, and old habits are hard to break. So by 1995, he was back behind bars for failing a urinalysis test and committing a misdemeanor assault. Ironically, one of Pete's rapists from 1982 is now at the same prison with us and is about to be

owners, aerospace engineers, and church ministers—to cite the backgrounds of just five of my acquaintances at my current penitentiary. To the predators, these middle-class white folks are ideal victims.

One of these fellow prisoners of mine, Henry, once owned and operated a Pilates studio. When his cellmate gave him the choice of providing smokes or “booty” (anal sex), this 50-year-old gentleman refused to return to their cell—whereupon the guards placed him in the punishment block for Disciplinary Offense 201—Disobeying an Order. That in-house conviction for breaking prison rules will extend the overall sentence Henry must serve by several months, due to loss of good-behavior credits. And upon leaving the punitive segregation unit, he will be lucky to face only verbal harassment by the inmate on whom he snitched. In a slightly tougher medium-security penitentiary, Henry would definitely get “hurt.”

But Henry is lucky: he was charged only with the offense of disobeying an order. When prisoners make allegations of sexual assault, it is routine for corrections officers to tell the victim that he can only leave the punishment block if he gives a written statement that his rape allegation is untrue. After a month or two in punitive segregation, this devil's bargain begins to sound attractive, especially to a fresh fish. But signing such a statement allows the guards to charge the victim with Disciplinary Offense 206—Lying and Giving False Information, a not-uncommon occurrence.

Most victims of inmate-on-inmate rape are not middle-aged white men like Henry, of course, for the simple reason that young African-Americans are the largest demographic group behind prison walls. On every rec yard in every penitentiary in the U.S., there is always a “sistahood” or “girls choir” of effeminate young black men who wear rouge and

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that 2.2 percent of state and 0.8 percent of federal convicts carry the fatal virus. And the New York prison system—perhaps the only correctional department that systematically tests all of its convicts—reports an infection rate of 8.5 percent. At an average annual treatment cost of \$8,000 to \$12,000 per infected inmate, the financial consequences of prison rape are enormous. The bad news does not end with your wallet, however: of America's 2.1 million convicts, 625,000 are released every year, some of them as undiagnosed carriers of HIV.

released. Pete, on the other hand, will serve many more years for violating his parole.

Whenever Pete is released, the family to which he will return will look much like yours. Many convicts, and therefore many prison rape victims, are not hardened criminals at all. At present, one quarter of all inmates are serving time for “drug only” offenses, while another 11 percent are locked up for “public order” crimes like drunk driving. An increasing number of prisoners are college students, realtors, small-business

lipstick, carry purses, and call each other names like Jazz, Ophelia, and Kiki. They have been “turned out” by older, tougher convicts—in effect, driven insane by years of continuous sexual victimization. Roughly a month ago, one of these poor creatures in my prison attempted to castrate himself with a razor blade and, upon failing, wrote in blood on the cell wall, “I am a woman.” He was charged with Disciplinary Offense 234—Self-mutilation, and duly punished.

When it comes to violent rape, it is undeniably true that Caucasian inmates are more likely to be assaulted than African-Americans or Hispanics. A Human Rights Watch report found that “white inmates are disproportionately targeted for abuse. ... Sexually abusing someone of another race or ethnicity, with the exception of a white inmate, could lead to racial or ethnic unrest, as other members of the victim’s group would retaliate against the perpetrator’s group.” In other words, there are simply too few Caucasian convicts to form a mutual-aid society. Many Western states’ correctional systems do have white prison gangs like the Aryan Nations, but whether they reduce sexual victimization is questionable. According to an acquaintance of mine who claimed to have been a member of such an organization, his initiation period included the frequent requirement to “do a friend a favor”—a euphemism for fellatio.

In my experience, it is not so much race per se but perceived weakness that leads to being raped. Black inmates frequently see whites as defenseless and thus assault them, but wolves of all races prey on the young, the old, and the mentally ill.

Of the 14,500 juveniles who are sent to adult correctional centers each year, virtually all become “punks” or sex slaves. One such youngster whom I will never forget took the name Baby-doll and charged \$1.09 for oral sex, the price



at that time for a pack of Doral cigarettes and two packets of iced tea mix.

Of the 400,000 mentally ill offenders currently housed in U.S. prisons, most are mixed in with the general convict population; many earn their cigarette money by performing fellatio in the porta-toilets in the rec yards. At my current facility, this practice has earned the porta-toilet the nickname, “the love shack.” One-stop shoppers often purchase the mentally ill inmates’ saved-up psychotropic medication after sex for a nice little post-coital buzz.

If asked, the inmates practicing free enterprise in the love shack would probably deny that they are being exploited and might well resent any attempt to eliminate this income-earning opportunity. That points to one of the major difficulties in combating prison rape: the culture of denial among convicts themselves.

According to the Virginia Department of Corrections, there are roughly a dozen rapes reported each year among its 31,000 inmates. But national statistics suggest closer to 6,200 forced sexual encounters, including 3,100 actual rapes, would occur annually in a correctional population of this size.

Why the divergence? Because of the realities of prison life. Rape is such an integral part of penitentiary culture that virtually all convicts and even most guards no longer recognize it as wrong. When a young, clearly retarded young white man recently arrived at my current facility, established inmates and officers joked about forming a betting pool for who would claim him—or “her,” as he was already being referred to. A black old-timer took an early lead, spending hours in the rec yard with his prospective punk. But to everyone’s surprise, a tall white inmate nicknamed

Country ended up winning the competition for “Mrs. Country,” as his new wife is now known. No other prisoner sought to protect the fresh fish because that would have put his potential rescuer in conflict with the predators. If I had arranged to have the young man moved to my cell, for instance, everyone in the compound would have assumed that he was my sex slave, and I would have been forced to defend my “property.”

Correctional officers add another layer of denial. According to a former warden in the Oklahoma Department of Corrections, “Prison rape to a large degree is made more serious by the deliberate indifference of most prison officials. Oftentimes these officials will purposefully turn their back on unspeakable acts in order to maintain ‘peace.’” “[R]apes, beatings and servitude are the currency of power” behind bars, U.S. District Judge William Wayne Justice found in *Ruiz v. Estelle*, a class-action

had deliberately broken a rule in order to be sent to the punishment block and thus escape the tier boss. To have him moved back specifically into his persecutor’s cell required a little extra lubrication.

As in virtually all such situations, none of the associated Department of Corrections paperwork gave any hint of rape. When one man beats another into submission to force sex on him, guards will at most write him up for Disciplinary Offense 218—Fighting With Any Person, a minor infraction that can be processed in a few minutes. To charge the aggressor with Disciplinary Offense 106-b—Sexual Assault or Making Forcible Sexual Advances Toward an Inmate, involves far more paperwork and the officer’s attendance at the subsequent disciplinary hearing. As a result, my current facility has not had one single instance of rape officially recorded in years, though I am aware of a dozen undocumented cases within the last few months.

separate housing of weak-looking and effeminate prisoners, and the California Department of Corrections makes at least a minimal attempt to protect new inmates for the first 60 days after their arrival. Because it does so by placing prisoners of the same race in one cell, however, the latter policy is now under review by the U.S. Supreme Court.

I see more hope for prison rape prevention in lawsuits by the incarcerated victims’ families. The mother of a convict who committed suicide at the Lake County, Ill., jail recently won \$1.75 million from Correctional Medical Services and the jail for not taking adequate precautionary measures in view of her son’s known mental illness. While there was no suggestion of rape in that case, similar deliberate indifference and negligence arguments could be mounted in the suicides of weak or effeminate prisoners who make documented complaints of sexual abuse, are ignored by staff, and then kill themselves. A few six-figure damage awards would certainly get the attention of Departments of Correction.

At last, wardens and guards would have a real incentive to end the culture of silence that currently protects Flickin’ Joe and his friends. The correctional officer in the control booth at Mecklenburg Correctional Center, for instance, certainly saw Joe grab me as I came out of the shower, but she had no reason to stop reading her *National Enquirer*. If her job had depended on preventing a possible million-dollar jury award, however, she might have radioed for help immediately—and I might have been spared Flickin’ Joe’s loving embrace. ■

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case about Texas prison conditions. To gain the co-operation of inmate leaders, “prison officials deliberately resist providing reasonable safety to [weak] inmates. The result is that individual prisoners who seek protection from their attackers are either not believed, disregarded, or told that there is a lack of evidence to support action by the prison system.”

I observed one especially egregious example of this several years ago at a different prison. My housing unit’s “tier boss” gave the sergeant in charge a carton of Marlboro cigarettes in exchange for having a punk nicknamed Crowbar placed in his cell. Normally, no such bribe would have been necessary. But Crowbar

One hopeful sign on the horizon is the Prison Rape Reduction Act, signed into law on Sept. 4, 2003. This bill calls on states to gather reliable statistics, encourages the development of prevention strategies, and creates a review panel to hold annual hearings. But while this measure at least recognizes the existence of this tragic phenomenon, I doubt that it can break the code of silence that has kept sexual assault behind bars hidden for so long.

As far as administrative remedies are concerned, there are some correctional facilities that could serve as models for reform nationwide. The San Francisco jail system instituted procedures as long ago as 1975 which provide for the

Citizen Hamdi

The case against birthright citizenship

By Howard Sutherland

All persons born or naturalized in the United States, *and subject to the jurisdiction thereof*, are citizens of the United States and of the State wherein they reside.

—United States Constitution, Amendment XIV, Section 1, clause 1

ON JUNE 28, the Supreme Court decided the case of *Hamdi v. Rumsfeld*, holding that an American citizen confined in the United States as an enemy combatant has the right to contest his detention before a neutral decision-maker. Yaser Esam Hamdi, a Saudi, was captured by U.S. forces in Afghanistan and taken to Guantanamo. Hamdi claimed American citizenship and the right to be transferred stateside. Federal authorities moved him to naval brigs in Norfolk and Charleston, where he sits.

The Supreme Court ignored the threshold question that was before them: is Yaser Esam Hamdi an American? Writing for the majority, Justice O'Connor blandly said that Hamdi was "[b]orn an American citizen in Louisiana." In dissent, Justice Scalia came closer to the truth, calling Hamdi "a presumed American citizen." Hamdi was born in Louisiana, to Saudi parents briefly here because his father was working on a temporary visa for Saudi Arabia Basic Industries. While still an infant, Hamdi went home to Saudi Arabia and had nothing to do with the United States until he bore arms against U.S. forces in Afghanistan in 2001. An *amicus curiae* brief in his case, filed by the Center for American Unity, Friends of Immigration Law Enforce-

ment, the National Center on Citizenship, and eight U.S. Representatives—including immigration-reform stalwart Tom Tancredo—asserts that Hamdi is not a U.S. citizen, presumed or otherwise. Maryland attorney Barnaby Zall argues persuasively that to deem Hamdi an American is to ignore the plain meaning of the 14th Amendment's Citizenship Clause and the express intent of those who wrote and ratified it. The federal government misinterprets the Citizenship Clause as though the phrase "and subject to the jurisdiction thereof" (the jurisdiction requirement) were not there.

Despite the Court's evasion, this is no small matter. The government's selective misreading grants birthright citizenship to anyone (except diplomats' children, highlighting federal inconsistency) born on American soil, no matter who his parents are. Birthright citizenship lures illegal aliens, who know a U.S.-born child is, thanks to American immigration law's family-reunification bias, an anchor baby who will be able to sponsor his relatives for residence and citizenship. They also know that anchor babies' mothers are not deported. In 1993, the Los Angeles County Board of Supervisors reported that two-thirds of births in L.A. County hospitals were to illegal aliens, mostly Mexicans. Conservative estimates of illegal-alien births here, assuming an illegal alien population of between 8.7 and 11 million, run from 287,000 to 363,000 per year.

Not only Latin Americans have figured out Uncle Sam's birthright bonanza. South Koreans have created a birth

tourism industry. As the *Los Angeles Times* reported in 2002, Korean tour operators fly Korean mothers into Los Angeles and other American cities, there to give birth—in Korean-owned clinics with Korean staff—to an "American." Websites like www.birthinusa.com advertise "from birth to citizenship." Korean chaperones help get the babies California birth certificates and U.S. passports to take home. Junior can then dodge Korea's draft—and sponsor his family in America if they feel like moving. Pledging allegiance to the Stars and Stripes has nothing to do with it.

Federal laxity creates what Zall calls "drive-by citizenship," debasing American citizenship by giving it to legions of aliens like Hamdi, who bear no allegiance to this country or connection other than the accident of birth here. Among other evils, this dilutes the citizenship of unquestionable Americans—children of American citizens—and encourages dual citizenship with attendant divided loyalties. Is this what those who ratified the Citizenship Clause intended?

The Citizenship Clause was drafted to prevent freed slaves from being denied citizenship because they were not citizens at birth. It overturned the Supreme Court's *Dred Scott* decision, which held that even U.S.-born freedmen were not automatically citizens. Nevertheless, the jurisdiction requirement was written into the clause to ensure that birthright citizenship would not become the law of land and that allegiance would remain a vital element of citizenship.