

Stop Prisoner Rape (SPR) is an international nonprofit human rights organization that works to end sexual violence against men, women, and youth in all forms of detention.



# Action Update

a newsletter of Stop Prisoner Rape

1  
**Paths to Recovery – Confidential Counseling for Survivors**

2  
**SPR Survivor Advocate Goes to Court**

3  
**Welcome, New Board Members**

4  
**Study Confirms Pervasive Sexual Abuse**

5  
**Prisoner Rape Raised at Attorney General Hearing**

6  
**South Africa Initiative Gains Momentum**

7  
**A Call to Protect Gay and Transgender Inmates**

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## Paths to Recovery – Confidential Counseling for Survivors

Imagine: You are incarcerated and have just been sexually assaulted.

Do you report it?

If you do, who will find out?

When they find out, will they help keep you safe from the perpetrator?

You know one thing, the only people to whom you can ask these questions are prison officials, who will be required to file a formal report. You are not ready for that, so you keep quiet, hoping to make it to your parole date without being assaulted again.

This is the scenario that survivors of prisoner rape typically face. With no one to go to for help, it is no surprise that most survivors stay silent, bearing their trauma on their own. *Paths to Recovery*, a ground-breaking project of Stop Prisoner Rape (SPR), aims to remedy this serious problem by providing inmates at two California prisons—California Correctional Institution (CCI) and California Institution for Women (CIW)—with confidential counseling by outside rape crisis professionals.

At its inception in 2006, *Paths to Recovery* was highly controversial. Prison administrators were concerned with liability if they allowed outsiders



into their facilities. Prison investigators expressed discomfort with the idea that sexual assault would be discussed but not shared with them. Correctional mental health staff were troubled by the idea that, if sessions were to remain confidential, the safety of suicidal survivors might be compromised.

SPR responded to these concerns by insisting that the counselors be responsible for their own

conduct and thus be required to use their judgment and professional standards in deciding whether it would be necessary, for the safety of all people concerned—counselors, survivors, prison staff, other inmates—to maintain confidentiality or to report what they had learned. This model proved to be successful in allaying the concerns of prison officials and in encouraging inmates to talk about their experiences.

Inmates who have received *Paths to Recovery* counseling have been universally enthusiastic about the program. One participant said:

“The best part is that this is just for me. When I first started coming, I was so angry and I didn’t know I could feel different...”

(*Recovery, cont’d. on Page 2*)

## Welcome, New Board Members

SPR is proud to welcome Garrett Cunningham and Amy Elaine Wakeland to its Board of Directors.

Garrett Cunningham is a survivor of prisoner rape from Texas and a long-time advocate for the meaningful implementation of the Prison Rape Elimination Act. Mr. Cunningham has testified on the subject before various federal and state bodies, including the National Prison Rape Elimination Commission, and has shared his account with journalists nationwide. He is the founder of Pen Friends and Services, a pen-pal service that provides resources and information to prisoners.

Amy Elaine Wakeland is a political strategist, community activist, and—together with her partner Eric Garcetti—a long-time supporter of SPR. Ms. Wakeland has helped found two nonprofit groups in Los Angeles, one that connects young donors with social justice organizations and another that builds parks in low-income neighborhoods. She is a member of the Board of Directors of the Liberty Hill Foundation and of the honorary board of the Coalition to Abolish Slavery and Trafficking and of the Los Angeles Alliance for a New Economy.

## SPR Survivor Advocate Goes to Court

While serving time in a federal prison in Texas for a drug sentence, Marilyn Shirley was raped by the officer responsible for watching her. Unbeknownst to her assailant, Ms. Shirley managed to save physical evidence from the attack. Several months later, on the day of her release, she bravely reported the rape. In the resulting criminal trial, the officer was convicted of sexual assault and sent to prison.

Understanding that her rape would not have occurred were it not for the authority granted to the abusing officer by the government, Ms. Shirley brought a civil lawsuit against the United States. Regrettably, both the Western District of Texas and the Fifth Circuit Court of Appeals held that the government was not responsible because, under Texas state law, the convicted officer was “acting outside the scope of his employment.” Ms. Shirley has now asked the U.S. Supreme Court to consider her case.

SPR has filed friend-of-the-court, or *amicus*, briefs in support of Ms. Shirley’s petitions to the Fifth Circuit and to the Supreme Court. “Unfortunately, courts often refuse to acknowledge the agency’s responsibility for sexual abuse by individual prison officials,” said SPR’s East Coast Program Director, Melissa Rothstein. “We are proud to support Ms. Shirley and other survivors who seek justice and accountability for prisoner rape.”



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*(Recovery, cont'd. from Page 1)*

I started noticing that I was feeling something I had never felt before and that was peace... I think if we have more programs like this, our returning rate would be less... This is my second time in and it’s so much better because this time I got to work on me.”

*Paths to Recovery* has also allowed the California Department of Corrections and Rehabilitation (CDCR) to become a leader among states addressing prisoner rape. As Wendy Still, Associate Director of Female Offender Programs and Services, noted in her December 2007 testimony before the National Prison Rape Elimination Commission:

“The *Paths to Recovery* program is a part of an overall shift in how [the CDCR]

respond[s] to sexual assault. [The program] has shifted [the CDCR’s] institutional culture as well. Prisons, by default, can be dehumanizing environments. Programs such as *Paths to Recovery* exert a humanizing influence by changing expectations, increasing available support, and bringing in the influence of people who are not in the detention [setting] every day.”

Thanks to *Paths to Recovery*, fewer survivors are forced to endure the aftermath of sexual assault alone. This program has shown that it is possible—and desirable—to offer prisoner rape survivors the confidential counseling they need and deserve.

*Paths to Recovery is funded by The California Endowment.*

## Study Confirms Pervasive Sexual Abuse

A national survey of inmates, released last December by the U.S. Department of Justice's Bureau of Justice Statistics (BJS), confirmed that sexual abuse plagues American prisons. According to the report, an estimated 60,500 inmates held at state and federal prisons had been subjected to sexual abuse in the previous year alone. The inmate survey is the first of its kind and covered more than 1.3 of the 2.4 million people in detention in the United States.

The research method used in the new report—asking prisoners at randomly selected prisons directly and anonymously whether they had been subjected to sexual abuse in the previous 12 months—sets it apart dramatically from previous attempts by the federal government to study the problem, which had relied entirely on data submitted by corrections officials.

“We know from speaking with prisoner rape survivors that the vast majority will never file a formal complaint, for fear of retaliation or further abuse,” said Lovisa Stannow, Executive Director of SPR. “Not surprisingly, this inmate survey established a rate of sexual abuse 15 times higher than an analysis of formal inmate complaints over a one-year period, published by the BJS only a few months ago.”

Garrett Cunningham, a prisoner rape survivor from Texas and a member of SPR's Board of Directors, is a case in point. “After being raped by a prison guard, I was devastated and terrified. I felt sure that filing a formal complaint with the perpetrator's colleagues would only have made my situation worse.”

In the report, the BJS identifies the prisons with the highest and the lowest rates of sexual abuse. Alarming, five of the ten worst facilities are prisons run by the Texas Department of Criminal Justice (TDCJ).

This finding confirms SPR's own data, based on its letters from more than 900 prisoner rape survivors nationwide; nearly 20 percent of these letters come from men and women held at TDCJ facilities.

The Prison Rape Elimination Act (PREA) stipulates that the Department of Justice's National Review Panel on Prison Rape must now hold hearings about the best and the worst performing facilities. The first such hearing will be held in Washington, D.C. on March 11-13, 2008; a second one is scheduled to occur in Houston, Texas on March 27-28. SPR will contribute survivor accounts and suggest questions to be asked of the prison officials who testify at the hearings.

The BJS inmate study will be followed in the summer of 2008 by another key report, based on the same survey, which will examine victim and perpetrator characteristics and provide descriptions of the circumstances surrounding the incidents of abuse. The report will also examine facility features that may correlate with sexual victimization, such as size, crowding, security levels, and staff-to-inmate ratios.

SPR urges corrections officials to consider the BJS inmate study a wake-up call. “When the government makes the grave decision to remove a person's liberty, it takes on the responsibility to guarantee his or her physical safety,” said Ms. Stannow. “Sexual abuse in detention is a problem of poor prison policies and practices. It is not an inevitable fact of life behind bars.”



## Prisoner Rape Raised at Attorney General Hearing

Last November, Michael B. Mukasey was sworn in as U.S. Attorney General. His confirmation hearings focused mainly on the use of torture by U.S. officials operating abroad. But thanks to Senator Edward Kennedy (D-Mass), the issue of torture—specifically sexual abuse—in U.S. prisons and jails was also addressed.

With the assistance of SPR and the National Prison Rape Elimination Commission, Senator Kennedy submitted eight questions to Judge Mukasey regarding sexual abuse in detention and pressed him to affirm his commitment to enforcing the Prison Rape Elimination Act. In a written reply, Judge Mukasey acknowledged that sexual violence in detention is a very serious problem, and added that not only would he enforce relevant laws but that he would also “strive to provide an example that state systems can follow.”

SPR will be monitoring Attorney General Mukasey's statements and policy decisions during his term, to ensure that he takes this important mandate seriously.

## Gender-Neutral Rape Law

South Africa's social justice organizations reached a milestone last year, when the Parliament finally passed the Sexual Offenses Act. Among other provisions, this law adopts a gender-neutral definition of rape. Previously, when the victim was a man, rape had been prosecuted as 'indecent assault'—a much lesser offense. In a country where 98 percent of prisoners are men, this legislative change represents an important move toward ending impunity for prisoner rape.

*SPR's South Africa Initiative receives funding from the Holthues Trust and the John M. Lloyd Foundation.*

*The Call for Change campaign currently receives funding from the Arcus Foundation, Liberty Hill Foundation, State Equality Fund, Women's Foundation of California, and an anonymous donor in New York.*



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## South Africa Initiative Gains Momentum

Prisoner rape is gaining increased attention in South Africa, thanks in part to SPR's *South Africa Initiative*. Working closely with social justice organizations and the Judicial Inspectorate of Prisons (JIOP), SPR offers sexual violence awareness training to South Africa's network of prison ombudspersons and advocates for government accountability for sexual abuse in detention.

Last November, SPR conducted workshops with the JIOP's Visitors Committee Coordinators (VCCOs), whose job it is to supervise 200 prison ombudspersons, so-called Independent Prison Visitors (IPVs).

"In South Africa, just like in the U.S., prisoner rape survivors are fearful of retaliation if they speak up," explained Cynthia Totten, SPR's Program Director. "Interestingly, VCCOs and IPVs have the right to keep confidential what inmates tell them, which is essential to encouraging rape survivors to come forward. In that sense, South Africa is far ahead of the U.S., where there are few, if any, prison ombudspersons with such a strong mandate."



Several of SPR's partner organizations in South Africa, including the Centre for the Study of Violence and Reconciliation, believe that an important next step in ending prisoner rape would be the development of legislation explicitly addressing the problem, much like the Prison Rape Elimination Act (PREA) of 2003, which SPR helped pass in the U.S.

## A Call to Protect Gay and Transgender Inmates

If corrections officials made serious efforts to protect vulnerable inmates, they could greatly reduce the incidence of rape behind bars. Those at risk are often easy to identify—detainees who are young, non-violent, new to prison, small in stature, or mentally ill. Lesbian, gay, bisexual, transgender, and queer (LGBTQ) detainees are especially vulnerable to sexual abuse, and are therefore the focus of one of SPR's key programs—the *Call for Change*.

In a recent study funded by the California Department of Corrections and Rehabilitation and conducted at six California men's prisons, a shocking 67 percent of non-heterosexual inmates reported that they had been sexually assaulted by another inmate during their incarceration; a rate 15 times higher than that for the general inmate population.

Working closely with allied organizations, SPR has developed a policy document, *Call for Change: Protecting the Rights of LGBTQ Detainees* (accessible at [www.spr.org](http://www.spr.org)), which spells out how to protect LGBTQ inmates from abuse. If fully implemented, these recommendations would significantly decrease the incidence of sexual violence against this inmate community. To date, 75 organizations from across the U.S. and beyond have become signatories to the *Call for Change*, creating a strong and diverse voice against prisoner rape.