Prison Rape Reform: Perspectives from Women with Life Sentences on the Impact of a Class Action Lawsuit

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Abstract Sexual abuse by correctional staff against prisoners violates multiple international human rights standards yet, despite federal policy efforts, remains a concern in the USA. Prisoners who are victims of custodial sexual abuse have used legal remedies, such as class action lawsuits, to acknowledge their individual experiences of victimization and to gain effective remedies, as outlined in human rights law, such as injunctive relief (e.g., institutional changes). This study explores women's perceptions of outcomes from a class action lawsuit regarding sexual abuse during imprisonment by correctional officers. This lawsuit spanned 15 years and included over 800 women. The incarcerated women serving life sentences who participated in this class action lawsuit were well positioned to describe the kinds of changes that did and did not occur in the prison as a result of the lawsuit. Therefore, incarcerated women serving life sentences were asked to participate in semi-structured interviews to elicit individual- and system-level outcomes from their involvement in the class action lawsuit. In terms of individual-level outcomes, women described two key themes of financial outcomes and meaningful participation in the lawsuit as a change effort. For prison-level changes, two themes emerged around the role of safety mechanisms in

the prison and the hostile environment perpetuated by correctional officers as a result of the lawsuit. These findings offer descriptive information regarding how women in prison experience legal remedies for sexual victimization, in particular a form of "third victimization." Likewise, they are informative for future social work policy and practice efforts to address this often neglected, but concerning, human rights violation within prisons.

Keywords Prisons · Rape and sexual abuse · Legal remedy · Women · Human rights

International human rights standards equate custodial sexual abuse of women prisoners (e.g., staff-perpetrated rape of incarcerated women) to torture, cruel or unusual punishment, and a specific form of gender-based violence (Greer 2000; Man and Cronan 2001). Custodial sexual abuse is a major violation that has plagued the US prison system as a specific concern for incarcerated women (Buchanan 2007; Greer 2000; Human Rights Watch 1996). However, experts argue that sexual abuse in US prisons does not receive the same attention and action that it is deserved because of a focus on the status of the victim as inmate and as violators of the social contract, which denies them the objective standard of humane treatment (Labelle 2008). Thus, advocates urge realizing human rights as the proper framework for ensuring humane treatment of prisoners, specifically for incarcerated women (Labelle 2008).

In addition, the Supreme Court of the USA has deemed this type of sexual abuse cruel and unusual punishment (*Farmer v. Brennan*, 51 U.S. 825 (1994)). On a federal level in the USA, policy efforts have sought to address and prevent this victimization. In 1993, the Prison Rape Elimination Act (PREA), signed by President Bush, acknowledged that rape and other

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forms of sexual victimization were epidemic within prisons and jails and declared the goal of zero tolerance of all forms of sexual abuse in confinement settings (National Prison Rape Elimination Commission Report 2009). The PREA Commission developed national standards for correctional institutions in order to prevent sexual victimization, and these standards were initially released in 2009 and updated in 2012.

Of concern, national surveys of current and former prisoners estimate that 4–10 % of all US inmates are sexually victimized, with a majority of inmates experiencing sexual abuse perpetrated by correctional staff (Beck and Johnson 2012; Beck et al. 2013). Other studies have found rates of 20–25 % of prisoners experiencing sexual abuse, with victimization rates of women as more than four times higher than victimization rates of men, and at least half of these incidents are perpetuated by correctional staff (Wolff et al. 2006; Struckman-Johnson and Struckman-Johnson 2006). Thus, further investigation and preventative intervention are needed to address prison rape and abuse, especially for sexual abuse perpetrated by correctional officers.

Human Rights and Custodial Sexual Abuse

Custodial sexual abuse of incarcerated women has been highlighted as violating the Fourth Amendment (e.g., right to privacy), Eighth Amendment (e.g., cruel and unusual punishment), and over 15 international human rights conventions, declarations, and standards (Coker 2014; Culley 2012; Greer 2000; Human Rights Watch 1996; Seddiqui 2014). Some of these human rights documents include the Universal Declaration of Human Rights (United Nations 1948), the International Covenant on Civil and Political Rights (United Nations 1966), and the Convention Against Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment (United Nations 1984) according to human rights-focused legal scholars (Greer 2000; Labelle 2008).

Custodial sexual abuse of incarcerated women has also been framed as gender-based violence (Human Rights Watch 1996) and identified as a human rights violation through the Declaration on the Elimination of Violence Against Women (United Nations 1993). Specifically, this human rights declaration examines violations for women “living on the fringes of society, challenging prevailing societal attitudes that question whether such woman and girls deserve protection of their rights” (Sangoi and Goshin 2013, p. 163). In addition, this framework calls attention to how correctional settings have specific risks of perpetuating gender-based violence and how intervention and protections are needed for incarcerated women (Sangoi and Goshin 2014). Also, the United Nations Minimum Standards on Treatment of Prisoners (renewed in 2015 and renamed as Nelson Mandela Rules; United Nations 2015)

have included provisions against cross-gender pat-downs, searches, and involuntary exposure of incarcerated women as a specific intersection of human rights policies on torture and violence against women. Several state prisons, including Michigan, Arizona, and California, have been spotlighted for their treatment of incarcerated women, especially in terms of staff sexual misconduct, and have been investigated by the United Nations’ Human Rights Commission on Violence Against Women (Amnesty International 1999; Human Rights Watch 1996). Staff-perpetrated sexual violence towards incarcerated women has been pinpointed as a particular concerning human rights violation within the USA and has gathered local, national, and global attention—in other words, a “human rights abuse in our own backyard” (Greer 2000, p. 83).

Human rights law has a core aspect of ensuring effective legal remedy to address violations of rights, as outlined in the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights (United Nations 1966). The human rights legal framework has been used to facilitate class action lawsuits to acknowledge, provide remedy, and prevent sexual abuse of incarcerated women by correctional staff (Labelle 2008; Laderberg 1998). Custodial sexual abuse is a persistent concern, often exacerbated and compounded by the impunity frequently given to correctional staff who perpetrate staff sexual misconduct (e.g., no disciplinary responses, keeping their jobs) as well as the procedural barriers to women reporting abuse and receiving any direct remedies (Buchanan 2007; Sangoi and Goshin 2013). This impunity is in direct conflict with legal requirements that prisons keep prisoners safe (Buchanan 2007). Therefore, attention must be given to how custodial sexual abuse is addressed in prisons and how legal remedies are able to be effective within these spaces to prevent human rights violations.

In addition, the American Bar Association’s Criminal Justice Standards on the Treatment of Prisoners (2010) focuses on securing human rights for prisoners as best practices and specifically outlines custodial sexual abuse as a particular area in need of securing and maintaining rights for women prisoners. These standards includes mandates of changing institutional culture to prevent abuse, as well as protecting mechanisms for women to report and receive responses and treatment when they experience custodial sexual abuse (Love and Shay 2012). Legal experts have called for efforts towards upholding international human rights standards in US prisons for the purposes of preventing direct harm to prisoners, maintaining the rights of prisoners, improving professionals’ and general public’s perceptions and treatment of those involved in the criminal legal systems, maintaining US credibility within the international community, and promoting compliance in other countries (Greer 2000; Saliba 2013).

Within a human rights framework, legal remedies are framed as offering opportunities for individual-level outcomes

(such as compensation) and for preventing further human rights abuses from occurring (Greer 2000; Shelton 2015). A remedy is “the means of enforcing a right or preventing or redressing a wrong” (Garner 2001, p. 598) with a legal remedy as specifically “a remedy available only in a court of law” (p. 599). Class action lawsuits are a form of legal action and are posited to be especially important for prisoners who experience rape and sexual abuse by correctional officers (Laderberg 1998). One major reason is that class action lawsuits allow women to report sexual victimization collectively, showing that the problem is beyond the individual level and thus potentially combatting the disbelief associated with individual prisoner reports (Laderberg 1998). Likewise, class action lawsuits have the ability to strengthen claims that the prison environment contributes to sexual victimization, and may offer injunctive relief (i.e., court-ordered change in policies and practices as a legal outcome) beyond the PREA recommendations and what an individual could accomplish in a lawsuit (Laderberg 1998). However, such lawsuits have been limited due to the Prison Litigation Reform Act of 1996 (PLRA) which was designed to curtail “frivolous” lawsuits by prisoners and restrain the federal government from excessive interference in the administration and regulation of state prisons. Legal scholars have criticized the PLRA as especially detrimental in curtailing the ability of prisoners who are sexually victimized during incarceration from seeking legal remedies (Schlanger and Shay 2009). Thus, research is needed to evaluate the outcomes of class action lawsuits for prisoners who experience prison rape and sexual abuse in order to determine if such lawsuits may address and prevent this human rights violation.

Class Action Litigation and Sexual Victimization: *Neal vs. Department of Corrections*

Neal et al., v Michigan Department of Corrections (described in detail in Culley 2012) was a class action lawsuit on behalf of women who were raped and sexually abused by male correctional staff while incarcerated in the state prison system over a period of 15 years. This class action lawsuit started pre-PLRA and was settled after PLRA was passed. Litigation was initiated on behalf of 32 women in 1993. As part of the litigation and ongoing investigation, a court-ordered statewide effort commenced to contact all women confined within this state’s prison system after 1993 in order to determine the pervasiveness of prison rape and other sexual abuse by staff. Over the subsequent 15 years, 474 women became certified members of a class action civil lawsuit (Neal et al. v Michigan Department of Corrections, et al.) filed in 1996, and ultimately settled in 2009 with over 800 class members receiving

compensation for their injuries. All of the class members were sexually victimized by male correctional staff and this victimization ranged from penetration and molestation, to inappropriate pat-downs, sexual harassment, and inappropriate prurient viewing during their incarceration. All of the victimization incidents occurred between 1993 and 2006.

The class action civil lawsuit sought monetary damages and injunctive relief from the state’s Department of Corrections (Culley 2012). At the first trial, the class won their case with two specific outcomes for the women: an unprecedented public apology on behalf of the jurors for what the women experienced and a monetary award. This remedy was appealed by the state up to the Michigan Supreme Court, and, over time and settlement negotiations, the two parties ultimately agreed on a US\$100 million settlement to be awarded to the women over a 5-year period. The provisions of the settlement agreement also included multiple policy and practice changes to the women’s state prison, including providing trauma-related services for prisoners after reporting sexual victimization, implementing trauma screening measures, and a streamlined reporting processes. These injunctive relief aspects were considered the vital aspects of the case, as described by Culley (2012):

Convincing the defendants to make systemic reforms required an acknowledgment that their current system was deeply flawed and that the plaintiffs could not be simply ‘paid off’ as individuals, as the problem was larger than their individual suffering. The equitable relief was geared at transforming the experience for women prisoners from the time they entered prison and even after they had left ... (p. 214)

Also, during the process of the lawsuit, male correctional officers had been removed from the women’s housing units within the state’s main women’s prison (Culley 2012). Thus, prison-level changes were formally required, in addition to individual-level compensation, as results of the lawsuit settlement.

Current Study

There are multiple ways to evaluate the impact of the class action lawsuit and whether it achieved its aims of individual-level redress and systemic reform. One approach is to explore the experiences of the women themselves, and specifically, the women with life sentences who are uniquely well-positioned to see what has and has not changed within the prison system. Of the 809 women in the class action settlement,

approximately 5 % are incarcerated women with life sentences. This proportion mirrors the current national rate of 5 % of incarcerated women as serving life sentences (Nellis and Chung 2013). In this state, only 5 % of “lifers” are released from prison (Levine 2014). Thus, the women with life sentences joined the class action lawsuit while facing the potential of spending the rest of their natural lives in prison. They also faced the risk of further victimization and retaliation by correctional officers during their time in prison. Women in the lawsuit reported that correctional officers retaliated against them for reporting their experiences of prison rape and sexual abuse; the retaliation was considered severe enough that it was described as a specific form of abuse throughout the trial process by legal professionals (Culley 2012; Brown and Ralph 1998). Retaliation ranged from correctional officers’ threats to actual behaviors of administering unwarranted and excessive misconduct tickets, physical harm towards women, placing women in segregation, taking away women’s privileges (e.g., visitation hours) and work assignments, and physical harm towards other inmates and outside family members that were important to the victimized women. Thus, incarcerated women with life sentences who participated in the lawsuit potentially faced a future with little relief from sexual abuse, as well as related retaliation by correctional staff, especially if the lawsuit was not successful. Likewise, one assumption is that they also participated with the potential outcome of successful litigation which would mean spending a lifetime in prison without being sexually assaulted and harassed by correctional officers.

Thus, this study explores the experiences of incarcerated women with life sentences who were raped and sexually abused by male correctional officers and were involved in class action litigation against the state’s Department of Corrections due to their victimization. Notably, women with life sentences have experienced the prison-level effects of the litigation, including the outcomes associated with the lawsuit and changes over time in the prison. The lawsuit settlement included both financial compensation (ranging from US\$2000 to over US\$100,000 per woman) and injunctive relief measures which are stressed by the human rights framework as vital for change (Shelton 2015). Therefore, the experiences of incarcerated women with life sentences involved in this class action lawsuit may provide insight into both individual- and prison-level outcomes of the class action litigation and specifically in relation to preventing prison rape and sexual abuse. To explore women’s experiences, we used a qualitative approach, which is well suited for exploratory, descriptive research questions that help illuminate the lived experiences of participants. To that end, the specific research questions guiding this study are the following: for women serving life

sentences who have been in prison during and after the litigation, what are the individual-level outcomes of the litigation? What are the prison-level outcomes?

Methods

Sample

Of the 809 women in the final settlement class, 39 women are currently serving life sentences and have been in prison during and after the class action litigation. All incarcerated women with life sentences in this Midwestern state currently serve time in one state women’s prison. Notably, the number of correctional facilities for women within this state has fluctuated over time, and the custodial sexual abuse was reported across multiple types of correctional facilities in Michigan (including boot camps, parole centers, and this prison). These facilities were investigated by Amnesty International (1999) and the Human Rights Watch (1996), yielding reports about sexual abuse by correctional officers in women’s prisons and thus, brought national and local attention to human rights violations within prisons. Given this global attention to human rights violations within the US women’s prisons, it was fitting to perform this study at this historical and crucial site of human rights work. Attention has been given specifically to Michigan prisons in terms of pressure to meet international human rights standards over the past 20 years (Human Rights Watch 1996; Culley 2012) including from the United Nations’ Human Rights Commission on Violence Against Women (United Nations Human Rights Committee 1999). Changes within this system have served and could continue to serve as national and international examples.

During previous studies, we, the researchers, had been told by women in this prison that prisoners’ histories are well known to correctional staff, including their involvement in current and past legal action. Therefore, all 39 women were not contacted because we feared that asking all women would potentially make the intent of the interview (i.e., questions about the lawsuit’s outcomes) discernable and apparent to the correctional staff. We were deeply concerned that this visibility could increase women’s risk for retaliation, as staff would likely infer that the research was related to the class action lawsuit. Likewise, these interviews occurred around the time that final payouts from the settlement were also happening, and due to this timing, there was a potential increased risk that this particular lawsuit was at the forefront of the minds of the correctional officers. Therefore, in order to avoid potential retaliation for the women involved, we decided not to approach all 39 women with life sentences, but instead 10 incarcerated women with life sentences were contacted for participation in this study. Nine women agreed to participate in semi-structured interviews about individual-level and

prison-level changes. In regards to race, four of the women identified as white women and five as women of color. A majority of the women experienced at least one incident of prison rape (i.e., at least one penetrative assault). The average age of the women at the time of the interview was 44 years with a range from mid-30s to slightly over 50 years of age.

Study Procedures

Semi-structured interviews were conducted with a convenience sample of women who participated in the lawsuit and had a life sentence.¹ All interviews occurred in a private room within the prison with just a researcher and a woman prisoner; however, surveillance cameras were present in the room which is standard throughout the prison and several women pointed out the cameras during the interviews. The researchers had pens and paper for women to write down answers, if preferred, given the surveillance cameras. An interview guide was used for the interviews which included questions about women's experiences with the outcomes of the lawsuit and did not focus on their experiences of abuse that led to involvement in the lawsuit. Specifically, these open-ended questions included the following: What changes occurred due to the lawsuit? What outcomes did you personally experience, including benefits and consequences of the lawsuit? What changes have occurred in the prison? What additional changes would you like to see? Women were explicitly informed that they were not required to participate in these questions and informed consent was gathered before questions were asked. All procedures performed in this study involving human participation were in accordance with the ethical standards of the institutional committee and with the 1964 Helsinki declaration and its later amendments or comparable ethical standards. All procedures were approved the Michigan State University Institutional Review Board, which included review by a prison advocate.

Analysis

Thematic analysis (Boyatzis 1998) was conducted with the women's responses by an interdisciplinary research team representing the fields of law, psychology, and social work and with expertise about legal remedies, rape and sexual

violence, and prison dynamics. Analyses occurred in multiple steps. First, the open-ended responses by the women prisoners were coded by three members of the research team with both open and fixed coding to identify individual- and prison-level changes, as well as to capture emergent themes (Boyatzis 1998). Each coder identified key codes and these key codes were compared across the three researchers. A consensus approach was used to perform a list of codes to create a detailed coding matrix. As the open-ended responses were re-reviewed with the existing codes, the research team continued to engage in code refinement and interpretation as well as the process of connecting codes to explore themes and patterns in the data (Crabtree and Miller 1999). Likewise, the researchers reviewed the coded responses for saliency and focused on eliciting coded material describing only conditions since the lawsuit, not necessarily descriptions specific and exclusive to the process of being involved in the lawsuit. For example, one woman described how inconvenient and difficult the trial process was (which was not coded given the meaning specific to the trial process and not the trial outcome) and then she discussed the great meaning that the trial process still has for her in her daily life (which was coded as "personal meaning"). During the process of corroborating the thematic findings, consensus on the final themes was reached across all of the research team members.

Results

In terms of individual-level outcomes, women provided details about how the money from the settlement influenced their lives and the ways that the lawsuit offers a lingering sense of justice and meaning. Thus, the results pertaining to individual-level effects of the lawsuit are described within two themes: financial outcomes and meaningful participation. For the prison-level changes, the women's responses about outcomes ranged from positive changes in the prison policies and practices to negative results of poor treatment by staff due to the lawsuit. Therefore, those results are described within two themes: safety mechanisms and hostile environment. Of note, these results include statements that women made during the interviews and in order to maintain confidentiality and their safety, no identifiers are provided to differentiate or reveal the women or to link their statements across sections (especially in regards to concerns of a hostile prison environment by prison staff). However, the number of women endorsing each theme is included in order to display how common each theme was across women.

Individual-Level Outcomes

Financial Outcomes Women described financial outcomes as both positive and negative. On the positive side, four women

¹ The sample selection process for the specific 10 women is intentionally ambiguous in an effort to protect the identities of the women involved in this study. The rationale for this choice is a focus on maintaining women's safety. Based on the litigation testimony, retaliation by the officers was a real concern. In order to negate or minimize any staff retaliatory responses, we are providing limited information regarding the sampling and distinguishing characteristics of the individual women.

spoke of the settlement money as assisting with general needs, including contributing to accessing medical and dental care and legal services, and as a resource to provide to outside family. For example, three women specified that their funds went to medical and dental care costs within prison as such appointments cost at least US\$5 per visit. The additional resources were important to women spending their lives in prison, as basic items such as toilet paper, medicine, underwear, and other essentials have to be purchased by each prisoner individually, or are severely rationed (e.g., women receive a limited number of sanitary pads per month and have to purchase more if needed). One woman, with little outside financial support, detailed that the money gave her a sense of comfort, knowing “that I would never have to do anything illegal again” in order to survive or be able to purchase necessities in prison. Another woman described being able “to buy my own toilet paper if I run out of my allotment” with her funds. With this financial stability, some women have been able to avoid illegal or unsafe behaviors in order to access goods and services in prison. For women with life sentences who experience diminished resources from outside family members over time this financial compensation serves to promote day-to-day basic survival in prison.

Although women agreed that the settlement funds enabled them “to help my family and friends, and give to the charities that I’ve always wanted to support” there were also concerns that other inmates and people outside of the prison targeted the women for their money. For example, some women described other inmates as asking them for money to the point of being “bullied by more inmates” trying to get the money. Also, women shared that people outside of prison viewed the money as something they did not deserve, or as a sufficient means for their survival in prison (as a substitute for any support from friends and family in the community.) These concerns created a precarious situation for a few women, as one woman described, “The money is isolating. People want things from me (inside and out). Money is drying up for other women in the case and now they are coming to me.” In addition, even her “victim’s family tried to sue me for US\$7 million—thought I got a lot more money than I did—when they found out how much, [they] actually dropped the case.” As a result, she has started spending “more and more time alone” and “[questioning] people’s motives to the point of paranoid. Can’t really trust if it’s me or if they want something else.” While the money was compensation for previous sexual abuse, some women spoke of how the focus on the money masks the ongoing nature of prison deprivations—money alone does not make prisons better or safer. As one woman stated, “it gave me the money for an attorney but in a lot of ways it made it harder because family seems to think you are alright being locked up because you have so much money.”

In discussing these financial outcomes, one woman stated that if she had it to do over again, she “would join the lawsuit

but would not collect the settlement. It was the money that caused problems.” Two women stated that the money was not sufficient or could have been substituted for another form of justice: one woman stated she “would have preferred a release” and another woman stated, “I would like my freedom as part of the lawsuit or in exchange for money.” It is important to note that these negative outcomes were shared only by a small group of women, and, while not the majority, speak to the complexity of how the prison environment, their status of offender, and reality of a life sentence have shaped this financial outcome. However, the financial compensation may allow access to legal resources previously unavailable to women, as one woman described that she “can afford an attorney to fight for my freedom.”

Meaningful Participation Three women described the lawsuit as providing them with a sense of meaning, empowerment, and justice in receiving recognition through the lawsuit’s settlement. On a basic level, the settlement of the lawsuit gave one woman a sense of humanity, even and especially as a woman serving life in prison: “being recognized as a human being that mattered and they stood up for me” was the most positive aspect for her. This dynamic contributed to another woman “respect[ing] myself more for who I am” and even more so, she gained a sense of making a difference for future incarcerated women in that she has “prevented what others would go through.” Gaining a sense of dignity, worth, and humanity from the lawsuit was a striking sentiment expressed by some women and especially powerful as women serving life sentences, for those for whom society has “thrown away the key” (Owen 1998). Likewise, the lawsuit served as an opportunity for, as a woman described it, “righting the wrong.” One woman shared that she found it meaningful to have been “able to testify” even though this interview was 5 years after the trial process. Also, she described that the moment “when they told us ‘on behalf of the state of Michigan, we apologize for what you went through’” still resonates with her and offers a deep sense of meaning. Thus, even though the public apology was not part of the settlement (but was part of the legal process), for one woman, it was crucial in providing a sense of justice and the acknowledgement of the human rights of abuse of sexual victimization.

Prison-Level Outcomes

Safety Mechanisms A majority of women (eight out of nine) described positive prison changes as a result of the litigation. Specifically, these positive changes referred to the addition of safety features and safety-focused policies within the prison. Almost all women mentioned the removal of male correctional staff from the housing units (which was enforced during the class action lawsuit settlement) as contributing to safety. One woman mentioned that this change has made the housing units

of the prison safer; “men are no longer working in the unit (for the most part). So the risk is a lot less for sexual assaults in the housing units.” In addition, another woman mentioned that “no male officer can shake us down” which refers to the change in daily security measures, such as pat-downs and shake-downs, which were previously abusive (e.g., with inappropriate and excessive groping), but now must be performed correctly by female correctional staff. Likewise, in contrast to the pervasive sexual harassment within the prison detailed during the trial, five of the women reported that “there’s not so much harassment” by officers. Thus, these changes, including those arising from injunctive relief from the lawsuit’s settlement, have resulted in increased safety on a daily basis for some women within prison.

One major safety addition that women described is that “there are cameras and microphones around here, so we are safer.” The cameras and surveillance measures were not directly a part of the injunctive relief outlined at settlement, but were initiated during heightened attention to the lawsuit. Regardless, the cameras were described by one woman as a lingering symbol of the lawsuit, evoking more caution by the staff on a daily basis in terms of their perpetuation of rape and abuse; “the cameras are more of a deterrent than any lawsuit ever was.” The mere presence of the cameras provides both a symbolic and actual surveillance of the correctional officers. Likewise, the cameras allow for documentation of events and thus offer evidence that can potentially protect women in that it adds to their credibility if they report assault within the prison; “before cameras though, prisoners were screwed because an officer is never wrong and never going to get sanctions.”

However, the placement of these cameras is a procedural change that has not translated into full institutional change for safety from prison rape and sexual abuse, nor have the cameras lead to consistent accountability for officers perpetrating abuse. For example, the women described the inconsistent use of the camera footage by prison administrators, meaning that even if a woman reports abuse and requests camera footage, she still has to reply on prison staff to supply such footage. Therefore, women are not guaranteed further action by the prison or a productive response by the prison if they report rape or sexual abuse. As a few women noted, the prison staff only utilize the camera footage in the investigation of some incidents, not for all incidents; women described this selective usage of this safety mechanism by prison staff with statements such as, “they can pull footage and audio when it benefits the institution.” Even during the intervention process, women spoke to doubting if the cameras are always recording and questions over who exactly views them. Thus, this theme is called “safety mechanisms” because while the prison implemented the required injunctive relief changes to their policies and in addition, installed safety measures, a level of prison administrative discretion remains in if these mechanisms are

applied and utilized consistently to increase safety and elicit accountability. Therefore there is the potential for increased safety within the prison, but given the variability in these women’s responses, correctional staff and administrators are not making safety and staff accountability common practices. Overall, there are changes to promote safety that have led to actual decreases in sexual abuse, but these changes also ultimately rely on consistent staff implementation.

Hostile Environment Over half of the women (six out of nine women) provided descriptions of negative prison-level changes that grouped under the theme of “hostile environment.” These descriptions included negative staff interactions and treatment by prison staff that they perceived as punitive by the Department of Corrections for their involvement in the lawsuit. Thus, while some changes within the prison have included positive safety measures, these women suggested that a hostile environment is pervasive in daily life in prison due to the officers’ and administrators’ reactions to the class action lawsuit settlement.

Hostile Staff Interactions Five women described staff “harassment and retaliation” as the main negative outcome of the lawsuit and as part of daily life in prison. The lessening of sexual abuse by male correctional officers has been curtailed to an extent due to their removal from the housing units, but at the same time, women reported that “things here are a lot worse now. The staff retaliation is a big issue. While it’s not bad in terms of the [assaults], it’s lowered to more general harassment.” Women detailed forms of retaliation by officers for their participation in the lawsuit. One woman shared that due to staff retaliation, she lost her work privileges and was given erroneous misconduct tickets, and another woman also stated that “I lost my job of 4 years [and] the staff continue to discuss my settlement and judge me by it—I get more unnecessary tickets because of it and when I get sent to segregation I stay for a ridiculously long time—more than anyone else.” Women perceived this behavior as a continuation of the earlier harassment by officers prior to the settlement and as inevitable part of the prison experience, as a woman said she is “harassed about lawsuit by correctional officers but that’s just the way they are.” This statement speaks to her perception that officers have been abusive continually throughout her time in prison, to the extent that she views this as inherent to how officers should and will act, regardless of the changes from a lawsuit.

Women described the financial settlement and their involvement in the lawsuit as making them vulnerable to further harassment and negative treatment by prison staff. Within the prison, women’s involvement in the lawsuit is known among correctional staff even though it is “supposed to be private, but everyone knows,” leading to women still being “harassed about the lawsuit by correctional officers.” One woman described that her settlement funds were used against her, as she

“was kept in segregation for approximately 3 years because the deputy and warden kept saying I had the means to fund huge drug operations.” She also shared that when she has requested entrance into treatment programs, the warden told her that she could access treatment if she paid for it—a prerequisite that is not requested of any other inmate within the prison. The staff harassment is perceived as stemming from the staff’s “[jealousy] that [the incarcerated women] probably got more money than they would make in their lifetimes” or their perception of “[thinking] money is lowering their pay.”

Staff behaviors were described as negative due to the changes in correctional officers’ job positions and restrictions of no male officers on housing units, and these changes were described as resulting from the lawsuit settlement. One woman described “male and female staff are resentful, and because the male staff don’t get to work anywhere but outside, they take it out on us.” In addition, two women described female correctional staff as upset because they all work on the housing unit. Of note, men are still working within the prison—just outside of the housing units, and this was described by women as evidence of insufficient change within the prison: “men are still working in the units as sergeants—there should be no men unless making rounds.” Also, there was a sentiment that these changes are not sufficiently changing officers’ behaviors, just that “the officers are now more cautious” in their actions related to sexual victimization and harassment.

Hostile Administration While male correctional officers have been removed from working in the housing units, changes seem only surface deep, with women experiencing punishment through administrative actions as a result of participating in the lawsuit. One woman described “that the [Department of Corrections] still doesn’t adhere to the changes that were supposed to be changed. And I’ll continue to be used as the punching bag for the administration/staff.” She spoke specifically to the dynamic of being a woman with a life sentence (e.g. the continual harassment does not have an end date for her), and to the closed setting of the prison as lending to a lack of oversight of the Department of Corrections’ behavior: “the staff and administration take it out on me because they have the power to.” Women specifically mentioned the grievance process and facility changes as actions performed by administrative staff that convey a sense of hostility to women for their participation in the lawsuit, as well as the continuation of rape and abuse as creating a hostile environment.

The grievance process (i.e., filing an official form detailing the abuse within a timely manner that leads to an internal investigation of the rape and/or abuse) is a key aspect of reporting sexual abuse in prison in order to receive internal, prison-level attention. This process requires a series of responses from both correctional officers and prison administration. One woman specifically mentioned that “I wish they had better ways to report all the retaliation and I wish they actually

had consequences [for the officers]. The grievance process lands us in segregation and does not work.” She is referring to the policy that mandates women be placed in “protective segregation” for their “safety” when they report sexual victimization through a grievance. However, her statement conveys a sense of the prison as trivializing sexual abuse in the dismissal of grievances and incorporating punishment for women for reporting. Even more so, this process, as described by her, “used to be more improved, however, now today it is a lot less adhered to since time has passed.” Thus, while serving a life sentence, she has unique insight into changes over time, especially as the lawsuit becomes more historical rather than current, and she spoke of improvements or policy adherence as fleeting.

In addition to the grievance process, women made connections between facility changes for women prisoners within the entire state and the lawsuit as an example of hostile administrative actions. Shortly after the lawsuit, one of the prisons for women in the state shut down and all incarcerated women were transferred into just one state prison. In the past 5 years, this prison’s overcrowding has intensified, with over 2200 women in a prison with a capacity for 1800 women. One woman posited that the Department of Corrections shut down the women’s prison due to having to pay for the US\$100 million class action lawsuit settlement, and as a result, the overcrowded conditions and “having to pay for toilet paper” are ways the department is punishing the women for the settlement and overall lawsuit.² She described that if she were able to go back in time, she would “make sure they didn’t close down one of the prisons and cram us all into one prison.” Another woman also described the prison’s shutdown as a reflection of the department’s punishment for the lawsuit: “because there have been more lawsuits, they’ve had to shut down more prisons. Now, it’s overcrowded and they are not giving anyone any chances. They are taking television rooms and changing them into cells for 12–24 man rooms.” She articulated a perception of punishment from the Department of Corrections for the lawsuit settlement, with the prison administration taking more resources from the women as an indirect response to their legal action. This sentiment is the crux of the descriptions shared by the women; while the lawsuit addressed a glaring human rights issue and the settlement resulted in positive outcomes, there were also negative outcomes, characterized as the prison administration and staff as persistently punishing women for pursuing this legal action.

Likewise, two women spoke of the administration as no longer enforcing a policy designed to prevent overfamiliarity between officers and prisoners, and they described perceptions of the administration as not taking sexual assault

² As context, multiple prisons have closed throughout the state and have been framed by state leadership as due to financial concerns for the state budget.

prevention or larger issues of safety seriously. The specific change in policy is that officers no longer have to rotate supervising housing units every 6 months, allowing officers to develop overfamiliar relationships with prisoners. One woman linked this change to a greater issue of the lack of general safety within the prison;

The officers be on the same unit—same people year after year. It used to be that they rotated after every 6 months. Now, there's a lot of overfamiliarity and complacency—they start to trust and know the prisoners ... Then they start not really watching ... We need more rotation of officers so they aren't so relaxed and they can be more observant and watching.

Overfamiliarity between officers and prisoners is prohibited by prison policy, and with acceptance of overfamiliarity in the prison, the idea of enforced boundaries between officers and prisoners is blurry, inconsistent, and ineffective. This dynamic is concerning as a potential risk factor for sexual abuse by officers.

Lastly, one woman shared that while sexual abuse has dramatically decreased, it still exists within the prison. She notes that the abuse has changed in dynamics from more coercive to “willing” abuse; “now, 15 % [of the officers] do whatever they want to do and are cautious and for the most part, the rest have willing participants ... every now and again, it will come up that an officer and somebody are going together.” Her comments are concerning because sexual activities between officers and prisoners are illegal under the state's criminal statute, regardless of any assumption of “consent” or “willingness.” This is an indication that even as a woman living in prison before, during, and after the lawsuit, her perception is that certain forms of sexual behavior are not abuse, which perhaps speaks to a lack of change within the culture of the prison towards a “zero tolerance” environment.

Discussion

This study investigates the individual and prison-level changes from a class action lawsuit to address prison rape and sexual abuse by correctional officers. To gain such insight, this study relies on a sample of incarcerated women with life sentences who, due to their sentences, have the unique perspective of understanding life in prison pre, during, and after the lawsuit and thus, can speak to changes that have occurred. In regards to the individual-level outcomes women experienced, outcomes of financial benefits and meaningful participation are somewhat expected in terms of benefits, given that other survivors of sexual abuse have shared that the benefits of legal action include financial compensation and forms of therapeutic justice (Des Rosiers et al. 1998; Herman 2003) and these

outcomes are in alignment with the goals of the human rights framework (Shelton 2015). The women who participated in this study also contextualized these outcomes within the prison setting and their meaning as related to having a life sentence. For example, having access to large sums for women is both necessary for survival in prison, especially over the life course, and places women at increased risk of being taken advantage of by people inside and outside of prison. Of most concern, this access increases their risk of additional harassment and hostility by staff as well, or at the least, perceptions of such factors. This perspective has not been presented in other forms of existing research, but does mirror the forms of staff abuse and harassment that women experienced previous to the lawsuit (Human Rights Watch 1996). Notably, this is the only existing study to examine such outcomes and gain this post-settlement perspective from incarcerated women.

For the prison-based outcomes, women shared that changes had occurred within the prison, but without additional forms of improvement in the environment and instead were accompanied by great deal of hostility within the prison, especially in staff interactions. A majority of women's negative experiences could have been mitigated by better prison policies and practices to keep women safe after the settlement of the lawsuit, and these experiences suggest a need for greater cultural changes within prisons. For example, installing safety mechanisms may not be sufficient, as women described that while cameras were installed, footage is not consistently used for investigations. Likewise, no mechanisms exist to address women's experiences of continued harassment and retaliation specifically for their involvement in the lawsuit. Similar to the enactment of PREA, injunctive relief provides some impetus for change, but without changing the attitudes of correctional officers and prison administrators. Even more so, these events occur within a punitive setting, complicating the sense of justice and safety implicated by the injunctive relief measures. These experiences are occurring within a larger discourse of prisoners as deserving of punishment, even in the forms of sexual victimization and retaliation (Singer 2013), thus speaking to the need for social work efforts to infuse a human rights framework into this discourse. Such social work efforts span clinical and macro settings. In addition, given that abuse of incarcerated women is prohibited by multiple international human rights declarations, social workers do not necessarily need legislative changes in order to act; indeed, international standards already have created a mandate to action (even though the USA. has avoided accountability for these standards; Greer 2000). Legal professionals have called for human rights to “come home” (Labelle 2008), and social work practice is poised to answer this call in the implementation of expanding human rights protections to incarcerated women. Social workers offer the potential to center the needs of incarcerated women who experience sexual victimization within practice and policy to change the discourses and treatment of

prisoners and to prevent continued abuse and human rights violations.

This study offers key insights, but also has multiple limitations that must be considered. First, a small convenience sample was used for this study. Future research may benefit from larger samples, specifically with women with life- or long-term sentences, as well as other populations of incarcerated women in order to explore nuances in responses across populations of women. Second, individual interviews were conducted at one point in time; longitudinal research would provide more detailed insight into changes over time. Third, while this study is explorative, mixed-methods research may provide more insight into women's perceptions of events, as well as administrative level changes (such as the number of grievances of sexual abuse filed and the outcomes of these grievances).

Prison Sexual Violence and Human Rights-Focused Social Work

While not without limitations, this study offers insight into key areas of human rights-focused social work theory, research, and practice. Both the individual- and prison-level findings suggest the need for additional protections for compensated victims of sexual abuse while incarcerated and also suggest a “third victimization” experience for women who have to continue to live within the closed setting of prison. Research on sexual abuse victims in the community has examined their experiences of “secondary victimization” (e.g., being invalidated or blamed their victimization and being re-victimized during help seeking) in reporting their victimization to police, legal professionals, and health professionals (Campbell and Raja 1999; Campbell et al. 1999, 2001). For this group of women, after the lawsuit, they have continued to live in prison with rape and sexual abuse perpetrated by correctional officers and with persistent punitive environmental conditions and treatment (especially harassment). These descriptions carry place-specific dynamics; a third victimization may be an experience particularly unique to the dynamics of the closed setting of prison post-lawsuit, the powerlessness of prisoner (and especially lifer) status, and a lack of external monitoring of safety within prison. Future work may expand the construct of third victimization in additional closed institutions, such as military settings.

This study illuminated several key points of social work intervention that may change the culture of reporting and responding to prison rape and sexual abuse in prisons. First, social workers can provide clinical services to prisoners who are victims of sexual abuse, especially that which is perpetrated by correctional staff, and assist prisoners with the formal reporting process of such abuse. Likewise, social workers can effectively advocate for continued safety for victims of prison rape and sexual abuse within the prison environment,

including after formal reports within prisons and during and after engagement in legal remedies. In other words, a specific social work practice that is needed within prisons is the expansion of victim-focused advocacy efforts, similar to rape crisis organization's advocacy models (Martin 2005), that accounts for the dynamics specific to prisons. Recommendations have been made for these types of advocacy efforts without explicitly including or designating social work; however, these types of tasks of providing direct services, coordinating multiple types of services, and building collaborations across service providers, policy makers, and prisoners are core to social work (Zweig et al. 2007). Future research of such social work practices can build a framework of best practices for working with prisoners who are sexually victimized and the range of forms of effective social work practice, from crisis intervention in prisons to advocating for administrators to implement safety mechanisms.

A dilemma for social work practice is crafting ethical safety mechanisms within prisons. In terms of ongoing monitoring, the women in this study brought up surveillance measures, such as security cameras, that create a unique dilemma within prisons. Other research on sexual abuse in prisons has included security cameras as a form of sexual abuse prevention (e.g., Fleisher and Krienert 2006), yet ideas of surveillance within prisons have long been framed as forms of social control, especially in order to enact punitive measures towards prisoners (Foucault, 1977/1991; Rose 1999). Theorists have posited that the surveillance can be turned upon the prison staff as a power shift (Welch 2011). For the women in this sample, their descriptions speak to security cameras as potentially increasing their safety, but given the control of the surveillance as prison staff driven, the cameras alone are ineffective in accountability measures and ultimately not guaranteeing safety. A social work framework and a human rights perspective are needed for crafting safety mechanisms and strategies within correctional and other closed settings that extend beyond increased surveillance and additional punitive results. One potential aspect for direct social work practice is social work advocacy efforts being centered on prisoners who are victims of sexual abuse and advocating for safety measures centered on these prisoners' definitions of safety (versus centering on prison administrators' goals of public safety).

Beyond surveillance measures within the prison, there is a need for ongoing externally driven monitoring of prison conditions, policies, and practices to prevent and respond to sexual abuse in prisons. International human rights efforts have pushed for external monitoring of correctional settings, as well as balancing organizational culture, concepts of deprivation, and practices of improving safety (Penal Reform International 2013). Standards specifically for prison officials have also been crafted by the United Nations in order to eliminate degrading environments within prisons (United Nations 2005). As correctional settings are in need of such forms of

monitoring, social work may be a professional field to consider such a responsibility, especially in terms of evaluating the micro, meso, and macro-level factors that contribute to prison rape and sexual abuse occurring and thus, pinpointing and guiding areas for intervention. Given that criminal justice carries the primary responsibility of protecting public safety, social work offers a discourse of specific values such as human dignity and social justice in processes and outcomes, and perspectives on policies and practices, such as creating trauma-informed organizations, that promote safety and may contribute to eliminating sexual victimization in prisons.

An overarching implication is that the class action lawsuit settlement provided some positive outcomes, including, for some women, a perception of increased safety in prison, and a corresponding concern is how to maintain safety over time even as such lawsuits become historical. Given that the Prison Litigation Reform Act (PLRA) restricts prisoners' access to legal remedies and mandates use of the internal grievance procedures, which have been identified as flawed here, this study offers preliminary evidence that more research is needed to investigate specific outcomes from different forms of legal actions and their corresponding legal outcomes. Further, research is needed on how to continue to provide legal remedies for prisoners who experience sexual victimization, and how to ensure changes, especially those from injunctive relief, are successful over time as permanent changes in prisons. In addition, future research could examine the role of social work in addressing these needed ongoing changes that are based on changes from injunctive relief. For example, within the human rights framework (Shelton 2015), injunctive relief is an opportunity to prevent human rights violations. Thus, social workers could supervise the initial and continued implementation of preventative measures as human rights practice.

Finally, as a larger perspective, social work practices are needed that integrate addressing multiple forms of human rights concerns. Human rights research and practices regarding prisoners in the USA have tended to focus on life sentences as unjust and in violation of international standards of human rights, and as separate concerns, sexual victimization and segregation practices as human rights violations (Vasiliades 2005). A human rights perspective and agenda for action are needed that address the dynamics of prisons, the acceptability of abuse in prisons, and rhetoric of punishment as well as examines the interconnections between human rights violations in the USA. For example, how are excessive sentencing practices and prison rape connected, and how can both forms of violations be simultaneously prevented? In addition, how is the placement of women in protective segregation for reporting sexual abuse in or out of accordance with international human rights standards regarding segregation? A human rights social work practice framework may be especially vital in infusing core social work values into prisons, a change in both discourse and practices (Ife 2012), and

promoting social justice in order to reform prisons to more humane and safe institutions. Even more so, social work may inform efforts at transforming the model of justice within the USA. Additional research is needed to examine effective social work practice geared towards addressing intersecting human rights violations, or more specifically, to evaluate effective practices for changing correctional settings in ways that eliminate multiple human rights abuses simultaneously.

Conclusion

A class action lawsuit to address sexual abuse by correctional officers resulted in individual- and prison-level outcomes for incarcerated women. The complexity of these outcomes suggests that additional interventions are needed within prisons to address and prevent sexual abuse, as well as a form of third victimization of women. The field of social work is poised to promote human rights-infused policies, practices, and cultural shifts within prisons, as well as serve to provide ongoing monitoring of correctional institutions. Overall, social work efforts are needed to prevent the continuation of this persistent human rights violation in prisons in the USA and to supplement legal remedies.

Compliance with ethical standards

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