

# Dallas Morning News

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## Reports of Rape in Prison Increase

*160% rise in 4 years a sign of vigilance, state argues; some call stats falsely low*

By Dave Michaels, *Dallas Morning News*

AMARILLO – Garrett Cunningham refers to it only as “the incident,” the five or 10 minutes that forever changed the way he saw himself.

Garrett Cunningham says a Texas corrections officer raped him four years ago near a prison shower. Another inmate is suing prison administrators and staff over rape allegations. Four years ago, Mr. Cunningham said, a state corrections officer raped him near the showers of a prison. Afterward, the inmate lay in bed, weeping. “When I was awake, I thought about wanting to die, because I didn’t want to live with this,” said Mr. Cunningham, 33.

Since 2000, at least 129 Texas prisoners, including Mr. Cunningham, have alleged that they were raped or had had sexual contact with corrections officers, according to state records. Allegations of inmate-on-inmate rape are even more frequent and appear to be increasing. Overall, the number of reported sexual assaults in Texas prisons has increased 160 percent, to 609 in 2004 from 234 in 2000.

Inmate advocates – who have launched a nationwide legal campaign against assaults and the complacency that they say allows them to flourish – say that the problem is greater than the statistics show, with the situation in Texas acute.

“I really have become convinced over the last three years or so that Texas is the prison-rape capital of the country,” said Margaret Winter, a lawyer who represents two inmates who sued the prison system. “When prisoners report it, they are ignored, laughed at and often punished.”

State officials attribute the increase in reported assaults to their vigilance in punishing offenders.

### Issue Gains Attention

Though the issue is difficult for people to acknowledge, it’s gaining more attention. Driving much of that: the case of another former Texas inmate Roderick Johnson, who said prison officials did nothing as gangs bought and sold him as a sex slave.

Mr. Johnson is suing seven prison administrators and staff members from the Allred Unit in Iowa Park. The case, set for trial in July, will turn on the question of whether prison officials violated the inmate's Eighth Amendment right to be free from cruel and unusual punishment. The suit also argues that prison administrators refused to protect him because he is gay.

Legal experts say the case could open the door to several judgments against prison officers or the state, though some emphasized that because jurors are not often sympathetic to inmates, awards are typically low.

Lawyers for prison-rape victims say that neglect such as Mr. Johnson alleges is common – that corrections officers often don't bother to investigate rape claims and that some even regard the crime as a natural byproduct of incarceration.

Prison officials said they take rape allegations seriously. Besides an indicator of their success reaching out to victims, they also note that the number of allegations is low for a prison population of 151,000 inmates, more than any other state.

### Rape Not Tolerated

"The message is hammered constantly that we do not tolerate rape in Texas prisons," said Mike Viesca, a spokesman for the Texas Department of Criminal Justice. "People are more comfortable reporting these incidents because they know we take them seriously."

The vast majority of sexual assault allegations do not produce criminal prosecutions, records show. Most are either rejected by prosecutors or declined by grand juries. Some prison officials say inmates often lodge false complaints in hopes of gaining favorable treatment.

But some who have studied prison rape believe that even the rising numbers don't capture its prevalence.

"Recurrence is the great fear" if they report it, said Cindy Struckman-Johnson, a University of South Dakota psychology professor who has studied inmate rape incidents in Midwestern prisons. "They fear harm by perpetrators, poor treatment by staff, and shame and embarrassment."

Mr. Cunningham, who went to prison on a probation violation, said all those factors influenced his decision to keep quiet.

"He [the corrections officer] told me he'd have me sent to another prison, where this would happen to me all the time from gang members," Mr. Cunningham said. "That he could have me killed in there."

The Dallas Morning News generally does not identify victims of sexual assault. Mr. Cunningham, who was released last year, said he wanted to tell his story because he believes that the public should know about his experience.

Court records show that Mr. Cunningham wrote an anonymous letter to a prison captain in 2000, complaining that guard Michael Chaney groped offenders during pat searches. Mr. Cunningham said he tried to tell other prison supervisors, but they told him to keep quiet. He also said he complained privately to a prison psychotherapist.

When Mr. Cunningham filed an official written complaint in 2003 – three years after the alleged incident – investigators declined to file charges, saying it was too late.

At least three other inmates and former inmates reported that Mr. Chaney raped them at the Luther Unit in Navasota.

Mr. Chaney, who resigned after the allegations were made, declined to be interviewed. His lawyer, Frank Blazek, said the former officer denies the allegations.

“He is not charged with having any sexual relationships, except with one inmate,” Mr. Blazek said. “He has adamantly denied any wrongdoing.”

### Guard Faces 3 Charges

The former guard is charged with two counts of improper sexual activity and one count of aggravated sexual assault. Prosecutors said they intend to bring another sexual assault case, involving a former inmate from Garland, to a grand jury this month.

In November 2001, another inmate reported that Mr. Chaney had sexually assaulted him. He was able to save semen on a handkerchief, and an analysis later showed it belonged to Mr. Chaney, court records show.

Had officials at the Luther Unit listened to Mr. Cunningham’s and other inmates’ complaints, future rapes could have been avoided, Ms. Winter said.

“One prisoner was lucky enough to smuggle DNA evidence out of the prison,” said Ms. Winter, associate director of the American Civil Liberties Union’s National Prison Project. “But this man has had countless victims.”

Prosecutors say the DNA set the inmate’s complaint apart. Without such evidence, jurors would have had questions.

“I don’t doubt their commitment to ensuring that prison rape is eradicated,” Gina DeBottis, a prosecutor, whose federally funded office handles prison prosecutions, said of Texas prison officials.

Mr. Chaney denied to investigators that he had sex with the inmate who produced the DNA evidence. And the guard’s lawyer, Mr. Blazek, is challenging the DNA, saying an analyst improperly tested it.

The inmate settled a civil suit against Mr. Chaney and the prison system this month for \$54,000.

Mr. Cunningham said he, too, would like to be compensated for what he endured. But he cannot sue the state because he never filed a formal grievance, a step required under federal law.

Now living with friends in Amarillo, he works six days a week at a fast-food restaurant. He cannot afford counseling, which he says the state should pay for. And despite it all, he does not regret the way he handled the assault, he said, because it might have saved his life.

“Had I done it different, I might not be sitting here right now,” he said. “I might have been shipped to another unit and mysteriously died. ... Or an officer could find me dead in my cell.”

In his spare time, Mr. Cunningham operates a business, Pen Friends and Services, which provides prisoners contacts and resources for free books and legal information.

“It’s what I do to try to cope,” Mr. Cunningham said. “It took a lot away from me, as a man.

“I wear a mask on the outside, but I feel totally different on the inside.”

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