

Public Meeting
National Prison Rape Elimination Commission
at the University of Notre Dame, March 31, 2005

Mr. Beckman, I think we demoted you. And that was not intentional.

Beckman: That's okay.

That was not intentional. I served as a prosecutor for 5-1/2 years in Washington, DC and as I said, I've been a judge for over 20 years and I've never seen a case brought to my courtroom as a result of an allegation of either staff-on-inmate sexual assault or inmate-on-inmate sexual assault. What's been your experience? Have you seen any cases of this nature? Do you have any internal policies in reference to the investigation of these cases? What's your view on the problem?

Beckman: First of all, my view on the problem is that it exists although it is definitely under reported primarily because of the occurrences inside an institution and, although it is not systemic as it relates in my opinion, and this is only my opinion from my 10 years as a public defender, including defending people within the United States prison and Westville Correctional Center. It has more to do, I think, as I believe Mr. Babbitt correctly pointed out, it has more to do with the information getting to the correct people and that information getting properly investigated and then getting to my office in order for us to properly undertake criminal prosecution. You have to understand that in order to prosecute a criminal case in the State of Indiana, as in most states in this nation, requires evidence beyond a reasonable doubt and with that evidence every witness is going to be checked as to the voracity, as to bias, as to motive, as to what's bringing forth their testimony. There are very, very unique factors that come when crimes are committed within a

department of correction institution that simply do not exist when a similar crime is conducted or committed in the public at large. We have totally different levels of evaluations and we have totally different types of qualities of witnesses that come to the table, most normally without bias. As it relates to the half a dozen questions I received a couple days ago from Mr. Parsell on the Commission, I have done my best to try and sort out within the two major institutions in my county, the Westville Correctional Center, which includes the maximum control complex, as well as the Indiana State Prison in Michigan City, and the best numbers that I was able to come up with was approximately 7 reported allegations and of course we're using the term rape. In our state it's not technically rape. Rape requires a man and a woman in our state. Technically in our state it would be classified as criminal deviate conduct if it was same sex. Six were ultimately determined to be unfounded. If they're determined to be unfounded, that means they do not ever even get to my office for review. Now also you should understand, contrary to what you see on television every night, CSI is Hollywood. In this state I do not have a private investigation wing, nor could my county or the State of Indiana afford to have me have a separate, private group of investigators to work at my beckoned call. We are reliant for the investigations as all prosecutors are in this state and in most states upon law enforcement. Whether that's Indiana State Police, local law enforcement or the Internal Affairs Division which are investigators within the DOC facilities. So if the case is unfounded that means it never gets to my office even for review. We have one currently still under investigation. We have one that was prepared for prosecution up and to the point that with the last victim interview, this one came out of Westville, with the last victim interview, the victim subsequently recanted. Recanted and said that he'd had a spat with his boyfriend, his boyfriend was dating someone else, in essence using our terminology not the terminology that was presented to us, and ultimately the case went south because of the recalcitrance or the no longer wishing to go forward with the case by the victim. Now the issue

then becomes, did that victim recant because that was truly the version of what occurred? Or were pressures brought to bear within the institution from fellow inmates or potentially from the alleged accused in this case, that would cause that recantation. I do not have answers for those types of issues, but obviously with a recantation from a victim there's absolutely no way that we can prosecute a criminal case. That having been said, if in fact a criminal case was brought my office in La Porte County and there was reasonable suspicion and sufficient probable cause for me to gain a warrant from a sitting judge in my county, then the case is filed. It doesn't matter the color of your skin, it doesn't matter the type of crime, and it sure doesn't matter the location where you happen to be residing if and when a criminal act is perpetrated against you. That again having been said, the difficulties with prosecuting within a prison institution are monumental. First, you always have to deal with the witnesses, if there even is a witness and in most sex case acts there are not witnesses. But assuming we have a witness, the first thing that usually is presented to my deputy prosecutor, and I actually have a deputy prosecutor assigned strictly to these institutions, so he becomes a professional at dealing within the institutions within their rules, their internal affairs investigations and the Indiana State Police that has exclusive jurisdiction within the prison system within our state for investigations, he has a special relationship with them, they meet once a month, all cases that occur within Westville and the United States Prison as well as Summit, the boot camp Summit Farm, which is a juvenile facility, are brought to this meeting, all are reviewed with the deputy prosecutor, the law is explained. If, in fact we have sufficient evidence to move forward with the case no matter what the criminal charge. And we have obviously much more cases as it relates to batteries, thievery, things like that, drug cases as well as the sex cases. Those cases are reviewed, they're sent back for further investigation or to firm them up and if we get sufficient evidence, we file the case. When we start dealing with the victims and the witnesses within a prison, most of the witnesses come to the

table and they say, 'yes, we'll testify before you Beckman, but we want a time cut' or 'I want you to put me on probation and get me out of the institution' or 'I'm having trouble at ISB, I want you to talk to the commissioner and have me transferred down to Wabash Valley'. Motivations for some of these requests could be gang affiliations in other institutions, could be the desire to get out of Michigan City's Indiana State Prison for one reason or another, could be because they like the weather down in Wabash Valley versus ISB. When we have to start dealing in advance and buying testimony, obviously a good defense attorney is going to utilize that to show a bias and to find and reflect that this witness is not being truthful, that this witness is motivated by some personal gain, albeit a time cut, be it a transfer to another institution, and automatically we run into a situation where our case is weak from the outset by virtue of us having to deal with purchasing testimony in some capacity or other. We normally frown on that because it does not help a criminal prosecution to have to purchase testimony. Obviously we will purchase the testimony depending upon the magnitude of the crime and if in fact the crime is extraordinarily serious, we do what we have to do to get the case in front of a judge. But by the same token, the citizens of my state and my county demand that I prove things beyond a reasonable doubt. Not that we get a gut reaction that it might have happened, as you would know judge, but that it is proven and it becomes extremely, extremely difficulty. And when we bring the baggage to the table, that most witness provide, bring with them when we come into a criminal prosecution in 2005 America and most importantly in La Porte County in the State of Indiana. We have prosecuted cases out of prison, we will continue to prosecute them. I personally believe the problem is much larger than what anyone really has an understanding of. And I think only Mr. Babbitt would be the one to be able to tell us that. And the reason I say that is because I would have to assume that the majority of sex-on-sex in a prison is not reported. It's not reported to staff and therefore it's not reported to Internal Affairs and therefore is probably not

investigated at all. I would think that it would be the rare occurrence that that is actually reported. Because again, the person doing the report is in one of the few situations when you're dealing with inside a corrections facility where the perpetrator and the victim will continue for the entire pendency of this criminal matter which could last a year, maybe 18 months, to continue to be in contact with each other, and not only is the perpetrator and the victim continuously locked in contact with each other, but the confederates of each of those individuals, if they have confederates within the institution which many do in this day and age merely to survive in the institutions, also have contact with each other, which tends to lead itself immediately to recantations, to pressures being exerted and to subsequently, basic common, didn't happen, made it up, something else occurred, I was mistaken, had a fight with my boyfriend, whatever the case might be, and the cases become therefore nearly impossible to prove. I don't know how much more I can actually tell you on those issues other than, I believe those answer the six questions that were actually presented to me. I think you might want to know, however, that according to the Indiana State Police Annual Statistics, the most recent one I could pull down off their website for our state, 2003, only showed in 2003, eight confirmed actual charges for forcible rape in the year 2003 statewide by the Indiana State Police. So if in fact those are dealing with our private civilian population, obviously the numbers should in theory be substantially less in prison. I think those numbers reflect the same thing in society as a general as it does within the institution. But not only do you have to have a crime, but you have to have a victim willing to report the crime and then stand by that report to its conclusion if you expect to have a conviction. I think you also might be interested to know that in rapes per 100,000 for the State of Indiana, again, up through the year 2000 the most recent statistical data that I could put my hands on showed that statewide in the State of Indiana per 100,000, Indiana ranks at about 28 forcible rapes per 100,000 in population. My county where these two facilities are located is 110,000 in

population. So based upon a standard spread you would expect to see approximately 28 rapes on a standard statistical basis within my county on an annual basis. I can assure you we do not have anywhere near that number reported, and assuming that the two institutions in my county, population is about 43, 44,000, again according to 2003 stats, I think Mr. Donahue would have much more accurate information than I, said the number was potentially a little bit larger, we should expect to see approximately 2-3 rapes, if you're using the statistical data from the United States of America as well as the State of Indiana. We are not seeing that level of report, and again I have a feeling it has more to do with the peer and the intimidation and the potential harm that can come to a victim who makes such a report, knowing that that victim in most cases is going to have to remain in that institution. I also think that it's important to understand that in the Department of Correction facilities in my state, and I've been dealing with this for 20 some years now. The numbers are monumental, they're astronomical, our prisons are bursting at seams, and to think that it might be the easiest way to say, well if a victim makes an allegation of rape with the United State Prison, then it should be up to Commissioner Donahue to move that individual to another institution. Those types of quick fixes have to be very seriously scrutinized. You also have to understand there are inmates in the institutions that truly are institutionalized, that have been there for long periods of time, in fact may be there for the rest of their lives, and if you give them a vehicle for them to get a ticket outside the walls to move from this institution to that institution, you will have allegations of rape coming out of the institution to the hundreds and the thousands. Not necessarily because they occurred, but because inmates have this tendency to try and beat the system in certain situations, and if they had a way to get a ticket to move to Wabash Valley, to move to Maderiville, to move down to Miami County, to move to Westville, they will utilize that whether it requires them to feign an allegation of rape or not. Obviously, for the act of prosecution of a rape, we need a full rape analysis as

quickly as possible on the victim in order to ascertain whether biological material has been left behind so that we can forensically evaluate that individual to ascertain if in fact a crime has occurred, to see if there's any damage or injuries that can be photographed and documented on a copescope, and obviously to collect DNA for matching up with an alleged perpetrator. That does happen in our institutions, however again, by virtue of the very nature of the institution, there is a certain level of delay which sometimes causes that material to either be degraded to the point of non-use or merely to be degraded to the point where our State Police Forensic Laboratory is incapable of pulling a true DNA analysis on the material. But that has to do with systemic parts of the institution because of the security involved. I'm not sure if I should go any further, it's probably been 10 minutes. I think I'll let Mr. Schwartz talk and hope we have some questions.

Thank you. I think while prosecution is not the end-all to address this problem, I do think it will be an integral part of the overall effort if we're going to have the type of impact I think we can. But we thank you for your presence and your participation.