

Our next panel will address the vulnerability of the youthful offender population. We have three witnesses: Dr. Barbara Owen, Ms. Judy [sic] Marksamer, who's an attorney, and also Ms. Deborah LaBelle, who is also an attorney.

I'm sorry. My eyes are getting bad. Jody Marksamer. I'm sorry.

MR. MARKSAMER: Thank you.

CHAIRMAN WALTON: Shows my age.

Okay. I guess we'll take your presentations in the order in which you appear in the program.

Will you please take the oath.

(Dr. Owen, Mr. Marksamer and Ms. LaBelle were duly sworn.)

CHAIRMAN WALTON: I believe all of you have submitted written statements. Those will be without objection admitted into the record. Thank you.

STATEMENT OF BARBARA OWEN, Ph.D.

CHAIRMAN WALTON: Dr. Owens.

DR. OWEN: Thank you very much, sir. I'm pleased to offer my comments about girls and women in the juvenile justice and the criminal justice system. So often the issues of gender are overlooked in what I've called the tyranny of the numbers. There's so many boys, men and young men in this system, very often we overlook the implications of gender.

I'd like to share briefly with you some of my background. For the past 20 years I've been conducting research in California and federal prisons. In the last decade I've concentrated this work on girls and women in confinement. I've conducted training for the National Institute of Corrections across several dimensions dealing with gender in confinement facilities, and for almost the last two years I've worked with The Moss Group for the National Institute of Corrections on PREA.

Many of my remarks now reflect both girls and women, so please forgive me any repetition in my testimony.

My primary concept that I'd like to introduce to the Commission today is this: That we need to take what we call a contextual approach in understanding the realities of the lives of girls and women. And this contextual approach looks at their lives as they're embedded in personal, structural and institutional frames. These frames, which is a fancy sociology way to talk about the way they live their lives, have to do with the gendered aspects of their pathways to prisons, their lives before prison in juvenile confinement, their lives during institutionalization and, really important, their lives afterwards.

We've found that women and girls respond to incarceration treatment and rehabilitation in ways

that differs dramatically from that of boys and men, and my written testimony will detail some of these differences.

I'd also like to note that the expanding net of the juvenile justice system and the criminal justice system for females also demands our attention. As more and more girls and women come into this system, the opportunities for vulnerabilities expand.

My introduction, again, overlaps both girls and women. I'd like to start by saying that, in my view, PREA is about sexual safety in correctional environments. And this safety has a gendered meaning. And, again, because so many of our systems are filled with males, it's very easy to overlook the problem of girls and women. In doing so, we need to expand the definitions of sexual safety in order to be gender appropriate.

The testimony we heard from the witnesses and, again, as the commissioners noted, the courageous testimony shows that both men and women, boys and girls are vulnerable to assault from each other and from staff.

I'd also like the Commission to consider that female sexuality is dynamic, as is male sexuality. Dr. Kupers and other witnesses have noted that we don't talk about sex in the correctional environment. We outlaw it and say it shouldn't happen, and then we pretend that it doesn't exist.

But just as in the community, female sex and sexuality is different from that of males and, once again, requires investigation through a gendered lens. The context of female sexuality shapes the lives of girls before they come to prison and other forms of incarceration, during and after. And when we look at what we call the pathways to incarceration, we see that girls and women are highly likely to have experienced inappropriate sexualization prior to incarceration, sexual violence, both in their families, from intimates, from trusted adults, and, as they go through the life course, through their partners as well as strangers. This is one of the gender differences that we need to pay attention to in terms of the sexual abuse and the corresponding trauma histories of girls and women.

We also know that sexuality in many ways is socially constructed and situational and that when you look at girls and women -- again, this isn't to say this isn't true for boys and men, but we need to concentrate on the developmental aspects of sexuality and how, particularly for girls who enter the system young, these developmental aspects can be shaped by these institutional factors.

I also want to suggest that many of the labels we use, such as homosexuality, again, needs to be placed in a gender context. For another example, one of the concepts used in the prison sexual

violence literature is this notion of protected pairing. I want to suggest to the Committee -- to the Commission that that is different for girls and women than it is for males and boys. What -- we don't know very much about sexual violence among girls. We know a little bit more, partly through the work of Dr. Struckman-Johnson, partly through the work of Robert Duman (phonetic) and other folks, who summarized it, and I feel that we haven't focused on sexual violence among girls and women as well as sexual violence done to girls and women.

We all welcome the work of the Bureau of Justice Statistics, and I think they've made the right decision in looking at the juvenile system and the adult system separately. I've worked with them on their instrumentation on their juvenile survey, and I know they have been very careful to include gender-sensitive measures.

Of course you're familiar with Mark Fleisher's work, and I'm on his advisory board, and I'm pleased to bring to the Commission this information that he has included women in his study. This is something that's not usually done.

One of the primary views of the literature says that we have an incomplete understanding of the incidence, structure and dynamics of sexual relationships in female institutions.

As Dr. Struckman-Johnson knows, of course, these estimates range widely. They vary across

institution type, across housing type. They vary across populations. Other researchers have found about 5 percent of their female respondents report sexual coercion. We just don't know how much, and I know the Commission will be very careful in looking at the findings of BJS and other research entities.

Another key issue in understanding the lives of girls and women, again, is the role of violence and trauma in their pathways. So many of these girls and young women have experienced inappropriate sexualization, again through intimates, again through violence, and they learn to negotiate the outside community, as well as the prison environment, through their sexuality. Sexuality becomes a commodity and a way to negotiate this world.

These gender differences between females and males should be considered in developing the national standards that support sexual safety in the juvenile justice system and the criminal justice system. Some of these are subtle and complex. And as Professor Smith noted in her reaction to Dr. Kupers' testimony, there needs to be a sophisticated, complicated discussion of these subtle and complex issues. They require a separate examination in order to address the problem of sexual abuse and violence against girls and women in these systems. There's scant information, and, again, when we use a male lens, sometimes we miss some of these subtleties and

complexities.

Research and policy underway supported by PREA funding through the alphabet list of all the federal partners I think will add to our understanding.

I want to talk here directly about girls in terms of four or five dimensions, what we know about girls and young women in the juvenile justice system, a study called the Survey of Youth in Residential Placement. I'd like to make comments about institutional culture and some of the vulnerabilities based on gender and age.

So what do we know about girls and young women in the system? We know their offense pattern is different -- differ somewhat from those of males. They're most likely to be incarcerated for nonviolent crimes. Particularly in local juvenile justice systems, they are often detained for what are called status offenses rather than actual crimes.

Secondly, we know about girls and young women that they have gender-specific developmental stages. And adolescence for girls is different than adolescence for boys. Part of this adolescence experience is experimenting with sexuality. And when confined to same-sex facilities, some of this experimentation is going to be with other girls and women.

Again, I can't stress enough the importance of introducing violence and trauma, and, again, sex

may very often be used as a bargaining tool and sometimes as a communication tool in making their way in confinement. For many girls and young women, sex has become a survival mechanism, both in the street and in the correctional environment.

Gang membership may have an abuse component for girls. All these things point to the fact that sexual experience outside shapes their sexual experience inside.

For many traumatized and abused girls and young women, victimization becomes expected and normalized. It's something that happened to them in their homes. They expect it to happen to them throughout their life course. Children particularly are powerless, and they are more likely to be compliant, again, because it's happened to them before. Why should being locked up be any different.

There's an additional complication with youth having to do with the mandatory reporting issues that -- institutional and correctional environments have mandatory reporting requirements, again, echoing many of the things Dr. Kupers talked about and the difficulty in responding to sexual violence in juvenile facilities.

I'd like to talk very briefly about the SYRP study again, the Survey of Youth in Residential Placement. These researchers found three things pertinent to our inquiry. First, girls are more

likely to report some form of sexual abuse in facilities. Girls report it about 7 percent of the time compared to about 3 and 1/2 percent of the time. And, again, this is a reporting issue rather than an occurrence issue.

The SYRP study found for both girls and boys that length of stay affects their window of vulnerability and, finally, that younger girls were more likely to report victimization than older girls.

Other research sources on sexual violence and sexual activities in juvenile facilities report that kissing and fondling is the most common occurrence.

But, again, we need to know much more. This is what the literature says. I expect that once these research activities open up the question, we're going to find out additional details.

The institutional culture and the relational context is important in understanding the lives of girls and young women in correctional placement. I'd suggest to you that prison culture, institutional culture is an enormous factor in understanding sexual violence. My work in women's prisons talks about affiliative networks, grounded in interpersonal relationships as a way to do time. And I'll talk more about that in detail in my testimony on women.

I have not conducted empirical research on the culture of female institutions, but I believe that relationships are equally important. Again,

these relationships shape emotional and physical relations as the girls and young women negotiate their confinement.

I think that sexual aggression needs further analysis. We do know that women and girls seek connections to make sense of their confinement, and the same-sex relationships that have been reported differ in intensity across emotional factors, sexual factors and physical factors. For example, in some of my work with NIC in The Moss Group, I've observed that some systems now have a no-touch policy to stop sexual violence among their female offenders. I'm not sure that this is a -- the right way to go. I suggest that prohibiting all touch has a damaging effect on females and needs to be reconsidered. At the same time, I appreciate the fact that the challenge -- the Commission has a challenge in delineating the line between acceptable emotional and physical expression among the girls and that which violates institutional rules.

Finally, I'd like to talk about staff sexual misconduct. Most of the work has been done in adult female facilities, and I'll talk about that in my second part, but I feel strongly that girls are vulnerable in more complex and subtle ways. There's little documented research, but I suspect it mirrors adults, that I think when we talk about girls and young women, we need to raise the issue of

compliance. Youth are very often more compliant with adults and authorities, and, again, this compliance is deepened by their traumatization histories. They may not be able to report. Again, it's a normal expected part of their lives. They expect it, and I think they're more vulnerable to threats by correctional staff because of their youth.

I'd like to conclude my comments with some recommendations, and I'll echo them when I talk about the adult women. In my view, PREA supports the philosophy of zero tolerance and should be used as a way to create sexually safe environments for youth and adults.

In the morning's testimony, Ms. Hernandez talked about the psychology of prison. Prison often inhibits an individual's ability to report or an individual's ability to discern that harm has happened to them. I think our focus here should be on the gendered aspects of sexual safety. Understanding the lives, the pathways of girls and women is important in formulating our standards.

Another witness mentioned the public health model, and I urge the Commission to consider prevention as one of their primary concerns. Prevention helps us set the tone. Peer education appears to be a promising model. Mark Fleischer's work and my own work shows that there are ways to seek safety in the correctional environment; there are ways to say no. And this information should be

conveyed formally at reception/orientation, because, again, that sets the tone.

There's some remarks I'll make about staff, but I want to conclude that I'm not sure we need to focus on the measurement issue. I know that's been a conversation of much dispute. The issue of baseline of change, I have enormous faith in the BJS researchers and other professionals involved with it, but I think the work of PREA is highlighting the issue of safety, of sexual, emotional and physical safety in the threshold environments, of creating these mechanisms that improve the current conditions.

And I want to conclude by saying PREA gives us an opportunity to see inmates and others confined as worthy. The Australians have a term called "making the other" or "otherizing," and I think the history of corrections and juvenile justice has been to otherize inmates, to see them differently than ourselves.

Dr. Kupers talked about respecting inmates. In my view, PREA is part of the work to restore humanity in the prisons, and I look forward to your standards.

Thank you very much.

CHAIRMAN WALTON: Thank you, Doctor.

