

Our next panel will address the vulnerability of gay, lesbian, and the transgender population. We have four panelists, Dr. Scott Long, Christopher Daley, Dean Spade and Jody Marksamer.

So it doesn't look like I'm favoring anybody, I'll start in the order you were put on the agenda, which I didn't put together.

So Dr. Long -- oh, I'm sorry. 22 years, it's just hard.

(Dr. Long, Mr. Daley, Mr. Spade and

Mr. Marksamer were duly sworn.)

CHAIRMAN WALTON: Thank you.

STATEMENT OF SCOTT LONG, Ph.D.

DR. LONG: Because the issues that we're dealing with here are ones which suffer overwhelmingly from invisibility, they're ones which, by and large, have simply not been seen, I'd like to start by alluding at least to something very far from where we sit here, but something with which I think we're all familiar with because we've all seen it, and those are the images from Abu Ghraib in Iraq, images in which people were forced into simulated or real sexual situations simply to milk the maximum humiliation from their positions.

Sex was taken up there as a tool to strip

people of power. And there are, in fact, credible accounts that rape was part of that system, that prisoners at Abu Ghraib were raped -- and the rape was recorded on tape or on video -- to intimidate other prisoners and to render rape a constant threat.

Those images, those photographs, as well are ones in which the meaning of masculinity was steadily at stake; that is, if you look at those images, you see that the governing theme, really, of the torture was to, so to speak, feminize male prisoners, to strip them of what the guards, at least, regarded as the operatus of manhood. It was a system where masculinity was constantly tempting, constantly accessible so that, for instance, women guards who participated in power were invited to assume some of the roles of masculinity, and at the same time it was constantly at risk.

So I want to put two themes on the table here: Sexuality and gender, gender and sex.

Every prison system, as has been repeatedly emphasized here, is a microcosm of its society. It reflects the prejudices, the structures, the techniques of power that prevail outside.

Well, in this society, where homosexuality remains a source of violent social prejudice and dispute and where manhood and its meanings are a source of both authority and insecurity, those, I submit, are going to be points where the power relations within the prison take intense and

unequivocal force.

I've done a great deal of research with survivors of really some of the world's most notorious prison systems, not just the United States but Romania, Zimbabwe, Turkey, Egypt, and if there's one thing I've learned, it's that people who with their bodies defy social norms, in the way that they deploy those bodies, in the way that they appear, people who have the courage to say I will use my body in a way other than what society tells me to, those people are likely to face violent retaliation on their bodies, in bodily terms.

And in U.S. prisons, lesbian, gay, bisexual, and transgender prisoners, who defy social norms for the experience and expression of sexuality and gender, face sexual abuse and torture regularly.

For instance, a female prisoner who in the 1990s was incarcerated at a federal institution in California was housed for a time at a men's unit because she identified as a lesbian. She was made constantly visible to male inmates and guards, including while using showers and toilets. And when she complained, it was dismissed. A prison official, she says, taunted her for her sexuality, saying "Maybe we can change your mind." And in sworn testimony she named a guard who sold entry to her cell to male inmates in order to rape her.

For men who identify as gay in the prison

systems, they are often sentenced to permanent sexual availability to other prisoners and often guards. One prisoner told Human Rights Watch, in the course of our research, all open homosexuals are preyed upon within the prison system.

Beliefs and practice both underline and contribute to the patterns of abuse that these prisoners face. There are stereotypes and prejudice which persist in the prison system unchecked. Fundamental prejudices about how men and women are constituted, how they should look, how they should behave, but also beliefs, as I've suggested, that lesbian and bisexual women are there to be converted, that men's masculinity, the guards and the other prisoners, is at stake in the task of converting, and that gay men are defined by their sexuality, want sex and exist to provide it.

But there are also specific practices which make abuse possible and, in fact, almost mandated. This includes, in the case of transgender inmates, who by their very visibility within the prison system are among those most at risk. The way that the state classifies genders and assigns prisoners doesn't just fail to meet the state's duty to protect, but actively exposes many prisoners to harm. Prisoners are commonly classified according to their birth gender, meaning particularly the male-to-female-transgender people are placed with male inmates. And even jurisdictions which allow

limited classification of trans people according to their own gender identity do so in the main only for transgender people who have undergone what is called sex-reassignment surgery.

What that means, in other words, that respect for your gender identity and protection for your physical integrity and safety depends on whether before imprisonment you've undergone a specific set of surgical procedures which are arbitrarily defined in the eyes of the state as giving legitimacy to your own self-identification.

Sometimes transgender prisoners, who are vulnerable lesbian or gay prisoners, are placed in isolation or solitary confinement, allegedly for their protection. But it's a violation of international standards to impose punitive measures on prisoners in the name of protection. It's a failure of the state's obligation to create a humane prison environment.

But let me also be clear. This endemic lack of respect for people's decisions about their gender identity violates some of the deepest principles of human rights and international law, the respect for human dignity and autonomy.

The European Court of Human Rights has held a recent decision that the ability to determine one's own gender identity is, quote, one of the most basic essentials of self-determination. The court stated

that, again quoting, "The very essence of human rights being respect for human dignity and human freedom, protection is given to the right of transsexuals to personal development and physical and moral security."

I want to pause by speaking about international human rights protections and the example the U.S. is setting or failing to set.

International human rights law forbids discrimination on the basis of sexual orientation or gender identity. And international human rights law forbids torture.

I would like to quote a statement by the United Nations special rapporteur on torture, the individual charged with investigating cases of torture worldwide in 2001. He said:

"The special rapporteur notes that a considerable proportion of the incidents of torture carried out against members of sexual minorities suggests that they are often subjected to violence of a sexual nature, such as rape or sexual assault, in order to punish them for transgressing gender barriers or for challenging predominant conceptions of gender roles.

"Members of sexual minorities are disproportionately subjected to torture and other forms of ill treatment because they failed to conform to socially constructed

gender expectations. Indeed, discrimination on grounds of sexual orientation may often contribute to the dehumanization of the victim, which is often a necessary condition for torture and ill treatment to take place.

"Discriminatory attitudes to members of sexual minorities can mean that they are perceived as less credible by law-enforcement agencies or not fully entitled to an equal standard of protection. The special rapporteur has received information according to which members of sexual minorities, when arrested for other alleged offenses or even when lodging a complaint of harassment against third parties, have been subjected to further victimization by the police, including verbal, physical and sexual assault, including rape."

To return to what I said at the beginning, we have seen the photographs from Abu Ghraib and they have put a stain on the reputation of this country for its complicity in torture. But every day the lives and the physical integrity of lesbian, gay, bisexual and transgender people are at stake within our prison systems, and what they face is torture, and our government is complicit in it and in many cases responsible for it.

As someone who works internationally, I can attest that around the world, as people contemplate the gulf between the principles this country professes and the practices it engages in, our talk of freedom and the fact of torture, it is difficult for us sometimes to stare at citizens of other countries in the face.

But if we contemplate what happens behind the bolted doors of our own prisons, where lesbian, gay, bisexual and transgender prisoners face the consequences of prejudice on their bodies, in their lives, it's amazing sometimes that we can stare at ourselves in the mirror.

Thank you.

CHAIRMAN WALTON: Thank you.