

STATEMENT OF SENATOR GLORIA ROMERO

SENATOR ROMERO: Thank you very much.

And I'd like to thank you for the work that you do, commend the work that you have been doing for some time and thank you for the opportunity to come and to dialogue with you today.

I think that prison rape is among the most vicious and traumatic abuses that inmates can suffer within prison walls. And yet like most abuses behind the closed doors of correctional facilities, we too often turn a blind eye to the problem.

In California, historically, I believe that we have underestimated the problem. Even worse than underestimating is really barely recognizing it. And perhaps most egregious of all is knowing that it exists and choosing to remain silent. And then we get into that old adage of don't look over there, look the other way.

This Act, I believe, has forced California, as it has 49 other states, to begin to look squarely at the problem. And it's one that I think its time has long since come.

Let me just give you a quick synopsis of California. The California correctional system today house abouts 167,000 human beings inside its walls. There are about 164,000 inmates in the adult correctional system. There are about 3,000 juveniles in the youth correctional facilities.

Yet when we took a look at the statistics that were reported stemming from this Act, the state reported 23 inmate-on-inmate sexual assaults and 75 staff-on-inmate assaults in the prison walls within the last year.

If you break it down, we find that this is one substantiated sexual assault per 1700 inmates, and yet the Bureau of Justice Statistics indicates that the national average is about .94 allegations of sexual violence per 1,000 inmates in the year 2004.

If we take a look at the Division of Juvenile Justice in California, formerly known as the California Youth Authority, there were nine allegations of sexual assaults that were made in a population of about 3,000. The National Bureau of Justice Statistics estimates the national average to be 18 allegations per 1,000 youth.

So if we look at those statistics collectively, clearly we find either California is doing tremendously well, we're very safe, or California just hasn't gotten it right.

I tend to think it's the latter. The state is well below the national report rates. And I think that this is reflective -- when we talk about rape in prison, prisons are a microcosm of everything that happens in society. Just as we can walk out and walk down the street to the local D.A. and find that there is an underreporting of rape in society, so too is

there an underreporting of rape and sexual assaults within our prison walls.

And there's lots of reasons for that. The witnesses earlier addressed some of these issues. Certainly shame, stigma, the fear of retaliation, the recognition that there's not much out there to assist us with, and for men in particular, the additional stigma and challenging and questioning of their manhood. And, like it or not, manhood oftentimes, in our culture and our society, equated with strength and power is -- has a premium within the prison walls.

Just last year, if we looked at the beleaguered California Youth Authority, our juvenile system in California, we found they were rocked by lawsuits that were filed by wards alleging sexual assaults in two of our institutions. One of these allegations, in which a female ward accused six staff members of sexual abuse, that did lead to the conversion of a coed youth correctional facility into a girls-only facility.

Sexual assault and abuse is so high that our expert reports, experts that California ourselves hired in order to settle the Farrell lawsuit against the State of California, they reported that rape, sexual assault and sexual harassment are common within the California Youth Authority. Some wards are housed in the same living facilities as others who have previously raped or sexually assaulted them.

This was from the reports from our own experts just released in December of last year, January of this year.

I believe that there are a number of major challenges that California has to face. First and foremost, we have to develop the incentive to report, the incentive, what occurs, why do it.

Certainly I think, as I indicated, prison is a microcosm of society. There is a culture that somehow rape, we just don't see it, we don't talk about it, it's a big taboo. The question then is, if I report, who will protect me, and the witnesses this morning did address that.

Rape in prison, just as it is in the outside world, is a form of control. It is a form that acts in a similar manner as it does with rape as most people perceive it in the outside world.

And I think to me one of the most haunting conversations that I have had with an inmate as I have toured the correctional facilities in California -- I'm the chairwoman -- the chairperson of the California Correctional Oversight Committee and I also chair the Correction Budget Committee for the State, so it is quite common for me on a regular basis to visit our state facilities, both juvenile and adult corrections, and I will speak with administrators, staff and inmates or wards as well within the system.

But I recall especially one of the most haunting conversations I had was with an inmate at Pelican Bay. This is, again, a secure housing unit in California. This was -- at the time that I met him, a couple of years ago, he was 26 years old, and he told me his story. He was now debriefing. He was out of the maximum security unit. In order to be released from Pelican Bay, he had, quote-unquote, snitched. He told me that he was incarcerated at the age of 18. He said I assume full responsibility. I did something stupid. I took another person's life. He said he was with his mother at the time. His mother guided him through the legal process. Working-class kid, didn't have money. They said take the plea bargain, you'll get so many years, it will be okay, do the right thing.

And at that time, at 18, with no, really, legal counsel, he said this was what we believed was the right thing. I assumed my responsibility. I knew what I had did was wrong. I decided to go to prison and pay for the crime, do my time and pay for the crime.

18 years old. He shows up in a California state prison. As he began to relate the story to me, he said I was, quote-unquote, fresh meat. It became a choice then for him. You either joined the Arian Brotherhood, you joined the prison gang, or you know what, you will be repeatedly raped. Those are my choices. That's my choice at age 18.

Now, I'm a mother. I have a daughter who is now 21. I would not want any parent to have to hear from their child that this is your choice. And he sat there and just recounted the whole story. He made his choice. He joined the gang. Bad things subsequently were still done to him, and he did bad things to other people. And, finally, he found his way out of the system at age 26. I sat there, sitting at Pelican Bay, talking with him and others who told similar stories.

The point that I want to make is that to a large extent we're sitting here, and we are all concerned. And, yes, it's not just about reporting. It is about eliminating from the beginning. But make no doubt about it and let's not be so naive as to not acknowledge to a great extent I believe the cause of the problem is us ourselves. We create conditions. We foster conditions. We run prisons in such a way that it is possible to look the other way and in some strange peaceful coexistence to acknowledge that control of inmates is maintained from within.

And some of my colleagues don't necessarily agree with me on this point, but to a large extent it is our culture that further endangers the life of human beings that come into the system and are further victimized. I think that's a very serious issue. I think there is a big denial about rape within prison.

And let me also acknowledge that there's a denial about sex. Now, sex and rape are two different things. And let's be very clear about it, but just like we deny that there is sexual activity, that there is rape, we tend to just say we -- we don't talk about that.

To illustrate that issue there is a debate in California as we speak over the use of condoms in the California state prisons. Sex doesn't happen. It's wrong.

Yeah, right. Walk out to any yard and let's talk to inmates there and we'll talk about sexual activity. Sexual activity occurs in our prisons. Rape and sexual assault occurs as well. We have to have a backbone and the internal fortitude to simply -- to talk about it -- not to condone, but to talk about and to resolve. I think those are important issues.

I think the other thing that we face too in dealing with the state agency is we have to deal with societal attitudes. We deal with attitudes from the electorate and the voters. To a large extent and, again, to right or wrong, good or bad, when we talk about crime, it does become a very emotional topic, and one that many elected officials would like to distance ourselves from unless we can package ourselves as tough on crime.

I think to a large extent it is interesting when we listen to many taxpayers, the people of the

State of California and any other state, for that matter, will oftentimes say I don't care, that's the scum of the earth in there. Those are bad people. Prisons are for punishment. They deserve to be punished.

I will even acknowledge -- I'm a democrat, but I was appalled when my own Attorney General made comments, flip comments, not too long ago related to the energy crisis in California and made a comment, supposedly to be a joke, that the executives of Enron might be arrested and incarcerated in a California state prison and have a cell mate who might be named Spike, a big guy. And people chuckled, and the joke was, essentially, that Spike was somebody who was going to abuse, abuse the CEO of Enron.

Whatever one might think about the reason why that CEO might be arrested and put into a prison cell, but then to make the joke, to say I'll put you in with somebody named Spike and sort of chuckle, laugh, laugh, that the end result is you're going to be raped -- this was the Attorney General speaking from the State of California, and I found that to be a most egregious comment.

Yet if you walk out into the lobby, you'll see the photos out there. And those photos that you have hanging out in the lobby I think precisely identify the nature of the problem and the work that we have to do in working with our own electorate, our

own citizenry, to help our own citizenry understand that that woman on the poster standing out there, we would not condone her being raped, and yet you put the orange jumpsuit on her, and suddenly she's less than human, she's scum of the earth, and we'll look the other way.

That same man, the photograph that you have out there, when he's in his everyday, ordinary clothes, we wouldn't condone rape or sexual assault. Although it's harder for men because somehow we just don't talk about rape and masculinity, and we need to. But even still, then we put the orange jumpsuit on him, and we tend to look away.

To a large extent, we have a tremendous work ahead of us, because prisons will function within a cultural and societal context, and we've got to help break these attitudes and myths.

We can believe in punishment. That's fine. But there is rehabilitation. In fact, over 90 percent of our inmates do return home. They return with shattered lives. They oftentimes return to spouses or to girlfriends and perhaps may be HIV-infected or have AIDS, and then we start dealing with public-health risks overall. We deal with recidivism rates. We have got to make the link. I have long said it's not enough to be tough on crime. We've got to be smart on crime. And part of being smart on crime is fighting for public safety. If we want to claim the mantra that we are law and order,

then part of being law and order is also looking within the walls of our prisons and seeing what is occurring and seeing the lawlessness that occurred.

I do believe that one way that we can get there is media access. The more that we shine the spotlight on what happens within the prison walls, I believe the less inclination there is to say we don't look there, we don't talk about it, it's hush-hush. But we've got to have the courage to do that.

I think some of the difficulties, though, are, as lawmakers, we have to, I think, reward and provide the incentives for our correction officials to say it's okay to report, we want you to report. This isn't about a bad warden at a particular facility. That, if anything -- and I think oftentimes we send schizophrenic messages to our corrections officials that if we hear bad news, we're going to be punitive towards them.

I think, as lawmakers, across the nation we've got to be ready to say we are all in this boat together. I can be critical of corrections, but unless I'm sitting here with you, working with you to turn these ships around, then we are all being part of the problem. And so I think we've got to provide incentives for corrections officials to say give me the bad news, you know, the buck stops here with all of us, with the Secretary, with myself, with the Governor. It stops here. And when we see that bad

news being reported about prison assaults or rapes, it's not to say let me point the finger and say you're doing a bad job.

Collectively, states have got to do this, and I think we've got to encourage folks to take this initiative.

We do have a new administration in California, and I think it's been a refreshingly reform-minded administration. I am very honored to sit here next to the Secretary. We don't agree on all aspects, but there was no need to put us on separate ends of the table. You can see we have come together on a number of initiatives, and I think we have worked well.

But there's much more to do. I'm sure the Secretary will speak more about what corrections is doing from within, but I'm very proud that our department did receive a \$500,000 federal match grant. We had made application in order to gather this information. And information gathering is critical. Not so that we can punish and blame, but so that we can strategize, organize and make change.

The department has also convened a task force to develop standardized policies, training for both staff and inmates and reporting procedures. But, again, we can have task force after task force. At the end of the day, though -- to a large extent, I think we already know, but we've got to make sure that we have the backbone and the courage to stand up

and speak up and to look where we had often been told don't look that way.

So I think that we will take a look at these issues as we go forward. I know that we -- that -- I know that we know that we have a problem. The problem is, though, that we don't know the severity of the problem. And we certainly at this point do not have the apparatus in place to begin to truly resolve it.

I do think, however, that California was forced to act. And in and of itself one of the best things about the Prison -- the Rape Elimination Act is that it is forcing states to come to the table to report. Because information is one of the best ways to bring about the change. Once you bring it out of the closet, put it on the table, shine the light, then we are forced to act. There may be different motives. Some out of shame. Some out of anger. Whatever their motives may be, we're forced to act, and I think that's been a real positive sense overall.

In California we've seen a number of lawsuits filed alleging, again, to violations of due process and protections provided by the Youth Amendment of the Constitution. We can go on. We've got Valdivia, Plata, Madrid, you name it. We authored a federal receivership for our health care in the State of California.

To some extent, some have argued that the Constitution has been trampled on. But there is a new administration in town. There is a strong oversight committee from the California State Senate, and I believe that, working together, we can bring about some positive changes. I think that we have to.

And one of our strongest missions is to make sure that the people of the State of California, as the people in the rest of the nation, understand that we must care. It's been said earlier, and I'll reiterate it: These are human beings. 90 percent of our individuals incarcerated return home. And the question we have to ask is -- and the question of course we know is that sexual-assault incidences do not reflect well in a successful reintegration into society. So we've got to confront that overall.

I think also by addressing these issues, I think we as a society are forced to reflect and to think about our own underlying philosophical foundations as to why we have prisons. Some believe in punishment. There's room for rehabilitation, certainly corrections. We want justice for the victims. But also, it is in nobody's interest to further victimize and create new victims under the auspices of the State of California.

So I thank you for being in the State of California. I look forward to continuing to work with you as you undertake this very important work,

and on behalf of my colleagues in the California State Senate, we stand ready to work with you in whatever endeavors you may have.

Thank you so much for inviting me to come today and testify before you.

CHAIRMAN WALTON: Thank you very much, Senator. With your permission, we will adopt into the record your written testimony.

I don't know who tried to separate you. We certainly didn't intend to do that, because we fully appreciate that the executive and the legislative branches have to work together at all levels to address this problem.