

QUESTIONS FROM THE COMMISSION OF THE  
SURVIVORS OF PRISON SEXUAL ASSAULTS PANEL

CHAIRMAN WALTON: We will have questioning from  
the commissioners.

Commissioner Kaneb.

COMMISSIONER KANEB: I'd just like to start out  
with a general statement. I'm prompted to do this by  
Ms. Hernandez's observation that it was hard for her  
to believe that this is happening to her in the  
United States. It might be expected or at least  
somewhat probable in some other country.

And I think that, unfortunately, you're  
obviously stating a truth. I will tell you that the  
act that created this Commission, the National Prison  
Rape Elimination Commission, was passed by unanimous  
votes of both houses of Congress. It was signed by  
the President of the United States. And that body of  
Congress, the President and, I assure you, all of  
these Commission members agree with you that it is  
totally unacceptable. This abomination that you  
might expect to take place in a second- or  
third-world dictatorship is taking place in America.  
And we know it is.

Incarceration for committing a crime is a  
reasonable punishment. Rape during incarceration  
represents nothing more or less than cruel and  
unusual punishment which is expressly prohibited by  
the Constitution of the United States.

Our job is to work with the U.S. Government, with the Department of Justice, state agencies, with people in the corrections system -- and there are many good, well-intentioned people in the corrections system -- to work with all these people so that it is recognized not just as a theoretical situation, but a reality, that this abomination is cruel and unusual punishment, is a violation of the United States Constitution and needs to be treated as such.

CHAIRMAN WALTON: Commissioner Nolan.

COMMISSIONER NOLAN: Thank you all for reopening these old wounds. I know -- at least I can somewhat imagine the pain it is for you to come forward and relive them, but it's only because of your willingness that we're able to remind the public of this barbaric practice that we've tolerated.

None of your sentences involved being raped. You didn't deserve it. And there's no way we can make up for you what happened to you. But because of your willingness to come forward, hopefully we can prevent others from doing it. And, as John said, Congress unanimously, and the President of the United States, stand behind you in making an effort to stop this.

The system has an obligation to those we incarcerate. We took away from you the right to defend yourself. You're not allowed to have a weapon inside. You're not allowed to choose with whom you

associate. You're not allowed to even choose what time you go to bed or get up or how you would protect yourself through circumstances. We can avoid dangerous situations, and you couldn't. And part of that obligation is to protect you, because we've robbed you of all ability to protect yourself. And we failed in that obligation to you, and we're sorry. And we want to make sure that it doesn't happen to anybody else. That's the whole purpose of this Commission.

And I have to say that the bill that originally was introduced called the Prison Rape Reduction Act, and Congress, on its own volition, changed it to the Prison Rape Elimination Act because, they said, it's intolerable. We can't just say, well, we're going to reduce it. It's intolerable. We cannot allow this in our prisons. This is the United States of America.

I do have a question for you. Each of you have said in different ways that when you came forward to the authorities your pleas were ignored or dismissed. And did you ever have anyone in the system that actually did come to your aid and did help you? And, if so, what -- what do you think separated them from the others that didn't? In other words, were there circumstances in which you were protected or someone did take steps to try to protect you from the people that were attacking you?

HOPE HERNANDEZ: I'd like to answer that, if I

could.

As I had mentioned, on the last night that the rape was occurring, as the officer was dressing and I was re-dressing, when the commanding officer, the shift supervisor, came in, he was the one who reported it. And I do realize that more than likely the majority of corrections officers -- and this is difficult for me to say, as I'm sure you can imagine -- are upstanding. This officer had been the one to report it.

I was not able to verbalize what had happened to me, and it was extremely difficult. I did end up making a statement, and I'm glad that he did that, even though when the rape kit was done, the results were deemed inconclusive. This was at Washington Hospital, which is across the parking lot from the jail, which I believe now is closed. And he had the correct -- the commanding officer had reported it, and I appreciate that.

COMMISSIONER NOLAN: Did he also get you some treatment, not just the kit, but any psychological help?

HOPE HERNANDEZ: No. Following that I was moved around to a number of different facilities and put on study for some new medication.

COMMISSIONER NOLAN: Thank you.

HOPE HERNANDEZ: All the treatment that I have received prior -- has been prior to my release

through offices modeled after the national office of Victims of Crime, specifically that base program in Montgomery County.

CHAIRMAN WALTON: Commissioner Struckman-Johnson.

COMMISSIONER STRUCKMAN-JOHNSON: Thank you for coming. And it's very hard to hear.

And I guess I'll follow the question Pat asked: Who, if anybody, helped and where is the place that help could come from -- from when it happened to you, where could people be to reach out to? Is it like a number that you can call? Is it the -- Cecilia spoke of an independent group. Where can you get word? What can be the 9-1-1 of the rape victim in jail or prison? I'll just open it up.

CHAIRMAN WALTON: Anyone?

Ms. Chung.

CECILIA CHUNG: My experience with the County Jail of the City and County of San Francisco is there are numerous social-service providers going into the jail and assisting inmates in jail to get appropriate services. However, there's really no proper dialogue established between jail staffs and these service providers. There's no proper grievance procedures in place, and oftentimes, my -- my understanding is that these grievances were lost mysteriously when they're making their way to the deputy's desk.

So I really strongly believe that if we have an independent party that is free from this kind of power dynamic between the inmates and their jail

staff, it could establish trust that the inmates will feel comfortable and feel safe to come forward to report what happened to them instead of abiding to the code of silence that is pretty cultural in the jail environment.

T.J. PARSELL: I know in my experience, I was too afraid to come forward. I was incarcerated at a time when one of the worst riots in U.S. history had occurred in New Mexico, where inmates had broken into -- during the riot had broken into the protective-custody wing using blowtorches. And once they got into the protective-custody wing, they turned those blowtorches onto the faces of the snitches that were housed within that unit.

I think it goes beyond culture. It's -- you know, the more vulnerable inmates are sodomized, but snitches are killed -- or were. At least that was my experience when I was there, and I believe that's still the experience in the more dangerous prisons where there's higher security.

So I think, to answer your question, there needs to be protection provided to someone that comes forward. If I would have been reassured, if I would have believed at the time that I would have been protected, I would have come forward and said that I was being sodomized. But I did not believe I would be protected.

I had an experience in the county jail when

I had gone back to court where I approached the deputies and asked to be moved. And the first time I was told I could only be moved if I identified who it was that was pressing me. And I was afraid to do that. The second time I spoke to a different officer. That one did move me.

So I mean, in my experience, in that case, it was a question of the individual. But I think that there should be policies in place and protections provided for inmates.

KENDELL SPRUCE: When I was in the Arkansas prison system, you had the inmates paying the guards off. You had dope in prisons and money.

And I did. I reported it, but it didn't ever get me anywhere. You file grievances. Sometimes the grievances might not make it there. That's the sad thing. Because how can you help prove, you know, that this is happening to you besides you bleeding from the rectum or you getting hurt or you getting disciplinary.

But I didn't give up. I didn't give up at all. I just prayed to God that I would just live and get out of prison.

But what I did, I did file a civil lawsuit. My case was the first of its kind in Arkansas history. I was on World News with Peter Jennings. I was in the New York Times. I told my story as I'm doing today. I'm not giving up this fight. Because what happened to me, it's still going on to someone

else, and I hate to see someone else suffer.

Even though I wrote a check, that don't mean you get raped and get AIDS. I have my whole life. I'm 42. I want to live, to get old.

This is bad for me. I moved to Michigan just to get away from Arkansas because Arkansas left a bad mark on my life. And, you know, it still -- every time I think about it, you know, it hurts real bad, and I -- I just pray that it's -- a good outcome will come out of this.

The one thing I can say about Arkansas, I opened up -- they're building new prisons in Arkansas. They need to build one-man cells. And they are trying to protect inmates because of me. Because I can't see nobody else being forced to be in a cell with someone who is going to take their life. You know, life is vital, and I treasure mine.

Thank you.

CHAIRMAN WALTON: Thank you, Mr. Spruce.

Before I call on Commissioner Smith, there's just one thing I do want to say, because I think it's important. I want to thank the media for having the willingness to come and participate in this, because you're a very valuable part of American society, and it's important that this message about what is taking place in our prisons and jails be told to the American public, and you're best suited to do that. So we do thank you for your presence here today.

Professor.

COMMISSIONER SMITH: Thank you.

Again, I'd like to reiterate the comments of the other commissioners, in terms of your courage and willingness to come and talk about what occurred to you in all of these settings.

What I'd like to do, though, this morning is to use you as a real resource. You've already given us some really important information about different kinds of strategies that should be taken around prevention and also around prosecution. You've talked about special housing, training, classification, an independent monitoring body, about better supervision, about training, about the grievance process, prosecution, investigation and the grievance procedure.

One of the things that's really common about all of your stories is the lack of information that you had as an offender, as an inmate coming in, about what was going to happen to you and what was the process.

And so what I'd like to get from you, if you would be -- if you could help, is information about two things: One, in terms of orientation, if you're a new prisoner coming in, right, is there any information? Are there types of information or services or things that you need to know that would be useful in preventing and addressing prison rape? So that's my first question.

And the second is, again, something else that really struck me, is that all of you have had a very significant path to be in a position to be able to testify about these events, many of which happened many, many years ago. And I'd like to also hear some information from you about service to survivors and where that should come from and when it should come.

CHAIRMAN WALTON: Anyone?

KENDELL SPRUCE: Okay. I guess I'll go.

Well, services. Right now, I'm an advocate against rape, and I believe that, from my own point of view, it's people like me that keep the struggle going. Because if we don't have people to come forward and let them know how you survived and how you're living, not only just having AIDS, but just being raped, you know, you can't see no future.

And right now, what I do in Michigan, I go around talk -- I work with people that's been abused, raped. I do volunteer work. I don't just sit at home. I try to stay busy, and I try to let people know there's still hope, don't give up, don't take your life. Look at me. You know, if I didn't tell nobody I was raped or I have AIDS -- you can look at me and tell, is there anything wrong with me. I try to keep a positive mind. And I would share with everyone else the same thing.

And in prison, you know, everybody needs to be orientated and -- you know, before you go there,

because that's a price to pay.

CECILIA CHUNG: I think it's really difficult to talk about the type of orientations or services to educate inmates on -- when, as I mentioned before, there's service providers going into these settings and they themselves don't even know how to communicate these problems to the proper authorities.

So there has to be more than just education. There has to be written protocol in place that we can educate those who are incarcerated as well as the advocates, what they are entitled to and what type of rights that they do have.

It's easy for someone who is incarcerated -- in my situation, that was my only experience in life that I was ever being thrown in jail. I was pretty traumatized, and I was really confused and lost. It's really easy for someone like me to -- lost all bearings of what my rights are and what I can do to protect myself.

So it is really important that, if it is possible at all, to have some orientations process to let them know that there is someone they can go to to check in with when this kind of situations occur.

CHANCE MARTIN: I was raped right out of high school, and the thing that struck me about it the most was I had no clue that such an activity existed. You know, I try to make a joke about it today, that it wasn't something they covered in health and safety class.

My work today puts me in situations where I have to make decisions occasionally whether to commit civil disobedience and put myself at risk of being raped again, and I have to say that here in San Francisco -- and I'm sure that it has been a hard road to get there, but they do do an intake when prisoners are admitted to the jail facility, and it's a pretty extensive workup. I mean they ask a lot of personal questions. They ask a lot of medical-history questions. And I think that Sheriff Hennessey here in San Francisco is really trying to run a safe facility.

I also think that it's the shame of this country that we so devalue people with mental illnesses that we use our prison system as an adjunct to the mental-health system.

Here in San Francisco, the largest mental-health provider is the San Francisco County Jail. I don't see that permitting someone to decompensate to the point where their behavior lands them in trouble with the law -- I don't see the justice in incarcerating those people in situations where people willingly break the law because of criminal tendencies or mind-sets.

COMMISSIONER SMITH: Thank you very much.

And just in closing, it sounds like I'm hearing about better classification, more substantive classification and specific orientation, not so much

of service providers, but orientation specifically directed to prisoners and inmates so that they know what their rights are and they know what the pathways are in terms of reporting and addressing this. Is that fair to say?

Thank you.

CHAIRMAN WALTON: Commissioner Aiken.

COMMISSIONER AIKEN: Thank you, Mr. Chairman. I just have a general comment.

Correctional systems, slash, prison systems have a mandate to create and maintain a safe, secure correctional environment.

And to look at you this morning, to see the level of empathy, honesty in relationship to your incarcerations contrast to the term a safe and secure correctional environment leaves a lot to be desired.

Whether people believe this is happening or not, you are the faces that personify this, and that gives us the emphasis for this Commission, as well as for Congress and the President to take a good objective, hard look and not respond with normal bureaucratic answers, but with validated, objective, performance-based remedies so that the probability of this happening to other people that enter the criminal justice system is near to zero as humanly possible.

Thank you, Mr. Chairman.

CHAIRMAN WALTON: Thank you.

Yes.

T.J. PARSELL: Thank you, Judge. I just want to respond to Commissioner Smith's question earlier.

I think the orientation materials that the National Institute of Corrections has been working on is a great step. It does communicate to prison inmates that there is a zero-tolerance policy in effect on prison rape, and it starts to inform them about what their rights are and the obligations of the corrections facility to provide them with protection.

With respect to the service to survivors, what I think is important to take a look at is issues of confidentiality. Because there are some issues in some jurisdictions where if an inmate does come to a social worker or even a prison psychologist to talk about what's going on, there's an obligation to report it. And if there's no mechanisms in place to provide protection for those inmates, that could be a real issue.

Also, in a lot of jurisdictions the protective custody for inmates that have come forward and asked for protection is akin to solitary confinement, which is like a punishment. And for an inmate who is facing a very long sentence, to be confined into a cell to himself for the balance of their term can be quite a punishment in and of itself.

That's something to think about.

CHAIRMAN WALTON: Thank you.

Unfortunately, time goes by all too fast, but we -- I'm sure we'll be calling upon you again to assist us in one form or another as we go through these several years of fact-finding to put ourselves in a position to make our recommendations to Congress and the President.

Again, I want to thank you. I think it's important, it's vital, that we put a face on this issue. And I think all of you -- when you're seen in public, people say these are good people and what happened to them is not deserving. And we have a lot of people just like you behind prison who today this same situation is occurring to.

And so I again thank you. I think you've played a vital role in the effort to combat this problem, and, as I say, we'll be calling on you again.

So thank you very much.

COMMISSIONER SMITH: Judge, I did forget to mention this. I really would also like to thank in particular Mr. Parsell, who has given a lot of assistance to the Commission, in terms of trying to figure out how to deal with the issues of victims. So I thank in particular Mr. Parsell.

CHAIRMAN WALTON: I think that's very appropriate.

COMMISSIONER SMITH: Thank you.

CHAIRMAN WALTON: Thank you.

Thank you very much.

We're going to take a two-minute break.

(Recess taken.)