

Dr. Lannette Linthicum's Testimony
Before the National Prison Rape Elimination Commission
December 5, 2007

Good morning. My name is Dr. Lannette Linthicum, I am the Medical Director at the Texas Department of Criminal Justice (TDCJ). I have been asked to give testimony to the Commission on the Texas Department of Criminal Justice Peer Education programs and the impact of Ruiz in treating victims of sexual assault. I would like to begin with the landmark Ruiz case. In June of 1972, a Texas prison offender by the name of David Ruiz filed a handwritten petition with William Wayne Justice, a United States District Judge out of the Eastern District of Texas claiming that conditions in the Texas Prison System violated his constitutional rights. In April of 1974, the court consolidated eight (8) such offender petitions into a class action lawsuit, styled Ruiz v. Estelle. After a Federal Bureau of Investigations (FBI) investigation, the United States Justice Department intervene in the lawsuit on behalf of the plaintiffs.

A report of the Citizen Advisory Committee to the Joint Committee on Prison Reform of the Texas Legislature was filed on November 25, 1974. With regard to health care, the Committee found:

‘Even a cursory review of the Texas Department of Correction’s medical program discloses extremely serious inadequacies. There is a serious shortage of trained and competent medical personnel—doctors, nurses, and technicians. At various times during our study of TDC, there were from one to three full-time doctors on the staff; their services are supplemented by use of a number of part-time physicians from the Huntsville area and localities near other units. But this is still not enough. [The TDC Medical Director] has administrative and supervisory responsibility for all medical care for the entire system of 17,000 inmates. The two other full-time doctors have resigned, leaving the already overworked [Director] to bear sole full-time responsibility for 17,000 inmates. The demands are many times in excess of one man’s capabilities.’

Approximately two (2) years later in November of 1976, another Texas case was decided at the United States Supreme Court, Estelle vs. Gamble. This case was the landmark case that set the national standard for correctional medicine, the Court decided that “deliberate indifference” to a serious medical need constituted the wanton infliction of cruel and unusual punishment under the Eighth Amendment of the United States Constitution. Estelle vs. Gamble established three (3) basic rights for offenders:

1. The right to access care.
2. The right to a professional medical judgment.
3. The right to receive medical care called for by the professional medical judgment.

In October of 1978, the Ruiz jury trial began. In April of 1981, a final decree was issued with a time table for implementing changes required by the decree. A Special Master, Attorney Vincent Nathan of Toledo, Ohio was appointed to supervise compliance. In March of 1988, the Special

Master recommended termination of court supervision of the Texas Department of Corrections by his office by early 1990. In March of 1990, the Office of the Special Masters submitted a final report and the office was dissolved ending active court supervision. Judge Justice ordered the parties to the suit to establish a timetable for termination of court jurisdiction in Ruiz.

In January of 1991, the Texas Attorney General petitioned the Court to terminate the Federal Court's jurisdiction in Ruiz. In December of 1992, Judge Justice signed the Final Judgment in Ruiz with regard to health care, the Final Judgment imposed a series of additional reporting requirements which were:

1. maintain accreditation of all unit and regional health care facilities;
2. ensure that no prisoner is assigned to do work that is medically contraindicated;
3. ensure full access to health care for all prisoners;
4. ensure that non medical staff do not countermand medical orders; and
5. maintain medical, dental, rehabilitation and psychiatric staffing and facilities that enable timely delivery of health care to all prisoners, consistent with contemporary professional standards for correctional health care, vigorously recruit the required staff, and stay competitive in the recruitment of staff.

In May of 1993, the Texas Legislature enacted SB 378 creating the Correctional Managed Health Care Advisory Committee to take over management of TDCJ's health care delivery systems. My colleague, Dr. Ben Raimer will be addressing the Commission later this morning and will provide additional information about the Texas Correctional Managed Health Care program.

In March of 1996, Attorney General, Dan Morales files on behalf of TDCJ, a motion to terminate the 1992 Ruiz Final Judgment pursuant to Rule 60(b), Federal Rules of Civil Procedures.

In April of 1996, Congress enacted the Prison Litigation Reform Act (PLRA). In September of 1996, the Texas Attorney General filed a Motion to Terminate pursuant to the PLRA. In July of 1997, the Attorney General withdrew the rule 60(b) Motion in Ruiz, seeking termination only with PLRA. There was a series of other legal motions and maneuvering between May – December 1998.

On January 21, 1999, the Ruiz hearing began and lasted until February 12, 1999. On June 18, 2001, the Court ordered that the following areas of the Final Judgment were free from the Court oversight as of the date of the Order: Visiting; Crowding; Internal Monitoring and Enforcement; Health Services and Death Row.

The reforms of the Ruiz litigation transformed the Texas Department of Criminal Justice into a premier Criminal Justice Agency. All of the internal and external monitoring that Texas went through in the Ruiz years; equipped our system to aggressively embrace the challenges of the Prison Rape Elimination Act. We in Texas are highly committed and especially tenacious in operating a constitutional criminal justice agency.

In fact, the Health Services Division of TDCJ is statutorily required through the provisions of Texas Government Code 501. 150 to:

1. Ensure access to care.
2. Conduct periodic operational review (compliance) audits.
3. Investigate medical grievances.
4. Monitor quality of care and requests corrective actions.

In the areas of sexual assault, the TDCJ health care program has established a statewide policy. This policy is part of your handout materials. TDCJ has a Sexual Assault Nurse Examiner (SANE) who is already involved with compliance and quality monitoring (See handout dated 11-19-2007). The SANE RN with each reported allegation of sexual assault reviews the medical record and audits it for:

- Completeness of the Sexual Assault Evidence Collection (if indicated/used)
- Referral to Mental Health Services
- Appropriate labs and/or tests (if indicated)
- Prophylactic Medication was offered (if indicated)

If a deficiency is noted, a form letter is faxed to the Unit Health Administrator and/or or Medical Director requesting corrective action.

Peer Education in Texas Department of Criminal Justice

In 1998, a collaborative partnership between the Texas Department of Criminal Justice, University of Texas Medical Branch at Galveston, Texas Tech University Health Science Center and the AIDS Foundation of Houston Inc. was established to conduct a pilot program for HIV/AIDS Peer Education at five (5) TDCJ institutions. These institutions were selected because of the diversity of their populations.

Peer Education is a teaching model utilizing offenders to instruct other offenders. It has a high degree of success due to the powerful influence of peer group dynamics. Researchers have found that prisoners are more likely to have a greater degree of trust among each other than they would with correctional staff. After six months, Sage Associates of Houston, Texas evaluated the program. The evaluation results showed a greater knowledge of HIV/AIDS in offenders who had undergone the peer education training. This was revealed through pre and post knowledge aptitude tests. The wardens expressed a desire to continue with the program because of the positive changes observed in the peer educators and the benefits to the general population. It was shown that the program impacted the attitudes, beliefs, and behaviors of offenders. The educators and students viewed this program as a positive benefit that TDCJ was offering them. One of the unanticipated benefits was the diffusion of information beyond the walls of the prison. Offenders are writing family members and their significant others sharing what they have learned. Moreover, unit staff members are asking questions as well. When offenders are transferred the message of the program quickly spreads and requests come in to start a program on their new units of assignment. The pilot needless to say was extremely successful and resulted in the establishment of a Peer Education Coordinator position.

The Peer Education program is supported by the Agency's Executive Director and the Director of the Correctional Institutions Division. The Peer Education Coordinator is a liaison between the community based organizations and TDCJ. TDCJ has 95 Peer Education programs. As of October 31, 2007, 716 offender peer educators have educated 35,249 offenders. In 2006, 21,706 offenders were educated. All TDCJ Units with the exception of the private facilities now have active peer education programs.

The peer education curriculum has been expanded to include: HIV, Tuberculosis, Viral Hepatitis and a Safe Prisons Module. The classroom education has increased from four (4) hours of instruction to between six (6) and eight (8) hours. The individual units design the program to meet their needs and the building schedule. The Windham School District, which is the formal educator for TDCJ is collaborating with Health Services. The offender educators can go to the classrooms and teach the students enrolled in school. Windham educates approximately 72,000 offenders a year. This represents a great opportunity to implement preventive health care education and the Safe Prisons Module to a much broader audience.

Classification has created a full time job position for peer educators. This is like any other job that is rewarded with good time and work time. It is considered to be a privilege to be a peer educator. Offenders who are selected for these positions take their job seriously.

TDCJ has an annual conference for the peer educators to improve their skills. The conferences focus on updating peer educators with the latest and most current medical knowledge and 'Best Practices'. For the Safe Prisons Module, peer educators receive as part of the annual update information on preventing all forms of sexual abuse and victimization. In your handout materials is a white booklet entitled, 'Safe Prisons Peer Education Training Manual.' Typically for the conferences, free world food is served. There are also guest speakers. The peer educators look forward to this event all year. TDCJ just completed the 6th annual conferences. They were held in October and November 2007. There were five (5) conferences this year held at the Beto, Briscoe, Jester 3, Smith and Gatesville Units. The conferences are a huge collaborative effort between the Health Services Division, Correctional Managed Health Care, the Correctional Institutions Division; AIDS Foundation of Houston and the Pharmaceutical industry.

Texas was fortunate to have Magic Ervin Johnson come and speak at one Peer Education Conference on January 30, 2007. A DVD was made of that conference thanks to the support of Abbott Pharmaceuticals. The DVD will be distributed to all Department of Corrections Health Services Departments for offender patient education in the near future.

I DECLARD UNDER PENALTY OF PERJURY THAT THE FOREGOING IS TRUE AND CORRECT. EXECUTED ON THIS 20TH DAY OF NOVEMBER, 2007.

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