TESTIMONY OF WENDY STILL
Before the National Prison Rape Elimination Commission
New Orleans, LA
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My name is Wendy Still and I serve as the Associate Director of Female Offender Programs and Services for the California Department of Corrections and Rehabilitation (CDCR). On behalf of Governor Schwarzenegger and Secretary Tilton, I would like to thank the Commission for inviting the CDCR to testify before the Commission.

The CDCR is the largest state corrections department in the nation, with 33 adult institutions, 42 fire camps, and eight juvenile institutions, housing approximately 173,000 inmates within its facilities. In 2005, the department changed its name to include the word 'rehabilitation,' reflecting its strong commitment to becoming a place where people make positive strides toward becoming whole and productive citizens of our state and nation. PREA and the work of this Commission fit squarely within that mission. The CDCR has taken what we believe is a proactive approach to the implementation of PREA and fully supports both the law and the work of this Commission.

The state of California codified its support of PREA and the principles described therein when it passed the Sexual Abuse in Detention Elimination Act of 2005. State legislation requires, among other things, that the CDCR works in collaboration with community partners to end sexual violence in its prisons and ensures that prisoners who have been victims of abuse have access to basic services.

In keeping with the spirit of PREA and our state law, the CDCR has created its own active and influential PREA Commission, composed of CDCR officials, researchers, and advocates. In 2006, we sponsored a research study on sexual violence that identified the categories of inmates most vulnerable to abuse, along with the locations in our facilities where such abuse most commonly occurs. Recognizing the importance of being dynamic and flexible as we address this complex issue, we are currently modifying our PREA-related policies based upon the findings of this research.

The CDCR guidelines state disclosure of information is required when the safety and security of the institution, inmate or ward, or another person is threatened specifically.

One critical strategy that we have employed from the beginning of our work on PREA is to collaborate with outside organizations that have expertise in sexual violence or victim services. This collaboration has allowed us to incorporate fresh ideas and to push the limits of what we are able to accomplish.

One such example is a pilot project called *Paths to Recovery* through which we are collaborating with Stop Prisoner Rape, a national human rights organization based in Los Angeles, and two of California's community rape crisis centers. *Paths to Recovery* brings independent rape crisis counselors into CDCR facilities to provide confidential counseling for survivors of sexual abuse. The counselors work with inmates who have been sexually assaulted at any time in their lives, not only those who were victimized while incarcerated. Drawing on the success of this program, I would like to address today the issue of confidentiality and mental health care in corrections facilities – particularly for inmates who have been sexually assaulted.

Prior to *Paths to Recovery*, there was no mechanism for a CDCR inmate who had been sexually assaulted to obtain counseling without, in essence, making an official report. We know that sexual assault is one of the most under-reported crimes in society and in prison. It only serves to reason, then, that many inmates will not ask for help it if it means making a report.

Focusing on the well-being of inmates who have endured sexual abuse, we at CDCR decided to take this bold step forward and launch *Paths to Recovery* at two pilot institutions: one men's facility housing nearly 6,000 inmates at all security levels and a women's facility with 2,400 inmates at security levels one through three.

During the planning stages, staff members at each of the pilot institutions expressed hesitation about the project, citing security concerns. Investigators were particularly resistant, stating that creating a venue for inmates to discuss an assault that had conceivably occurred within the institution without initiating a formal report would undermine their roles and the ability to ensure institutional security.

While this concern certainly has merit, we believed that this effort, in fact, ultimately would lead to more, not fewer, formal reports of sexual abuse. How, you may ask? Well, if survivors of sexual assault know that confidential support services are available, if they see the institution providing for their emotional as well as medical needs, they will be more likely to access (take advantage of?) such services. In doing so, they will begin to heal, begin to trust. Ultimately, we hope that they will feel safe enough to file the formal complaint so that the proper action may be taken against the perpetrator.

Initially, staff also raised concerns about the potential for department liability. How can someone such as the community rape crisis counselor know about a crime that has been committed or planned in a state institution and do nothing with that information? Rape crisis counselors operate under the ethical and legal obligation to protect their clients' confidentiality, except in those cases where confidentiality is legally limited, such as when the inmate poses a danger to him or herself or others. In other words, because the *Paths to Recovery* counselors provide services under the auspices of the community rape crisis program by which they are certified, they are bound not to tell CDCR officials about the content of their counseling sessions.

I am pleased to report that, far from being a security risk, the access to confidential counseling has improved security at the two pilot prisons, while vastly improving the CDCR's response to prison rape.

Let me explain by way of an example. Recently, my office was contacted by an investigator at one of the pilot institutions who informed us that there had been an incident of sexual misconduct. The inmate had initially been unwilling to disclose any information to the investigator. However, after pursuing some other leads, the investigator re-interviewed the inmate. At that point, he informed her that her rights would be protected during the investigation and that she could see a counselor from the local rape crisis center and speak confidentially with the counselor. The inmate then agreed to participate in the investigation and gave the investigator all of the information he needed to refer the case for prosecution. My impression is that the inmate viewed the offer of confidential counseling services as a gesture of trust and concern.

The investigators in both of the pilot institutions have stated in no uncertain terms that both the relationship with and the services offered by the community organizations are useful tools in carrying out the CDCR's mission of maintaining safe, orderly facilities.

The project has progressed to where the CDCR mental health staff members also view it as an important tool. One of the *Paths to Recovery* counselors recently reported that she is now receiving referrals from the CDCR mental health department at the prison.

I want to acknowledge that inviting counselors from community groups to come into the institution and maintain the same confidentiality they have in the community took careful planning and a leap of faith on the CDCR's part. We had to work to build positive, mutually respectful relationships with the community groups and carefully review safety, security, and legal concerns.

Paths to Recovery has also increased our awareness of situations in which inmates may be at risk for sexual abuse. At one of the pilot sites, the counselor was providing services to an inmate who had been sexually abused as a child and never received any counseling or support; indeed, he had never told anyone. During the course of their counseling, the inmate revealed being pressured by other inmates to perform sexual acts. The inmate stated that under no circumstances was reporting these threats an option. He feared retaliation from the other inmates and was feeling a great deal of shame related to the acknowledgement that he is gay. However, he permitted his *Paths to Recovery* counselor to discuss his safety concerns with his correctional counselor, without disclosing any details of the threats. As a result, the correctional counselor was able to take steps to decrease the inmate's risk before an assault occurred. Not only did this avert more serious problems, but it helped to develop a more positive working relationship between the inmate and his correctional counselor.

In terms of prevention, the impact of a respectful, swift, and caring response to sexual assault cannot be underestimated. A good example of this can be seen in the case of an inmate who reported a sexual assault by another inmate. While interviewing the inmate, the investigator informed him that he could have access to confidential rape crisis counseling. The investigator concluded that the promise of an advocate was a factor in the inmate's ability to complete the interview. In a recent conversation with the investigator and the counselor, this survivor asked the investigator how he could thank him for all of his help. The investigator responded that he could thank him by letting others know that reporting sexual assault in this prison can be a positive experience. The inmate stated that, yes, not only would he tell others that, but that he

would tell them that the investigator was trustworthy and would do his best to help. He also stated that he would be willing to inform the investigator if he heard or saw anyone else being set up to be sexually assaulted or exploited. This is just one example, but is clearly indicative of the progress we have made through this program.

At both pilot institutions, the rape crisis counselors and investigators have developed cooperative, professional relationships that are apparent to any inmate with whom they interact. The counselors' trust in the investigators' ability to handle cases sensitively and respectfully carries over to inmates with whom the team works. Perhaps most importantly with respect to prevention is the change in culture that my last example illustrated. We all know that information and rumors spread quickly in detention settings. If the survivor had not felt supported, he would be telling others not to report sexual abuse. As it is, both inmates who may be targeted for sexual assault and potential perpetrators will see that this prison is a place where survivors are believed and supported and sexual assault allegations are taken seriously.

The *Paths to Recovery* program is a part of an overall shift in how we respond to sexual assault; providing confidentiality in a counseling relationship is a vital component of that shift.

The collaboration with Stop Prisoner Rape and local rape crisis centers has shifted our institutional culture in other ways as well. Prisons, by default, can be dehumanizing environments. Programs such as *Paths to Recovery* exert a humanizing influence by changing expectations, increasing available support, and bringing in the influence of people who are not in the detention environment every day. In short, it challenges us to think more expansively about what is possible. Additionally, the investigation of and response to sexual assault is a specialized skill set, whether in a prison or in the outside community. The involvement of other stakeholders has allowed the CDCR to conserve resources by drawing upon their experience and expertise.

Initially, we received reports that inmates were afraid to use the *Paths to Recovery* counseling services, fearing that the promise of confidentiality was not genuine. It took time for the reputation of the program to build and for the first few inmates who were willing to use the services to see that there were no negative repercussions resulting from participation. At this time, the counselors at both sites maintain busy and active caseloads.

The course of the program and the initial challenges underscore both the need for the services and how crucial confidentiality is. It has become clear that for inmates who have been sexually assaulted or have been threatened with sexual assault to be able to share their experience with someone, they must have a sense of ownership over each step of their recovery. Some people will probably never report a sexual assault, particularly while they are still incarcerated. But the more safe avenues we create, the more reports will be made.

Another of our goals was that individuals who might never file a report would still be able to receive the services. An inmate who has been sexually assaulted is likely to experience a variety of emotional and behavioral problems, particularly if he or she believes there is no option but to stay silent. We believe, therefore, that an increase in the number of survivors of sexual assault receiving counseling services will have a positive overall impact on institutional stability. We

also expect that, for those who have the opportunity to participate in the program, we will see a decrease in reentry difficulties and recidivism.

We see the *Paths to Recovery* project as one of the ways in which the CDCR is putting the intent of PREA into practice. We have also accomplished some myth-busting around the idea that providing confidential counseling for inmates who have been sexually assaulted is inconsistent with sound correctional management.

In sum, the impact of offering confidential counseling with a trained rape crisis counselor has been:

* An increased awareness and understanding of sexual violence among staff and inmates;

* An increased capacity to fulfill our rehabilitation mission and create an environment that is more conducive to reporting incidents of sexual abuse;

* A positive shift in corrections culture, inmate culture, and the perception of inmates and officers by service organizations in the surrounding communities;

* In addition, the project's team approach means that the pilot institutions are accountable to the community and vice versa.

Ultimately, we believe that *Paths to Recovery* will result in an overall decrease in sexual assault in our institutions.

It has been an honor to speak before the Commission on this ground-breaking effort. I appreciate that opportunity and welcome any further questions or comments. Thank you for your time and attention.

I DECLARE UNDER PENALTY OF PERJURY THAT THE FOREGOING IS TRUE AND CORRECT.

EXECUTED ON THIS 16th DAY OF NOVEMBER 2007

WENDY STILL, ASSOCIATE DIRECTOR, CALIFORNIA DEPARTMENT OF CORRECTIONS AND REHABILITATION