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THE PRISON RAPE REDUCTION ACT OF 2002

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THE PRISON RAPE REDUCTION ACT OF 2002

WEDNESDAY, JULY 31, 2002

UNITED STATES SENATE,
COMMITTEE ON THE JUDICIARY,
Washington, D.C.

The Committee met, Pursuant to notice, at 1:34 p.m., in room SD–226, Dirksen Senate Office Building, Hon. Edward M. Kennedy, presiding.

Present: Senators Kennedy and Sessions.

OPENING STATEMENT OF HON. EDWARD M. KENNEDY, A U.S. SENATOR FROM THE STATE OF MASSACHUSETTS

Senator KENNEDY. We will come to order. Today, the Judiciary Committee considers a serious problem in prisons, jails, and detention centers.

In 1994, the Supreme Court ruled that, "Being violently assaulted in prison is simply not part of the penalty that criminal offenders pay for their offenses against society." Nevertheless, we know that hundreds of thousands of inmates across the nation, not only convicted prisoners, but pre-trial detainees and immigration detainees, as well, are victims of sexual assault each year.

Prison rape has devastating physical and psychological effects on its victims. It also has serious consequences for communities. Six-hundred-thousand inmates are released from prison or detention every year, and their brutalization increases the likelihood that they will commit new crimes after they are released.

Infection rates for HIV, other sexually transmitted diseases, tuberculosis, and hepatitis C are far greater for prisoners than for the American population as a whole. Prison rape undermines the public health by contributing to the spread of these diseases and often gives a potential death sentence to its victims.

It is long past time to address this epidemic. Last month, Senator Sessions and I proposed the Prison Rape Reduction Act, a bipartisan bill to deal with the problem of prison rape while still respecting the primary role of States and local governments in administering prisons and jails.

Our bill asks the Department of Justice to conduct an annual statistical review of prison rape to identify institutions with high incidence of rape. It authorizes $40 million a year in grants to strengthen the ability of State and local officials to prevent these abuses. It establishes a commission to conduct hearings over 2 years and recommend national standards on a wide range of issues, including inmate classification, investigation of rape complaints,

trauma care for rape victims, disease prevention, and staff training.

An extraordinary coalition of churches, civil rights groups, and concerned individuals have joined together to act on this issue. It is not a liberal issue or a conservative issue. It is an issue of basic decency and human rights. I commend this coalition for its impressive moral leadership and I thank Chairman Leahy for the opportunity to hold this hearing.

In the House of Representatives, our legislation is sponsored by two human rights leaders, Congressman Frank Wolf and Congressman Bobby Scott. We are privileged to have Congressman Wolf here today. With its growing support in Congress and the broad coalition of other supporters, we hope that this bill can be signed into law this year, and I thank all the witnesses for being with us and look forward to their testimony.

I particularly want to recognize a constituent of ours, John Caneb from Massachusetts, who is in the audience and has been very much involved in this issue and commend him for his great interest in this and all of the help he has been in terms of moving this process forward.

[The prepared statement of Senator Kennedy appears as a submission for the record.]

Senator KENNEDY. We are fortunate this afternoon to have some really outstanding witnesses. Our first is a very special one, Congressman Frank Wolf. Few Members of Congress can claim a list of accomplishments comparable to Frank Wolf's. In his 22 years as a Representative of Virginia's Tenth Congressional District, Congressman Wolf has been a leader in developing mass transportation, promoting family-friendly workplaces for Federal employees, and drawing attention to the harmful effects of legalized gambling.

As Chairman of the House Commerce, Justice, State, and Judiciary Appropriations Committee, he is also one of the strongest voices in Congress for human rights. He is Co-Chairman of the Congressional Human Rights Caucus, a member of the U.S. Helsinki Commission. He has worked to improve human rights and basic living conditions for refugees around the world. He is the lead sponsor of the Prison Rape Reduction Act in the House, along with Congressman Bobby Scott. We are honored to have him before our committee today.

Thank you very much, Congressman, for being here and for the good work that you do on this legislation and so many other pieces of legislation, as well.

STATEMENT OF HON. FRANK R. WOLF, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF VIRGINIA

Representative WOLF. Thank you, Senator, and thank you for your comments. I appreciate your holding these hearings, particularly in the last week the Senate is in session, knowing how busy everything is. So it is a tribute to you that you have taken the time and I want to thank you.

I appreciate you giving me this opportunity to be here today to testify on a vitally important issue to the nation's prison system, the ongoing problem of prison rape.

I also want to acknowledge the efforts, and I am speaking for my Virginia colleague, Bobby Scott, who could not be here today but whose efforts, along with yours and Senator Sessions', make this issue truly bipartisan. This legislation, the Prison Rape Reduction Act of 2002, will go a long way in addressing a problem that has too long been quietly swept under the rug.

I also want to thank the many groups that support this legislation, including Prison Fellowship, its President Chuck Colson, and Mark Earley, and NAACP, the Family Research Council, La Raza, the Human Rights Watch, Salvation Army, Rabbi Saperstein, and many others. With this broad array of support, I am hopeful, somehow, we can have this legislation passed before the end of this Congress. I also want to recognize the efforts of Michael Horowitz, who has spearheaded this entire effort and whose tireless dedication on this and other issues really deserves special recognition.

Prison rape, to be sure, is not a dinner conversation issue. For years, no one—no one—has talked about it, much less acted on it. But as you know, Mr. Chairman, you and Senator Sessions, this issue is one of compassion and the broad base of support it has shows that it transcends one's political affiliation. Society, hopefully, is finally coming to grips with this vile act.

Of the two million prisoners in the U.S., a conservative estimate is one in ten—one in ten, and if you looked at the figures coming out today of the Department of Justice, the prison population is still increasing—but one in ten have been raped. A 1996 study of the Nebraska prison system reported that 22 percent—22 percent—of male inmates had been pressured or forced to have sex against their will while incarceration, and over these, half submitted to forced sex at least once. Other reports and investigations have all demonstrated that there is a shockingly high rate of sexual abuse in U.S. prisons.

Prison rape, like all other forms of sexual assault, is torture, the infliction of severe emotional and physical pain as punishment and coercion. Long after the body has healed, the emotional state remains traumatized and shamed. The individual is stigmatized, stigmatized in the prison and sometimes stigmatized outside.

As you said, Senator, the Supreme Court has made it clear. "Being violently assaulted in prison is simply not part of the penalty that criminal offenders pay for their offenses against society." Deliberate indifference, and that is what we have had, deliberate indifference to prison rape violates the Eighth Amendment's prohibition against cruel and unusual punishment.

This is not just a matter of protecting inmates. Society also pays dearly for ignoring prison rape. All major studies show that prison rape costs the taxpayer in recidivism and increased violent crimes. Inmates, often non-violent first-time offenders, will come out of a prison rape experience severely traumatized and will often leave prison more violent than when they entered. Finally, the high incidence of rape within prison leads to the increased transmission of HIV, hepatitis, and other diseases, which society will have to pay for.

While these policy realities of prison rape seem clear, to view this issue from the perspective of an individual inmate—and that is how you have to view it, from an inmate's position and they are

where they are and what they are at that time—is necessary to understand the true nature of this abhorrent act. Rape may be the ultimate humiliation, with very serious and long-lasting psychic damage to the victim, as well as to close loved ones who are secondary victims.

Prison rape receives virtually no attention, no attention by the media. Where has the media been? You almost never ever see an article in the major media outlet with regard to the issue of prison rape. The politicians have been quiet, and the public at large has been quiet on the issue also.

What actually happens to the victim of prison rape, prison rape survivors become rapists themselves in a demented attempt to regain what they think of as their "lost manhood." Some prison rape victims retaliate by murdering their rapist, receiving added years to the sentence. Another outcome of prison rape is suicide. Researchers have found that suicide is the leading cause of death behind bars and sexual harassment is the leading cause of prisoner suicide.

No matter where the survivor ends up, severe psychosis is the most common outcome of prisoner rape. Sexual assault can often break a prisoner's spirit. In the advanced stages of rape, trauma syndrome, a survivor's mood often swings between deep depression and rage. Prisoner rape may be the quickest, the most cost-effective way of producing a sociopath. According to researchers, the fact that most men on death row were sexually abused earlier in life should come as no surprise. Indeed, it is a fact that society ignores at its own peril.

In April of 2001, the group Human Rights Watch published a report entitled "No Escape" that was a comprehensive investigation into the prison rape epidemic. Human Rights Watch deserves to be commended for this effort and I think that Members of Congress concerned about this prison system should read this report.

The report shows that many of the inmates that are victims of rape were young and were often placed in prisons as non-violent offenders. Also, many were scheduled for short sentences and would soon be returning to society.

The report also published some of the actual letters written by inmate victims of prison rape. For example, an inmate in Florida writes the following. He says, "I was young, and yes, I was weak. My weight was only 120 pounds. The first few months I was raped and beat up many times. I would always fight back. I wanted my attackers to know that I was not a willing subject for their evilness. I went to the guards for help and was told there was nothing that could be done, that I would have to stand up like a man and take care of my own troubles."

I have attached excerpts from other letters, and last night in preparing for this testimony, I went back and read some of the letters. I did not want to read them out loud. But I think anybody who has anything to do in the prison system ought to read these letters. They are painful. They are just unbelievable, and when you think that you are in an institution run by the government where you would see the guards that you could think that you could go to—when we have a problem, we see a police officer, we go to him, and

here the guards sometimes are telling you that there is nothing they can do.

The letters will be put in the record. Everyone ought to read these letters and then imagine, what if this was somebody in my family? What if this were a relative? What if this were the next-door neighbor? What if this were somebody on my staff? What if this were somebody who was picked up for some minor crime? The letters are actually brutal and I think they ought to be forced reading for anybody in the criminal justice system.

Mr. Chairman, in closing, we are learning more stories of prison rape. These accounts have only recently been catalogued, as often inmates have been afraid to speak out for years. Throughout my career, I have long believed that criminals deserve tough sentences, and I still believe that being tough on criminals serves to protect our larger society.

But ignoring prison rape has nothing to do with being tough on criminals. Deliberate indifference will only serve to undermine the entire criminal justice system. A man who is sentenced to time should serve that time, but he is not sentenced to being raped and possibly contacting HIV.

I am hopeful and believe, particularly with this hearing, this legislation will provide a chance to gain a full picture of how widespread the abuse is and offer incentives for correctional facilities to finally address it. For too long, it has been ignored, and with this hearing, that has come to an end.

I appreciate your leadership and that of Senator Sessions and the hearing, which will give us a record that maybe perhaps we could take this, if we run out of time, and just stuff it on some appropriations bill somewhere whereby it becomes law so we can really do something to make a difference.

With that, Mr. Chairman, I thank you very much.

Senator KENNEDY. We know who will be stuffing it on some appropriations bill.

[Laughter.]

Senator KENNEDY. That is powerful testimony, Congressman. Just very quickly, you have covered the ground, but I would like to hear again about why people should be concerned about what is happening. There are so many reasons why this demands attention and demands our focus and assistance in trying to make an impact on this conduct. You have already thought about this from so many different dimensions. Why should people outside the prisons be concerned about it?

You have illustrated some of the reasons, but if we are interested in having a peaceful society and having communities free from violence and stress, to the extent that that can be the case, why is it important that we support and give attention to this problem? Why should the average person be concerned about this? If we do not do it, what are their risks, and if we take some steps, what are their advantages?

Representative WOLF. I think when you incarcerate someone, you cannot just put them away with the idea they are in a warehouse. I think you have to treat them with compassion, give them education, training, and this is a situation whereby they actually come out more violent. When you read the letters, as I am sure you will,

you will see that you are actually turning these people into violent people when they come out.

Years ago, before I was elected to Congress, I was involved in a program with former Redskin player Charlie Harraway. We would go down to Lorton. It was called "Man to Man." It was a Christian program and you would counsel the prisoners. Sometimes a prison would tell you—in Lorton, they were living mainly on a dormitory basis. Violent criminals in a dormitory basis—a prison that was built in the old days, they thought was a good way to do it, really was not working. The prisoner would say, "I can never really completely sleep. I literally have to half stay awake because I am not sure what is going to happen to me in the middle of the night. Somebody is going to come and attack me. Somebody is going to put a shiv in me. A gang will grab me." It is the fear that they have.

So I think society has an obligation and a burden, but also with regard to a duty to see that these prisoners are treated fairly serving their time so when they do come out, you do not have more HIV and you also do not have sociopathic people coming out who want to take this out on society.

So I think it is just the right thing to do, but I think society benefits by treating people with compassion and treating them well.

Senator KENNEDY. That is, I think, an excellent comment and statement and absolutely an accurate one.

I recognize Senator Sessions for any questions.

STATEMENT OF HON. JEFF SESSIONS, A U.S. SENATOR FROM THE STATE OF ALABAMA

Senator SESSIONS. Thank you, Mr. Chairman. Thank you for your leadership on this important issue. I am pleased to join with you on it, and Congressman Wolf, it is great to have your leadership in the House and that of Congressman Scott.

I was a Federal prosecutor for a long time and talked to a lot of mothers. I had a policy that I would talk to anybody about a case that was coming through my office, and frequently would have very, very painful discussions with mothers and family when their members would be sent off to the penitentiary. It is tough enough to go to jail. We ought not to have any doubts that these people who are being punished for violation of our law are being subjected to sexual abuse in the process. I do not think we can defend that. That is not justifiable.

I hope and pray the numbers that we have been hearing are exaggerated, but I have no doubt that too much of it is going on. I believe our legislation, Mr. Chairman, will help us tell the public and to family members of people who are going to jail that we are not going to tolerate this kind of behavior. We are going to put a stop to it if there is any way possible.

Of course, prisons are dangerous places. They are populated with a number of people, not all, but a number of them that are quite dangerous and perfection is not possible, but we can do better, a lot better, I am convinced, and I appreciate both of your leadership on this question. It is not just legal or political, it is a moral question. I believe that we are on the right road to dealing with it.

I was pleased that my Attorney General, Bill Pryor, who is a strong believer in the legal systems and independence of States, believes that this is appropriate legislation and supports it. I noticed recently the Southern Baptist Convention has come forward with an endorsement of the legislation. That goes in addition to the many, many others that have already been received, I think.

So I feel good about where we are and I look forward to working with you. Thank you.

Representative WOLF. Thank you very much.

Senator KENNEDY. Let me, if I could, Congressman, you have visited a lot of prisons in other parts of the world. Do you think this is something that is endemic in prisons? Where do we come out on all of this? Are we better? Are we worse? There is a general sense that we have got a great deal to do.

Representative WOLF. I do not know, Senator. It is not an issue—I have been in prisons in other countries. It is really not an issue you can really raise with a man, so I do not really know the answer. Perhaps the Prison Fellowship people or some of the other groups would know.

Senator KENNEDY. If it is bad in other countries, it does not help us and should not give us any satisfaction. We have an enormous challenge, an incredible problem, one that has not gotten the focus and attention that it should have for all the excellent reasons that you and Senator Sessions have pointed out, so we thank you so much for being here. We want to continue to work very closely with you.

Representative WOLF. Thank you, Senator.

Senator KENNEDY. Thank you very much.

[The prepared statement of Mr. Wolf appears as a submission for the record.]

Senator KENNEDY. We have a very excellent panel. I will ask them if they would come forward when I introduce them.

Linda Bruntmyer is a resident of Amarillo, Texas. She has suffered a devastating loss and demonstrated extraordinary courage in telling her story so that future tragedies can be avoided. Film maker Gabriel London has featured her in his documentary, "No Escape: Prison Rape in America."

Mark Earley is making the transition from politics to the ministry. He was a member of the Virginia State Senate from 1987 to 1997 and was the Virginia Attorney General from 1997 to 2001. Mr. Earley recently became President of the Prison Fellowship Ministries, a nonprofit ministry that provides support and spiritual guidance to thousands of prisoners, ex-prisoners, victims, and their families. Chuck Colson, the founder of Prison Fellowship Ministries, has spoken eloquently against prison rape and Mark Earley is continuing his record of service and moral leadership.

Robert Dumond is a clinical mental health counselor in Hudson, New Hampshire. For over 30 years, he has provided services to crime victims and offenders. He served as Director of Mental Health for the Massachusetts Department of Corrections. He developed the first curriculum for rape awareness training. He has researched, written, and lectured extensively on the subject of sexual assault and serves on the New Hampshire Department of Corrections Citizens Advisory Board Committee and on the Board of Ad-

visors for the Organization to Stop Prisoner Rape. We are delighted to have him here.

And an old friend, Rabbi David Saperstein, is our final witness. He is well known to everyone here. For 25 years, he has been the Director of the Religious Action Center of Reform Judaism. Rabbi Saperstein has been a strong advocate for human rights, civil rights, and social justice. He has written several books, led religious coalitions, and serves on the board of the Leadership Conference on Civil Rights of the NAACP. In 1999, he was selected as the first Chair of the U.S. Commission on International Religious Freedom. Rabbi Saperstein also teaches First Amendment and Jewish law at Georgetown University Law Center. We welcome you.

I think each of our witnesses has a unique insight into the problem of prison rape and I thank them all for being here. We look forward to their testimony.

We will start with you, Ms. Bruntmyer.

STATEMENT OF LINDA BRUNTMYER, AMARILLO, TEXAS

Ms. BRUNTMYER. Thank you for giving me this opportunity to testify. My name is Linda Bruntmyer and I am here today to tell you about my son, Rodney Hulin.

When Rodney was 16, he and his brother set a dumpster on fire in the alley of our neighborhood. The authorities decided to make an example of Rodney. Even though only $500 in damage was caused by the fire, they sentenced him to 8 years in an adult prison.

We were frightened for him from the start. At age 16, Rodney was a small guy, only five-foot-two and about 125 pounds. And as a first offender, we knew he would be targeted by tough, older, adult inmates.

Then our worst nightmare came true. Rodney wrote us a letter telling us he had been raped. A medical examiner had confirmed the rape. The doctor found tears in his rectum and ordered an HIV test, because, he told us, one-third of the prisoners there are HIV positive.

Only that was the beginning. Rodney knew if he went back into the general population, he would be in danger. He wrote to the authorities, requesting to be moved to a safer place. He went through all the proper channels, but he was denied.

After the first rape, he returned to the general population. There, he was repeatedly beaten and forced to perform oral sex and raped. He wrote for help again. In the grievance letter, he wrote, "I have been sexually and physically assaulted several times, by several inmates. I am afraid to go to sleep, to shower, and just about anything else. I am afraid that when I am doing these things, I would die at any minute. Please, sir, help me."

Still, officials told him that he did not meet the emergency criteria. We all tried to get him to a safe place. I called the warden, trying to figure out what was going on. He said, "Rodney needs to grow up." He said, "This happens every day. Learn to deal with it. It is no big deal."

We were despaired. Rodney started to violate the rules so that he would be put in segregation. After he was finally put into seg-

regation, we had about a 10-minute phone conversation. He was crying. He said, "Mom, I am emotionally and mentally destroyed."

That was the last time I heard my son's voice. On the night of January 26, 1996, my son hung himself in his cell. He was 17 and afraid and ashamed and hopeless. He laid in a coma for the next 4 months before he died.

Sadly, I know that Rodney is not alone. The human rights group Stop Prisoner Rape gets calls and letters every day from men and women who are asking for help, to help them move to a safer place, asking them to help protect their loved ones who are being raped, asking them to help because there was no one in authority that would step in and say, no, this is not justice. This is not right.

I support this legislation because I know it would stop prisons from ignoring pleas for help from people like my son. We know that what happened to Rodney could have been prevented. There are ways to protect the vulnerable inmates and ways to respond to the needs of prisoners who have been sexually assaulted. Even so, vulnerable prisoners are being sexually abused across this country every day. Rodney tried to ask for help. I tried, too. But nothing was done.

I am asking, please, sir, please support this legislation. It is urgently, desperately needed. Rape in prison should no longer be tolerated. It destroys human dignity. It spreads diseases. It makes people more angry and violent. It kills. It is not what we mean when we say justice. Rape should not be considered a part of a punishment. Rape is always a crime.

Senator KENNEDY. Thank you very much, Linda.

Ms. BRUNTMYER. Thank you.

Senator KENNEDY. We know that this is a horrific incident and we know that it is enormously difficult for you to be able to relive that time, so we are very, very appreciative of the fact that you are willing to come here and tell us about it. It is very helpful to us. The best way that we can try and thank you for it is to do something, and we will. Thank you very much, though.

Ms. BRUNTMYER. Thank you.

[The prepared statement of Ms. Bruntmyer appears as a submission for the record.]

Senator KENNEDY. Mr. Earley, thank you very much. We look forward to your testimony.

STATEMENT OF MARK EARLEY, PRESIDENT, PRISON FELLOWSHIP MINISTRIES, RESTON, VIRGINIA

Mr. EARLEY. Thank you, Mr. Chairman, Senator Sessions. Thank you all very much for holding this hearing. I particularly want to thank you, Mr. Chairman, Senator Sessions, Congressman Wolf, and Congressman Scott, for your leadership in supporting this legislation.

My name is Mark Earley. I am currently the President of Prison Fellowship Ministries. Prior to that, I served for the last 4 years as Attorney General of Virginia.

Many of you know Prison Fellowship was founded in 1976 by Chuck Colson. It is today the largest prison outreach and criminal justice reform organization in the world, in all 50 States and 95 countries around the world. Our goal is to bring the redemptive

love of Jesus Christ to prisoners, ex-prisoners, families, and victims of crime. Many of our staff are ex-offenders.

I want to speak just for a second about the problem. The problem of prison rape, as you have just heard, is real. It is unjust, it is tragic, and unfortunately, often hidden. For 26 years of Prison Fellowship's ministry, our staff employees and volunteers have heard from many of the prisoners we have served the kinds of stories we all just heard from Ms. Bruntmyer. We have been able to see behind the curtain of secrecy that so often exists.

This is a problem that affects everyone. Ninety-five percent of all inmates will return to society and they will return in a way that will either help them to reintegrate or hinder their ability to reintegrate. If they have been victims of sexual assault and rape, the deck is stacked against them from becoming productive members of society.

Congressman Wolf eloquently spoke about the psychological ravages that occur from prison rape and Ms. Bruntmyer's son is an example of what ultimately happens in far too many cases, and that is psychological depression, leading to suicide.

The problem also affects more prisoners than we think. Out of the two million prisoners in the United States, the estimates are between 250,000 and 600,000 have been forced to have sexual contact. In 1996, Nebraska was the subject of a survey showing 22 percent of prisoners had been forced to have sexual contact. An anonymous Southern State was surveyed on the condition of anonymity. One-third of prisoners said they had been subject to prison rape. The guards estimated one-in-five, the prison officials, one-in-eight. Either of those statistics are devastating.

Prison Journal had a study in 2000 showing 21 percent of all inmates in America have been raped. The problem is that studies are too few, and part of what this legislation will remedy is to force us to keep statistics to shine a spotlight on the problem.

The other systemic part of this problem is that it is fostered by acceptance and indifference at every level. Many in society believe that those in prison deserve whatever happens to them in prison or believe that whatever happens is inevitable. Both are wrong. Some in authority, unfortunately, look the other way in order to preserve the peace.

Jack Cowley was a warden with the Oklahoma Correctional System for 20 years. He shared with me, before I came yesterday, he said, "Prison rape, to a large degree, is made more serious by the deliberate indifference of many prison officials. Oftentimes, these officials will purposely turn their back on unspeakable acts in order to maintain peace, allowing aggressive predators to have their way. Additionally, many prison rapes involve intimidation of the weaker inmate to the point where they reluctantly give consent in order to survive, but it is rape nonetheless. Therefore, many of the officials believe in managing a 1,000-person prison designed for only 500 becomes much easier and they permit it to occur as a means of prison control."

Having served as Attorney General in Virginia and having been in the legislature for 10 years, obviously, all of us in politics want to be tough on crime. Prison rape is a crime. It is a crime that no one, either in jail or out of jail, should ever be subject to.

This proposed legislation today that is the subject of this hearing has a tremendously broad coalition of support and you are to be commended for leading such a coalition. Its goal is to eliminate rape. I would like to just focus my comments on one piece of the legislation which I think is going to be very important, and that is that it enables the collection of statistics.

In society, we measure what we care about, and unfortunately, we have not cared about this problem. We need to begin. Measuring statistics will imprint this issue upon the moral conscience of America. It will imprint it upon the moral conscience of prison officials, and it will discourage prison officials from using it as a means of prison control. It will enable us to pinpoint the prisons that need help, to allocate attention and resources accordingly.

Issues of federalism should not be a concern with this legislation. This legislation forces a State to do nothing. It has no unfunded mandates. It does encourage States to adopt Federal standards, but it even allows them to opt out of those Federal standards by a vote of their legislature. Indeed, if the Congress wanted to, based on existing constitutional law, it could go much further, but this is a bill which respects the sovereignty of States. Therefore, objections based on a federalism argument should not be an issue.

Finally, I would like to close with a quote of Winston Churchill, who said this. "One of the best tests of whether we are truly a civilized people is the temper and mood of the public in regard to the treatment of crime and criminals." You have afforded us a great opportunity to pass this test, a test which we have failed in the past. Thank you.

Senator KENNEDY. Thank you very much. That is very helpful.

[The prepared statement of Mr. Earley appears as a submission for the record.]

Senator KENNEDY. Rabbi Saperstein?

STATEMENT OF RABBI DAVID SAPERSTEIN, DIRECTOR, RELIGIOUS ACTION CENTER OF REFORM JUDAISM, WASHINGTON, D.C.

Rabbi SAPERSTEIN. Good afternoon. I am here representing the National Reform Jewish movement. I am pleased to speak in support of the Prison Rape Reduction Act of 2002. This important legislation would address a profound violation of human rights whose shameful prevalence has been overlooked in this country for far too long.

I want to commend you, Senator Kennedy and Senator Sessions, as well as Representatives Wolf and Scott, for your passionate, bipartisan leadership on this issue. We could not have, we could not ask for Congressional champions more dedicated to upholding the basic values of human dignity.

The scourge of prison rape demands a response. Tragically, there are hundreds of thousands of Linda Bruntmyers, hundreds of thousands of mothers and fathers who see their children brutalized, victimized, and are unable to do anything about it. Tragically, there are hundreds of thousands of Rodney Hulins, too, those who are the victims and have nowhere to go for help and are caught up in a Kafka-esque system that grinds down their spirits and their bodies.

No society that considers itself to be a moral and compassionate society can stand idly by the blood of our neighbors. We must speak out. That has brought us here and has led you to introduce and to further this legislation.

We know the statistics. We have heard them here. But behind each of those are real human beings. We must not allow this terror to continue.

The bill at issue today provides a responsible and measured approach to the problem, setting up mechanisms for the study, reporting, and prevention of prison rape. It promises to bring to the forefront this tragic plague that is too often a punchline and too rarely a subject of genuine concern in our civic life.

Mark Earley spoke about some of the provisions of the bill. I was delighted to see also that it will set up a commission to deal in some depth with this. As one who is honored to have served as the chair of a Federal commission established by a unanimous Act of Congress, I can testify to the potential of such commissions to be a vitally effective goad to executive and legislative officials and to the public conscience.

These reforms, if enacted, would for the first time signal a serious engagement with the problem by the Federal Government. Such an engagement is vital precisely because turning our back on prison rape not only violates the Eighth Amendment's protection against cruel and unusual punishment, it also betrays our most fundamental moral values.

I am here today to tell you that we can prevent prison rape. We must prevent prison rape. We can no longer stand idly by.

From 1971 to 1973, I served as a volunteer chaplain in a Federal penitentiary in Danbury, Connecticut. It is a better facility as far as correctional facilities go, and yet even there, I counseled people who were the victims of sexual abuse and sexual assault, and there, for the first time, I encountered the response of prison officials, who said, "There is nothing that we can do."

Well, there is something we can do and that is what is uniting us here. Because of the profound moral clarity of the issue, a remarkable coalition of conscience has come together in support of your legislation—Jewish, mainline Protestant, Evangelical, Unitarian, civil rights, human rights, criminal justice reform advocates, health care professionals, youth workers, liberals, conservatives, and everyone in between, because we all believe that prison rape is wrong and that we can and must do something about it.

Many of us work together frequently, some of us a little less commonly. For example, it is not so common for Reform Jews and conservative Evangelicals to find common ground to work together, but when we do, you can be sure that the issue at stake is one that cuts to the heart of a principle so basic that no reasonable person can stand in the way of its genuine manifestation.

One of the Bible's most radical innovations was to put forward the notion that human beings are created "b'tselem elohim," "in the image of God." The use of that divine image to describe the human state serves to raise up humankind to proclaim the infinite worth and potential of each individual person and the implications of such a concept are far-reaching and profound, imposing on individuals and societies the obligation never to stand by while others are

degraded, to recognize the potential in all for redemption, and to assist the most vulnerable.

That this includes the prisoner is reflected directly in the Bible. In Biblical times, there was not imprisonment for criminal activity, but the closest analogy we have—the status of those who were taken as prisoners captured in wartime—sees in Deuteronomy clear prohibitions against their abuse, including, according to the rabbis, rape of both men and women. Rape is a sin, a vile sin, in the Bible. It is at minimum a civil wrong requiring payment of damages by the perpetrator for compensation. The Bible recognizes the immense pain, suffering, shame, and blemish that those who are targeted and victimized are intended to suffer. In other places, rape is categorized as a capital offense.

But we recognize that to allow the epidemic of prison rape to continue unabated is to reject the spirit of the divine that connects us all. Therefore, I urge the other members of this committee to join with you in passing out as soon as possible and bringing to the floor for passage the Prison Rape Reduction Act. We need to act expeditiously. For every day we delay, there are other Rodney Hulins who continue to be victimized, and that we can no longer accept.

Senator KENNEDY. Thank you.

[The prepared statement of Rabbi Saperstein appears as a submission for the record.]

Senator KENNEDY. Mr. Dumond?

STATEMENT OF ROBERT W. DUMOND, CLINICAL MENTAL HEALTH COUNSELOR, AND MEMBER, BOARD OF ADVISORS, STOP PRISONER RAPE, HUDSON, NEW HAMPSHIRE

Mr. DUMOND. Good afternoon, Mr. Chairman, Senator Sessions. I would like to thank the Senate Judiciary Committee for the opportunity to testify here today. I would also like to thank you, Senator Kennedy and Senator Sessions, for your leadership in proposing this historic legislation, as well as Congressmen Wolf and Scott.

Prison rape has often been accepted as an inevitable consequence of incarceration. We cannot and must not allow this to occur. Your leadership will alleviate the agony of hundreds of thousands, perhaps millions of individuals who have suffered in silence.

My name is Robert Dumond. I am a licensed clinical mental health counselor who for over 30 years has provided services to crime victims and offenders in a variety of settings, most notably within the office of the Essex County District Attorney Kevin Burke and the Massachusetts Department of Corrections. Having extensively researched prison sexual assault, I am here to provide a scientific context to this scandal.

While everyone recognizes that sexual assault is a problem, the actual incidence of prison sexual assault in the United States is unknown. Currently, no national database exists. In 35 years, there have only been 15 empirically-based studies to study the problem and only two have included women. As you have heard, we have, however, a reliable baseline of incidence data to draw from, from two large studies of Midwestern prisons conducted by Cindy Struckman-Johnson and her colleagues.

I know this is going to be repetitive, but I think it bears repeating. She found that 22 to 25 percent of the prisons are victims of sexual pressuring, attempted sexual assault, and completed rape. One in ten is going to experience a completed rape during the course of their incarceration. Two-thirds of those who reported were victimized repeatedly, an average of nine times. Some males experienced 100 incidents per year. Others experienced assaults daily.

Using this data, it is reasonable to conclude that in States with larger, urban, more heterogeneous populations, the incidence would be much higher. This was demonstrated in a 1982 study of a California medium-security prison in which one in seven inmates reported being the victim of a completed rape. One of the goals of this legislation is to scientifically collect the actual incidents of prison sexual assault in institutions nationally.

No inmate is immune from victimization. Certain inmates, however, appear to be especially vulnerable. These include the young, the inexperienced, first-time offenders, the mentally disabled, and homosexual and effeminate men, to name but a few.

As you have heard, the crisis of being a sexual assault victim is global and devastating. In prison, however, it is even more debilitating. Victims often experience physical assaults as well as their attacks and they may experience repeated trauma. Once targeted, male victims may endure years of sexual slavery.

The mental health consequences are catastrophic. Victims experience a variety of symptoms, including post-traumatic stress disorder, anxiety, depression, and exacerbation of preexisting psychiatric disorders, and they may also consider, attempt, or complete suicide as a means of alleviating their suffering. This is more disturbing when we realize that we currently house more individuals with mental illness in the United States in jails and prisons than collectively in the psychiatric facilities nationwide. In addition, most correctional facilities have few or inadequate services to treat victims carefully.

As you have heard, the public health consequences are equally overwhelming. Victims may contract HIV, AIDS, other sexually transmitted diseases, other communicable diseases such as tuberculosis, hepatitis B and C, which are rampant in corrections nationally. These may be spread to others in the prison population and to the general community.

Prison sexual assault destabilizes the safety and security of American jails and prisons. For over 25 years, it has been recognized as a contributing factor in prison homicides, institutional violence, and riots. Administrative and programmatic solutions have long been recommended but too often ignored. Many prison administrators have been largely unaccountable for the sexual assaults committed under their care.

The study you heard of by Joanne Mariner of Human Rights Watch in 2001 surveyed 50 State correctional departments and the Federal Bureau of Prisons. Her study confirms this denial. Effective management can only be implemented when we have accurate data. Only 23 of 46 corrections departments currently maintain statistics about sexual assault. None of the States that reported had statistics that were in any way consistent with the two large-

scale studies of Struckman-Johnson. Staff training has long been recognized as a vital issue in addressing the problem. Only six States currently and the Federal Bureau of Prisons provide such training. Criminal prosecutions are virtually nonexistent.

This legislation provides a tangible, comprehensive strategy to address the complex challenges of prison sexual assault. With accurate incidence data, correctional managers can make rational decisions about staff deployment, resource allocation, inmate placement, thereby improving the safety and security of America's jails and prisons. This is also a crisis which can be managed without significant monetary expenditures. The bill's emphasis on visibility and accountability will be highly effective. Prison officials with records of poor practice will be held accountable for their inaction and deliberate indifference. The National Prison Rape Reduction Commission will also play a key role in developing reasonable standards of care for providing staff training, treatment of victims, and ensuring the best professional practice.

Stop Prisoner Rape endorses this legislation as a critical step in curbing one of the most pervasive and devastating abuses that has been allowed to continue in the United States. They and I urge your support. Prison rape is preventable. Prison rape is predictable. We have ignored this problem for much too long. Hundreds of thousands of prisoners, many of whom are the most vulnerable, have silently endured these crimes. We have the technology. We have the resources and the means to address this issue. But we have lacked the political will to implement the remedy. Please, please do not allow this scandal to continue. My heartfelt thanks for your time and attention.

Senator KENNEDY. Thank you very much.

[The prepared statement of Mr. Dumond appears as a submission for the record.]

Senator KENNEDY. I thank all our panel for excellent testimony.

Ms. Bruntmyer, let me ask you, after you went through this horrific experience, were you able to reach out to anyone or was anyone able to reach out to you? Have you been able to work with different groups where there are other families that have lost loved ones, or have you felt sort of solitary in this whole crisis? What could you tell us about the efforts that have been made to reach out to you or that you have tried to work with other kinds of individuals who might similarly be affected?

Have you been able to do it, or has it just been too difficult emotionally? If your answer to that was, it has just been too difficult, I certainly would understand it. But I am just wondering how you have been able to survive and how you have been able to deal with this.

Ms. BRUNTMYER. I have a support group that I do in my home for families. I do help them with their children, their loved ones in prison to know what is the process of sending a book, how to sit down and write a letter. We were told, when we went through it with Rodney, we have no rights. We found out we do have rights and Rodney had rights. We did not know that. And today, we try to save kids. We try to help them. We are there for the families.

Senator KENNEDY. It would certainly seem that as this commission is set up to try and sort of develop this kind of understanding

of what is happening, that they would certainly spend some time with you and your group and other similar groups to be able to see what can be done to provide help and assistance to you and to the other groups and what can be done in terms of taking steps to prevent this.

Let me ask just the panel, in listening to all of you, I gather there is sort of this culture of tolerance that is out there. How do you break through that cultural tolerance? How do you think that that can be done? We can get the information. We can get the statistics. We can get the training. I suppose included in that is the prosecution, perhaps even, in terms of individuals who tolerate this or knowingly let this go by.

How do you think, as people that have seen this, thought about it, talked about it, studied it, how do you break through this sort of culture? What ideas or suggestions do you have in this area?

Mr. DUMOND. Senator, I would like to address that by addressing a couple of issues. You have heard the strong moral argument, which has been articulated, and clearly, we have to keep maintaining the fact that this can occur to any individual who is incarcerated in the United States.

Senator KENNEDY. Right.

Mr. DUMOND. As an aside, there but for the grace of God go I. Any one of us in this room, had we had the kind of experience that many of these men and women had, could have been incarcerated.

A second issue which I think may be effective is the cost-benefit analysis. We currently expend an average of about $20,000 to $22,000 to $25,000 minimally for each inmate each year. When you consider maximum-security prisons, that cost can escalate to $75,000 to $80,000. From a cost-benefit analysis, does society do itself a disservice by allowing for prison sexual assault when these individuals, A) will get out, B) will harm other people, and C) return back to prison? So the cost-benefit analysis, I think, clearly has to be considered as a major factor, and that can be instrumental in causing a sort of a change or a sea change of how our attitude about this issue.

Rabbi SAPERSTEIN. Let me also add two things. The first is, putting a human face on this crisis is indispensable to raising the conscience of the country. If everyone in the nation could take 3 minutes and listen to Linda Bruntmyer tell her story, it would transform the way this would be dealt with.

But structurally, the inclusion in this legislation of the commission, whose job it will be to help accumulate the statistics, along with the Attorney General and the Justice Department, whose job it will be to hold hearings on this—there is not a single community in the country where you could not go and hear a variant of the tragic story that we heard today. And if that commission is doing its job and holding hearings around the country, getting attention in the local papers, it will be an indispensable component to raising the consciousness of the nation and mobilizing local legislators like yourself to follow in your footsteps here, to begin to look for legislative steps to take at the local and the State level, as well, where really much of this job must be done.

And that, I think, is the brilliance of this legislation, that it really aims to empower the States, not to force the States to do things,

but to empower the States to act effectively in this arena, giving them the tools, the training, the guidelines, the experience of best practices across the country, and the information necessary to do that.

So in very real ways, Senator Kennedy, the answer to your question is your legislation.

Senator KENNEDY. Thank you.

Mr. EARLEY. Senator, I was going to mention the same thing. I do not think you can underestimate the fact that simply because now this legislation has been proposed and it has such a broad coalition of support and it is a bipartisan effort in the Senate and in the Congress, I think the actual barrier has been broken. Today, with two million people in prison in America, you do not have to go far to touch a family that is impacted by crime or who has a son or daughter or mother or father or husband or wife in prison.

I think with the establishment of a national commission and being able to have actually some concrete data—you heard we have only had, what, 15 studies in 35 years—that is going to enable this. I think the decency of the American people is such that once this is clearly articulated by its national leaders at the national level, there will be a profound systematic change that can occur rather quickly.

Senator KENNEDY. Let me ask you, Mr. Earley, again on this federalism issue, could you talk about this for another moment or two. I know the administration is looking this legislation over and making up its mind and I know this would be something that they will be interested in. Senator Sessions has obviously had a long tradition on the issues of federalism and it seems to me we have tried to deal with this question. I would be interested, as a former Attorney General, your own view of whether you think this is a fair balance.

Mr. EARLEY. I think it is. In fact, I think it is more than balanced. I mean, the Congress could, I believe, based on the Farmer case, approach this issue with a much bigger stick. I do not think it needs to. I think it is taking the right approach, and as I mentioned in my comments, this legislation, I think, is carefully crafted.

It requires the States to do nothing. It has no unfunded mandates. It even has an opt-out provision. The only punitive issue in this bill, and it would be wrong to call it punitive, is it withholds certain Federal monies if the State decides to opt out of the standards that would be articulated by the commission to the Attorney General of the United States and then adopted by the Attorney General.

So again, I think it strikes just the right balance, and I do not think, having served with the Attorneys General for the last 4 years, this is an issue that is important to all of them, Democrats and Republicans, the federalism issue, and I do not think you will hear that as an objection to this bill because of the thought that has gone into crafting it. I commend you on that, because that is tough.

Let me just finally ask, I would be interested if you find some places or institutions that are particularly noteworthy, it might be useful. I do not know whether it comes to mind now, but I think

as this moves along, if you find that there are some that are particularly noteworthy, we ought to try and highlight those. I do not know whether we would get a chance to go visit or whatever, but we would be glad to hear about them. I think it is important that we try and give some focus and attention and recognition to those that are really doing a good job on this, and I think in this way attempt to encourage others to try and sort of do that.

Mr. DUMOND. Mr. Chairman, just as a model to consider, since 1979, the San Francisco jail under Michael Markum has had very strong commitment to preventing prisoner sexual assault. It has a long tradition of identifying this as a problem, of noting it to new inmates who are coming in, of making people aware.

Also, one of the telling things about Mariner's report was that it identified that in institutions where there was a zero-tolerance attitude from the top, this problem was not manifest with the same degree that we have seen in some of the statistics. So clearly, there are corrections environments that are doing a good job, that are handling this in a responsible manner. We need to use those as models and certainly consider them as we craft what we are going to do from this point on.

Senator KENNEDY. I think that is an excellent response, particularly to those that say, well, this is just going to happen so they cannot do anything about it. It is inevitable. This is the way it has been for no matter how many hundred years and it is going to be that way in the future. If we are able to identify those institutions that are really making a difference on it, and no one underestimates the complexity and the difficulty of doing it, but those that are making systematic progress on it, we ought to do everything we can to highlight it or mention it. We invite all of you and those that are going to be reading through the record on this to be in touch with House sponsors and Senator Sessions and myself so that we can try and highlight those that are doing a good job.

Senator Sessions?

Senator SESSIONS. Thank you.

Ms. Bruntmyer, thank you for sharing that story with us. It is just very, very moving and all of us who have played a role in the criminal justice system in America cannot feel good that there are others also that suffered as Rodney did.

He was sentenced, even though he was young, as an adult, is that correct, and was sent to adult prison?

Ms. BRUNTMYER. Yes, sir.

Rabbi SAPERSTEIN. Mr. Chairman, one of the things when we had our juvenile crime bill, I favored expanding juvenile jails and some people criticized that as saying you want to lock up young people. But really, what most people are failing to realize is we are certifying as adults a much, much larger of young people than we ever have before. The main reason is there is not enough space in the juvenile system. So I just say that. I think we could do better by expanding our juvenile system.

Do you think, Mr. Dumond, that juvenile facilities are more protective of the people there than maybe an adult prison, or it depends?

Mr. DUMOND. I would like to say yes, Senator. The evidence does not seem to appear the case.

Senator SESSIONS. Really?

Mr. DUMOND. There has really been a paucity of studies in juvenile facilities. One of the studies that was done was done by Ken Wooden, "Weeping in the Playtime of Others," in 1976. Also, Bartollas and Sieveides did a study of juvenile institutions. Forst, Fagan and Vivona in 1989 were able to identify that juvenile institutions, individuals in juvenile institutions were five times more likely to be sexually assaulted than others.

So clearly, I think this is not a problem where we designed a system to be better protective of our juveniles. I think many of you are aware, in the local media here in Washington, there has been an outcry about a number of young people who have been sexually assaulted while in foster care. I think that is endemic of the kind of situation that occurs nationally.

Senator Kennedy certainly will remember in our own home State of the Commonwealth of Massachusetts, the training schools in part were closed because there were allegations, serious allegations, of sexual assault and misconduct against some of the juveniles.

So clearly, this is not a problem where—I would like to say, yes, we have protected children better. We have not.

Senator SESSIONS. Does our legislation, in your view, is it comprehensive enough to cover surveys of juvenile facilities also?

Mr. DUMOND. Again, I am not sure——

Senator SESSIONS. We may need to look at that and make sure that that is——

Mr. DUMOND. That may be something we want to——

Senator SESSIONS [continuing]. Clearly covered, because we need to know that.

Mr. Earley, let me ask you, to follow up on Mr. Dumond's suggestion that there are prisons that are a lot better than others, do you think that is true and do you agree that with strong leadership, that incidents of sexual abuse could be dramatically reduced?

Mr. EARLEY. I do. I think in any organization, whether it is a prison system or anything else, the signal that is sent down from the top, you cannot overestimate its significance.

One of the things in this bill that will help in the long run is that you all have put in a requirement that those organizations that accredit correctional facilities throughout the United States will have now as part of its new regimen of deciding accreditation what these institutions are doing for this problem. So that is going to require, as well as, I think, the desire of those who run the prisons—I do not think they are much different than us and I think if they are focused on this problem with strong leadership, it will make a huge difference.

Senator SESSIONS. Mr. Dumond?

Mr. DUMOND. Senator Sessions, I would like to add to Mr. Earley's comments. In regards to professionalization, corrections in America was vastly improved in the 1960's because it took a very hard look at the way it handled itself. By providing for intensive training, by professionalizing what it did, by accrediting and having accreditation agencies that would sponsor an examination of agencies, we were able to make corrections better.

It is a glaring example of how we have failed and denied this issue that the American Correctional Association, for example, does not have a current standard regarding sexual assault. There is a standard, again, for the record to be considered, the National Commission on Correctional Health Care has had a standard regarding sexual assault since about 1986. So certainly, this is an issue that when we set the tone, when we raise the bar, it is likely that we will get a positive response.

Senator SESSIONS. For the correctional officers who go through training and certification to meet certain standards, are you satisfied that they receive enough training on this subject or do you think they do not?

Mr. DUMOND. Absolutely not. I guess I am proud to say, and again, Senator Kennedy will support me on this, I believe, Massachusetts was one of the first States to provide for intensive training of its correctional staff. We did this back in 1994. And as I indicated, I think Massachusetts has done a fairly good job. Can it be better? Absolutely. But certainly, we are eons ahead of what many States are currently doing, and, in fact, many States are doing nothing.

Senator SESSIONS. What about the standards? Exactly how would you articulate what a good standard should be and how would that affect behavior in a prison?

Mr. DUMOND. I think that is an excellent question, Senator. No. 1, any standard that is articulated or promulgated has to be empirically based. I think we have to have sound scientific data to attach and identify so that we make our standards responsive to the data that we now understand.

Second, we have to implement an ongoing training system. One of the things that is built in nationally to corrections, every correctional staff in almost every State Department of Corrections and in the Federal Bureau of Prisons must take about 40 hours of comprehensive training each year to update their skills. We have the mechanisms and the tools to impact upon this in a very substantive manner. We now need the curricula and we need to provide that to corrections training officers so that this is something that corrections officers will identify.

As an aside, Nacci and Kane, who were researchers with the Federal Bureau of Prisons, back in 1982, 1983, and 1984 identified that staff training was an essential ingredient and part of the problem. They also identified that one of the issues that has been largely overlooked, many corrections officers look at sexual assault or sexual events that occur in prison and assume that it is consensual. By doing that, they are really avoiding and denying the fact that many of these individuals are coerced into being sexually assaulted on an ongoing basis.

We have to have a complete understanding of the severity of this issue. We have to hold people accountable who are corrections officers and correctional managers. If you are not doing your job, you will be held accountable for that.

Senator SESSIONS. Now, on a standard, this would tell a correctional officer, if they have a complaint from an inmate or a concern of an inmate or an expression of concern by a guard that something

may be unhealthy going on, it would help them to have a step for them to take that would be objective and professionally based.

Mr. DUMOND. Exactly.

Senator SESSIONS. Do you think that the key to reducing prison rape would be to listen and make it absolutely clear from the beginning of a person's incarceration that if they feel threatened or are threatened that they should report it, and something does happen to protect them?

Mr. DUMOND. That something will, in fact, occur. There are a number of steps that we need to do. Even educating inmates themselves when they come into prison that they may be sexually victimized, that is a way to empower them to handle the situation.

One of the tasks that has been identified and one of the issues that many inmates confront, when they come to prison, they often have nothing. What they do is other prisoners will give them things, and then when they cannot pay them back, they will be forced to give sexual favors to pay them back. That is something that an inmate who has never been in prison before needs to know, and that is something that they need to be able to address, and also that the outcome will be taken seriously.

If I come to you as a correctional staff person and I say, "I have been sexually assaulted," you will take me seriously. You will try to provide me with protection. You will try to move me out of that particular unit. You will try to get me some mental health or medical treatment for my injuries, and you will help me from being victimized in the future. Unfortunately, as you have heard, this is not the case for many inmates.

Senator SESSIONS. Mr. Earley, you said that we ought to be tough on crime, and were not not being tough on crime, and you are exactly correct. In fact, when we do not prosecute people who sexually assault someone, whether they are in prison or not, we are being soft on crime, do you not agree?

Mr. EARLEY. Absolutely.

Senator SESSIONS. I mean, it is a crime just as much to assault somebody sexually in prison as out of prison as a matter of law, is it not?

Mr. EARLEY. Right, and many times, it can be more aggravated because that person in prison has a loss of control and they are dependent upon the State much more for their security.

Senator SESSIONS. With regard to that, do you feel that when the State takes a person's liberty and places them where they do not desire to be—in the slammer—that they have a particular responsibility to see that they are not subjected to extra-legal actions and punishments?

Mr. EARLEY. Absolutely. I think Mr. Dumond made an important point, and all of us who have been involved in government are aware of this. Unfortunately, in all of our institutions where we require people to be against their will, whether it is mental health institutions, juvenile detention facilities, or jails, we have a systemic problem with people oftentimes being exposed to dangers that they would not be exposed to on the outside and being taken advantage of.

In many cases, in prisons, for example, we have looked the other way because of this sort of prevailing public attitude and we have,

I think, perhaps all been guilty of it, and that is, well, you know, they are in prison. They deserve what they get. I think the decency of the American people, the decency of people who run our institutions can be appealed to and it can be put a stop to.

Mr. DUMOND. Mr. Sessions, one of the things that you may also be aware of, if you were to talk to any corrections officer who was new to corrections and you asked them what the mission of corrections would be, they will tell you three things. It is the care, custody, and control of inmates. Clearly, having and allowing for the sexual assault of inmates under the care of the jurisdiction of a governmental agency does not meet the requirement of care, custody, and control. So we are actually violating the basic mission of American corrections by not addressing this problem.

Senator SESSIONS. I believe there is one more thing that was mentioned previously—I believe you did, Mr. Dumond, and maybe you, Mr. Earley—that somehow, some in the prison system might see prison rape as a management tool. What do you mean by that?

Mr. DUMOND. Just for the record, that is not my statement, but I will tell you that the research has been very strong in indicating and many analysts have suggested that it is a way to control the competing forces within a prison environment, and I will give you an example.

If I have some strong inmates who then can be sexually satiated with weaker inmates and I can get them to conform to the prison institution by allowing this to take place, then I can manage my institution in a better fashion. Clearly, that is inappropriate, and clearly, that is wrong and can never be accepted. But that has been suggested by some very serious analysts, including Dr. Jim Gilligan, also of the Commonwealth of Massachusetts, who is a forensic psychiatrist, in his book in 1997, *Violence: An American Epidemic*. He suggests very strongly that there may have been a collusion by correctional institutions in allowing for prison sexual assault to occur as a management tool.

Senator SESSIONS. Mr. Earley?

Mr. EARLEY. Senator Sessions, if I could, I did not read this because of time, but this is just a brief excerpt. An L.A. Times article in 1999 reported the case of Eddie Dillard, a 23-year-old gang member from Los Angeles, which is a frightening example of what you were just talking about. Dillard was serving time for assault with a deadly weapon when he kicked a female guard. He was transferred to the cell of Wayne Robertson, known within prison walls as the "booty bandit." Robertson was an enforcer for the guards, helping them rein in troublesome newcomers while officials looked the other way.

When Dillard protested the transfer, he was told, "Since you like hitting women, we have got somebody for you." Robertson, the person to whom he was transferred in with, beat, raped, and tortured Dillard for days. The guards were later criminally charged, and while they were ultimately acquitted, there was no dispute as to the facts, merely as to whether or not liability extended to prison officials. So I think that is an example.

Senator SESSIONS. And it would indicate to me that that prison is out of control, would you not agree?

Mr. EARLEY. It certainly was during that time.

Senator SESSIONS. The inmates are running the prison. That is not the way the system should be and I hope that is not too common, but I am afraid it is more common than we would like to admit.

Rabbi Saperstein, thank you for your leadership on this issue. You spoke very clearly that even though a person might be housed behind bars, they are the same creature of God that they were before they went in and will be the same as they will be when they are out. I think every human being is entitled to safe conditions, even in prison.

Thank you, Mr. Chairman, for your leadership on this issue. You are champion of a lot of issues of this kind. It is important, and I have enjoyed very much working with you.

Senator KENNEDY. I thank you, Senator Sessions. We are reminded by our panel and others that this is a long-standing problem. Listening to this, we always ask ourselves why we have not been able to get on this before. But having said that, I think we can give the assurance to our panelists and those who are represented that we are committed to getting something done and we want to work with all of you and others to try and make sure that what we are going to do is going to be meaningful and we are going to keep at it. That is what Senator Sessions wants to do, what I want to do, and so we are in for the duration of this and we want to try to make a difference. I believe we can.

Senator SESSIONS. Mr. Chairman, I would offer Senator Hatch's statement, who is a supporter of this legislation, also.

Senator KENNEDY. The statement will be included in the record. All statements will be included. Very good.

[The prepared statement of Senator Hatch appears as a submission for the record.]

Senator KENNEDY. The committee will stand in recess. Thanks very much.

[Whereupon, at 2:46 p.m., the committee was adjourned.]

[Submissions for the record follow:]

SUBMISSIONS FOR THE RECORD

Statement for the Record by

Rachel King, Legislative Counsel
Washington National Office of the
American Civil Liberties Union and

Elizabeth Alexander, Director
National Prison Project of the
American Civil Liberties Union

Senate Judiciary Committee Hearing on
Prison Rape Prevention
July 31, 2002

Since November 2001, the American Civil Liberties Union's National Prison Project has received hundreds of letters from men and women sexually victimized in United States prisons. They describe horrifying accounts of sexual abuse and rape perpetrated by cellmates, prison gangs, correctional officers and other prison staff. Prisoners are desperate for protection and in need of immediate assistance. The Prison Rape Reduction Act of 2002, S. 2619, is a positive step on the road to ending prisoner rape by raising public awareness about the prevalence of attacks and by educating prison staff and administrators on how to prevent assaults in the first place.

Senate Bill 2619 would accomplish these changes by: establishing a prison rape review panel that would have the authority to collect information about rape including the authority to hold hearings and compel testimony; requiring the Attorney General to establish a program for collecting rape complaints; and establishing a national prison rape reduction commission. The bill would also establish a grant program that state and local governments and prisons could apply to for creating rape prevention programs. However, in spite of these positive provisions, S. 2619 fails to address limitations in current federal law that prevent victims of rape from access to the courts to seek redress against their attackers.

Current law contains a number of provisions that make it extremely difficult for prisoners to file lawsuits seeking protection. The most significant barrier is that a prisoner must first exhaust the prison's administrative complaint process before filing suit in the courts. This structured grievance system can take from three to six months to navigate and sometimes requires sexually assaulted prisoners to confront their attacker face to face, resulting in immense fear and trauma for victims. To force victims to participate in the prison grievance process can expose them to additional attacks and retaliation from officers and other prisoners. As a result, many prisoners choose to avoid filing complaints and never even report attacks.

Many times when prisoners do report sexual assaults their complaints are ignored by prison officials and no decisive action is taken against accused offenders, discouraging other prisoners from registering complaints. A Human Rights Watch investigation into conditions in Illinois prisons uncovered numerous allegations of sexual assaults perpetrated by one corrections

officer on several women. Prisoners and staff at the facility were well aware of the officer's reputation but no disciplinary action was taken against him. Speaking about a similar situation, one Illinois prisoner told Human Rights Watch, "Seeing him everyday showed me what they thought about it." *See All Too Familiar: Sexual Abuse of Women in U.S. State Prisons,* Human Rights Watch, 1996.

The case of Roderick Johnson illustrates the dangers of the exhaustion requirement. Mr. Johnson was raped and assaulted nearly every day for eighteen months by Texas prison gangs. Fortunately, Mr. Johnson filed complaints and exhausted the prison's grievance process. Unfortunately, prison administrators did nothing to protect Mr. Johnson from these daily rapes until the ACLU filed a lawsuit on his behalf. *See* attached documents describing Mr. Johnson's case. At that point, administrators took his claims seriously and moved him to safety. Because the lawsuit is still pending, Mr. Johnson remains in safekeeping and has not been raped since that time. If Mr. Johnson had not completed the complaint process prior to his attorneys intervening in his case, he would have faced another three months of torturous attacks while Texas's grievance process played out. If the perpetrators of the rapes had been prison staff instead of inmates, Mr. Johnson may not have pursued the administrative grievance process at all.

Besides the exhaustion requirement, current law makes it all but impossible for prisoners who have been raped to find attorneys to represent them. In all other civil rights cases, a successful plaintiff is entitled to have her reasonable attorney fees paid by the losing defendant. But under the Prison Litigation Reform Act, Pub.L. 104-134 (1996), attorney fees for successful prisoner plaintiffs are severely restricted, making it financially impossible for most attorneys to take on even the most meritorious prisoner civil rights cases.

Finally, the Prison Litigation Reform Act contains a particularly draconian "three strikes" provision. If a prisoner has had three lawsuits or appeals dismissed, she is forever barred from filing a lawsuit for damages in federal court, unless she can pay the full $150 filing fee up front. Since most prisoners are impoverished and have little or no opportunity to earn money while incarcerated, this harsh provision may permanently bar them from court, no matter how egregiously their rights have been violated.

The American Civil Liberties Union is thankful that members of Congress recognize the overwhelming pain victims of prison rape experience but the solution for ending their suffering must be a comprehensive effort for reform. While S. 2619 may have the long-term effect of reducing prison rapes, it does not do enough to protect the current victims of this epidemic. We recommend:

- Including exemptions for victims of prison rape and sexual assault from the Prison Litigation Reform Act;
- Removing artificial caps on attorneys' fees to encourage attorneys to represent abused prisoners;
- Eliminating the filing fee for victims who are filing *in forma pauperis*; and
- Eliminating the "three strikes" provision that prevents victims from seeking relief.

These changes would significantly improve the ability of prisoners to seek redress against their attackers. Until prisoners are able to fully access the legal system in order to hold their attackers accountable, prison rape will continue to be a problem.

For More Information, Please Contact: Rachel King, (202) 675-2314

News

American Civil Liberties Union
Freedom Network

Texas Officials Complicit in Gang Rape and Sexual Slavery of Gay Black Man, ACLU Charges

FOR IMMEDIATE RELEASE
Thursday, April 18, 2002

WASHINGTON--In a case that highlights prison systems' failure to protect vulnerable prisoners -- and the role bias plays in who gets protected -- the American Civil Liberties Union today filed a lawsuit against Texas prison officials who permitted a gay African American man to be repeatedly raped and sold as a sexual slave for $5.

In a legal complaint that reads like a nightmare scenario from the graphic HBO prison drama "Oz," the ACLU detailed the story of 33-year-old Navy veteran Roderick Johnson of Marshall, Texas, who for the last 18 months has been bought and sold by gangs, raped, abused, and degraded nearly every day.

Roderick Johnson, a Navy veteran serving time for a non-violent crime, has been bought and sold by gangs, raped, abused, and degraded nearly every day.

"Prison officials knew that gangs made Roderick Johnson their sex slave and did nothing to help him," said Margaret Winter, Associate Director of the ACLU's National Prison Project. "Our lawsuit shows that Texas prison officials think black men can't be victims and believe gay men always want sex -- so they threw our client to the wolves."

According to the ACLU complaint, Johnson appeared before the prison's all-white classification committee seven separate times asking to be placed in safe keeping from predatory prisoners. Instead of protecting Johnson, the ACLU complaint charges, the committee members taunted him and called him a "dirty tramp," and one said, "There's no reason why Black punks can't fight if they don't want to fuck."

Gangs and other prisoners often prey upon prisoners who are gay, as well as those who are young, small, mentally or physically disabled, first-time offenders, shy, perceived as weak, or possessing feminine characteristics, Winter said. In Texas and elsewhere, individuals identified with one or more of these vulnerable characteristics typically qualify for a prison classification known as "safe keeping" or "protective custody."

Johnson, who is serving time for bouncing a $300 check while on parole for a non-violent crime, informed the prison's staff of his sexual orientation during the intake process. But after leaving the intake unit he was placed in general population. The result, according to the ACLU complaint, was devastating.

The complaint describes how gang members negotiated fees of $5 to $10 for sex with

Johnson. "He was told that if he refused, he would be beaten and killed. As a sexual slave, he was repeatedly penetrated anally and forced to perform oral sex at the command of gang members," the complaint said.

"I know most people don't care what happens to prisoners, but no matter what Roderick has done he doesn't deserve the abuse he has received," said Johnson's cousin Sharon Bailey, whose calls to prison officials were ignored. "The entire family is horrified and devastated by what's happening to Roderick. We are afraid we will never see him alive again. We have faith that God will protect him, but the prison must also be held responsible for ignoring our pleas for help. Today we are praying for Roderick -- and fighting for him."

Texas was identified as the worst state in the nation for prison rape in Human Rights Watch's 2001 book-length report, *No Escape: Male Rape in U.S. Prisons.* Independent observers, including a federal judge, have said that some prisoners in Texas are vulnerable and need protection -- which they are not getting.

"Evidence has shown that, in fact, prison officials deliberately resist providing reasonable safety to inmates. The result is that individual prisoners who seek protection from their attackers are either not believed, disregarded, or told that there is a lack of evidence to support action by the prison system," wrote U.S. District Judge William Wayne Justice, in a class-action case about Texas prison conditions that has spanned 30 years. He also said evidence "revealed a prison underworld in which rapes, beatings, and servitude are the currency of power."

- Nationally, the ACLU has received hundreds of complaints about rape and sexual assault of prisoners. The ACLU's National Prison Project recently filed a lawsuit in Colorado on behalf of a woman who was sexually assaulted while being transported between jails after her arrest. Other cases are being investigated and the ACLU plans to file additional lawsuits in the near future.

For more information on the case visit ACLU Special Feature at http://www.aclu.org/features/f041802a.html.

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Family Speaks Out: Statement of Sharon Bailey

Roderick Johnson v. Gary Johnson, et. al.

My cousin, Roderick Johnson, and I come from a large extended family. Aunts and uncles, grandmothers and cousins ... we've always looked out for each other and protected one another. I was there when he was born. Through the years, we all went to church together, with my mother driving me, Roderick and his sister to Sunday School each week. We're family. We're connected and always will be.

Roderick wrote to several of us from prison. He was afraid to tell most of the family that he was being severely sexually abused. But the letters started to change more than a year ago, and he eventually told us what was happening. He said that "they make me do things I don't want to do." He told me he fears for his life. He wrote that he prays that things work out and asked us to pray, too. I could see that he was terrified and desperate, and I was devastated.

I decided someone needed to do something. I called the prison to find out what was going on. Staff at the prison said they would check into Roderick's complaints and then give me a call back. They never did. I called the prison again. They said Roderick's complaints didn't warrant an investigation but they would move him to another prison wing. He wasn't safe there either. Other family members and I continued to write and call on Roderick's behalf, but nothing ever changed. He wrote us letters week after week. I thought the abuse Roderick was suffering daily couldn't get any worse, but it did.

He has been raped daily; he has been traded to and from gangs; he has been bought and sold over and over again. Prison officials have let this happen -- they've laughed at him and mocked him and ignored our desperate pleas for help.

I know most people don't care what happens to prisoners. I care what happens to my cousin. Anyone with a son or a sister or a nephew would feel the same. The entire family is horrified and devastated by what's happening to Roderick. We are afraid we will never see him alive again. We have faith that God will protect him, but the prison must also be held responsible for putting him through this. Today we are praying for him -- and fighting for him.

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Testimony of Linda Bruntmyer

Hearing before the Senate Committee on the Judiciary

"The Prison Rape Reduction Act of 2002"

July 31, 2002

Thank you for giving me this opportunity to testify. My name is Linda Bruntmyer, and I am here today to tell you about my son, Rodney Hulin.

When Rodney was sixteen, he and his brother set a dumpster on fire in an alley in our neighborhood. The authorities decided to make an example of Rodney. Even though only about $500 in damage was caused by the fire, they sentenced him to eight years in an adult prison.

We were frightened for him from the start. At sixteen, Rodney was a small guy, only 5'2 and about 125 pounds. And as a first-time offender, we knew he might be targeted by older, tougher, adult inmates.

Then, our worst nightmares came true. Rodney wrote us a letter telling us he'd been raped. A medical examination had confirmed the rape. A doctor found tears in his rectum and ordered an HIV test, because, he told us, one-third of the prisoners there were HIV positive.

But that was only the beginning. Rodney knew if he went back into the general population, he would be in danger. He wrote to the authorities requesting to be moved to a safer place. He went through all the proper channels, but he was denied.

After the first rape, he was returned to the general population. There, he was repeatedly beaten and forced to perform oral sex and raped. He wrote for help again. In his grievance letter he wrote, "I have been sexually and physically assaulted several times, by several inmates. I am afraid to go to sleep, to shower, and just about everything else. I am afraid that when I am doing these things, I might die at any minute. Please sir, help me."

Still, officials told him that he did not meet "emergency grievance criteria." We all tried to get him to a safe place. I called the warden, trying to figure out what was going on. He said Rodney needed to grow up. He said, "This happens everyday, learn to deal with it. It's no big deal."

We were desperate. Rodney started to violate rules so that he would be put in segregation. After he was finally put in segregation, we had about

a ten minute phone conversation. He was crying. He said, "Mom, I'm emotionally and mentally destroyed."

That was the last time I heard his voice. On the night of January 26, 1996, my son hanged himself in his cell. He was seventeen and afraid, and ashamed, and hopeless. He laid in a coma for the next four months before he died.

Sadly, I know that Rodney is not alone. The human rights group Stop Prisoner Rape gets calls and letters everyday from men and women who have survived prisoner rape and from their family members asking them for help, asking them to help them move to a safer place, asking them to help protect their loved ones who are being raped, asking them to explain why there is no one in authority that will step in and say, "No! This is not justice. This is not right."

I strongly support this legislation because it will stop prisons from ignoring pleas for help from people like my son.

We know that what happened to Rodney could have been prevented. There are ways to protect the vulnerable inmates and ways to respond to the needs of prisoners who have been sexually assaulted. Even so, vulnerable prisoners are being sexually brutalized across the country, everyday. Rodney tried to ask for help, and I tried too. But nothing was done.

I am asking please, sirs. Please support this legislation. It is urgently, desperately needed. Rape in prison should no longer be tolerated. It destroys human dignity, it spreads disease, it makes people more angry and violent. It kills.

This is NOT what we mean when we say justice. Rape should not be considered a part of punishment. Rape is always a crime.

Testimony before the U.S. Senate Committee on the Judiciary
Robert W. Dumond, Licensed Clinical Mental Health Counselor,
Member, Board of Advisors, Stop Prisoner Rape

"The Prison Rape Reduction Act of 2002"
July 31, 2002

Good afternoon Mr. Chairman, honorable members of the Judiciary Committee.

I would like to thank the Senate Judiciary Committee for this opportunity to provide testimony here today and also thank Senators Kennedy and Sessions, and Congressmen Wolf and Scott, for sponsoring this historic piece of legislation. Prison rape has often been accepted as an inevitable consequence of incarceration. We cannot allow this to occur, and your leadership will help alleviate the agony of hundreds of thousands, if not millions, who have suffered in silence.

My name is Robert W. Dumond, and I am a licensed clinical mental health counselor who has for over 30 years provided services to crime victims and offenders, (juvenile & adult) in a number of settings, most notably within the Office of the Essex County District Attorney and the Massachusetts Department of Correction. I also serve on the faculty of Franklin Pierce College and as a member of the Board of Advisors of the human rights organization Stop Prisoner Rape. Having extensively researched, written and lectured about prison sexual assault, I am here to provide a scientific context within which to understand the devastating personal, health, social and security costs associated with this scandal.

The scourge of prisoner sexual assault was recognized early in the history of U.S. corrections when the Rev. Louis Dwight of the Boston Discipline Society condemned this "dreadful degradation" in 1826 (Katz, 1976: 27). While most Americans know it is a problem, no national database exists, and the actual extent of prison sexual assault is not precisely known (Dumond, 1992; 2000). In 35 years, there have been less than 16 published studies conducted to accurately assess its epidemiology (Bartollas & Sieveides, 1983; Carroll, 1977; Davis, 1968; Fuller & Orsagh, 1977; Hensley, 2000; Jones, 1976; Lockwood, 1980; Moss, Hosford & Anderson, 1979; Nacci, 1978; Nacci & Kane, 1983, 1984; Saum, Surratt, Inciardi & Bennett, 1995; Struckman-Johnson, Sruckman-Johnson, Rucker, Bumby & Donaldson, 1996; Struckman-Johnson & Struckman-Johnson, 2000; Tewksbury, 1989; Wooden & Parker, 1982), only three of which have included data about women prisoners (Alarid, 2000, Struckman-Johnson et al., 1996, Struckman-Johnson & Struckman-Johnson, 1999). We do, however, have a reliable baseline of incidence data from two large-scale studies of Midwestern prison systems recently conducted by Cindy Struckman-Johnson and her colleagues (Struckman-Johnson et al., 1996; Struckman-Johnson & Struckman-Johnson, 2000). She found that:

- 22 to 25% of prisoners are the victims of sexual pressuring, attempted sexual assault, or completed rapes;
- 1 in 10 (10%) prisoners is the victim of a completed rape at least one time during the course of his or her incarceration.
- 2/3 of those reporting sexual victimization have been victimized repeatedly -- an average of nine times during their incarceration -- with some male prisoners experiencing up to 100 incidents of sexual assault per year.

Using this data, it is reasonable to assume that in states with larger, heterogeneous urban populations, the rates of sexual assault are even higher. This

assumption is supported by the study of one California medium security prison which found that 1 in 7 inmates (14%) reported being sexually victimized (Wooden & Parker, 1982). In fact, many scholars agree with the admonishment of Drs. Cotton and Groth "that available statistics must be regarded as very conservative at best, since discovery and documentation of this behavior are compromised by the nature of prison conditions, inmate codes and subculture and staff attitudes" (Cotton & Groth, 1982, p. 48). One of the goals of the *Prison Rape Reduction Act* is to scientifically collect and validate the actual incidence of prisoner sexual assault in all correctional facilities nationwide.

While *no* inmate is immune from sexual victimization, empirical evidence demonstrates that there are certain categories of male prisoners who are especially vulnerable: (a) the young and inexperienced; (b) the physically weak and small; (c) inmates suffering from mental illness or developmental disabilities; (d) inmates who are not "tough" or "street-wise"; (e) inmates who are not gang-affiliated; (f) homosexual, transgendered, or overtly effeminate inmates; (g) inmates who have violated the "code of silence"; (h) those who are disliked by staff or other inmates; and (i) inmates who have been previously sexually assaulted (Davis, 1968; Cotton & Groth, 1982, 1984; Donaldson, 1993; Dumond, 1992, 2000; Lockwood, 1978, 1980; Scacco, 1975, 1982). Race has also been identified as a factor contributing to prison rape in settings with high racial tension (Lockwood, 1980, 1994; Knowles, 1999; Wooden & Parker, 1982). It has further been shown that targets of sexual aggression may act out violently themselves, making the transition from victim to aggressor in an effort to avoid further victimization (Lockwood, 1978, 1980).

For female prisoners, it is not clear which particular characteristics play a role in determining who will be targeted for sexual abuse, but first-time offenders, young women, and mentally disabled women appear to be particularly vulnerable. Custodial sexual assault has received considerable attention (Amnesty International, 1999, 2000; Baro, 1997; Burton et al., 1999; Human Rights Watch, 1996, 1998; LIS, Inc., 1996a, 1996b; Phelps, 1999; Smith, 1998; Widney-Brown, 1998), as it should, and many important steps have been initiated to rectify the problem. It should be recognized, however, that in the only two empirically based studies which have been done (Struckman-Johnson et al., 1996; Struckman-Johnson & Struckman-Johnson, 1999), about half of the incidents were committed by other female inmates, and the remaining were committed by male and female custodial staff. Clearly, further study of female victimization, which this bill will provide, is warranted.

The crisis of being a sexual assault survivor is pervasive, devastating, and global – with profound physical, emotional, social, and spiritual components (Cotton & Groth, 1982, 1984; Dumond, 1992, 2000, Dumond & Dumond, 2002a; Fagan, Wennerstrom & Miller, 1996; Kupers, 1997). The effects of such victimization in prisons and jails have been shown to be even more debilitating, due to the unique structure of incarceration that increases the impact upon victims (Dumond, 2000; Dumond & Dumond, 2002a). Incarcerated victims are more often physically assaulted during attacks (Struckman-Johnson et al. 1996; Struckman-Johnson & Struckman-Johnson, 2000), and routinely experience a systematic, repetitive infliction of psychological trauma, fear, helplessness, and terror as the physical/sexual abuse continues (Dumond, 1992, 2000, Dumond & Dumond, 2000a; Herman, 1992; Mariner, 2001; Toch, 1992). Male victims may be marked as "punks" and forced to endure years of

sexual slavery (Donaldson, 1993; Wooden & Parker, 1982). Whatever an inmate victim chooses to do regarding the sexual assault (reporting the crime, seeking protective custody, engaging in protective pairing) has a profound impact upon his or her future while incarcerated (Donaldson, 1993; Dumond, 1992; Dumond & Dumond, 2002a; Kupers, 1997).

The mental health consequences are catastrophic. Male and female victims often experience post-traumatic stress disorder (PTSD), anxiety, depression, and exacerbation of preexisting psychiatric disorders, and most victims are at risk of committing suicide as a means of avoiding the ongoing trauma (Cotton & Groth, 1982, 1984; Dumond, 1992, 2000;Dumond & Dumond, 2002a; Fagan et al., 1996; Kupers & Toch, 1999; Lockwood, 1978, 1980; Scacco, 1975, 1982). The problem is even more acute when one recognizes that America's jails and prisons currently house more mentally ill than the nation's psychiatric hospitals collectively (Chelala, 1999; Harrington, 1999; Torrey, 1997). Unfortunately, most correctional facilities are ill-prepared to provide adequate, comprehensive services to victims, who often even fail to disclose their victimization out of fear and humiliation (Freund, 1001; Dumond, 1992, 2000; Dumond & Dumond, 2000a).

The public health consequences are equally overwhelming. In addition to the devastating physical consequences of the assaults themselves, victims may contract HIV/AIDS, other sexually transmitted diseases, other communicable diseases (such as tuberculosis and hepatitis B and C, which are rampant in U.S. correctional institutions) (AIDS Weekly, 1999; Degroot, 2001; Degroot, Hammett & Scheib, 1996; DeNoon, 1999; MacIntyre; Kendig & Kumer, 1999; Reindollar, 1999). These diseases can be spread to others in both the

prison population and the general community. In addition to the possibility of disease exposure, female inmates have been impregnated as a result of staff sexual misconduct. Some of these women have further been subjected to inappropriate segregation and denied adequate health care services.

The mission of America's correctional institutions is to provide for the "care, custody and control" of those individuals committed to their supervision. Prisoner sexual assault destabilizes the safety and security of America's jails and prisons. For over 25 years it has been recognized as a contributing factor in prison homicides, violence against inmates/staff, and institutional insurrections and riots (Nacci, 1978; Nacci & Kane, 1983, 1984a, 1984b; Sylvester, Reed & Nelson, 1977). Administrative and programmatic solutions, focusing on prevention, intervention and prosecution, have long been recommended by authorities, yet not implemented by the responsible officials (Cotton & Groth, 1982, 1984; Dumond, 1992, 2000). Strategies such as increasing surveillance of critical areas in the institution, improved classification procedures to identify potential victims and aggressors, adequate medical/mental health treatment for victims, and isolation and prosecution of offenders, have been proposed for over 20 years (Davis, 1968; Cotton & Groth, 1982, 1984; Dumond, 1992, 2000; Nacci & Kane, 1983, 1984). Despite this, too many U.S. correctional officials have manifested either ignorance, misunderstanding, or, most alarmingly, deliberate indifference about this crisis (Dumond & Dumond, 2002b; Mariner, 2001).

In effect, prison administrators have been largely unaccountable for the prison sexual assaults committed under their watch. Some analysts (Bowker, 1980; Davis, 1968;

Donaldson, 1993; Gilligan, 1997; Weiss & Friar, 1974; Wooden & Parker, 1982) have even suggested that prison sexual assaults have been used as a management tool to maintain order -- a perverse and unacceptable practice.

Joanne Mariner's 2001 survey of all 50 state departments of correction and the Federal Bureau of Prisons confirmed that most correctional authorities deny that the problem exists. Effective management can only be implemented using accurate data, yet only 23 out of 46 corrections departments reported that they maintain distinct statistical information on inmate sexual assault, and no state reported data consistent with the large sample surveys of Midwestern prisons. Even though there has been universal consensus that correctional staff training is vital to addressing prison rape, only six state correctional departments (Arkansas, Illinois, Massachusetts, New Hampshire, North Carolina, Virginia) and the federal Bureau of Prisons currently provide staff with such training. Criminal prosecution is virtually non-existent in cases of prisoner sexual assault. Corrections in America have considerably improved with professionalization; nevertheless, the largest correctional accreditation agency, the American Correctional Association, has no current standard regarding inmate sexual assault.

The *Prison Rape Reduction Act* provides a tangible, comprehensive strategy to address the complex challenges posed by prisoner sexual assault. With accurate incidence data, correctional administrators can make rational decisions about staff deployment, inmate placement, and resource allocation, thereby improving the safety

and security of America's confinement institutions. Importantly, this is a crisis which can be resolved without significant monetary expenditures. The bill's emphasis on visibility and accountability will be highly effective as it mandates that accurate information be collected and maintained by correctional institutions, and provides for careful scrutiny of each facility's prison rape abatement practices. Prison officials with poor responses will be held accountable for their inaction and indifference. The National Prison Rape Reduction Commission will also play a key role by developing reasonable standards in areas such as staff training, recordkeeping, and protection for "whistleblowers." Correctional staff will operate pursuant to the highest ethical and professional standards, and comprehensive treatment for inmate victims will begin to heal the devastating impact of sexual assault.

The human rights organization Stop Prisoner Rape has endorsed this legislation as a critical step toward curbing one of the most pervasive and devastating abuses that has been allowed to continue in our country. Stop Prisoner Rape and I urge you to support this legislation designed to address an abuse that destroys human dignity, contributes to the spread of disease, and perpetuates violence both inside and outside of prison walls. The time to address this travesty has come.

I would like to thank the committee for allowing me to share with you the facts regarding a crisis which has been ignored for too long. Hundreds of thousands of prisoners, many of whom are the most vulnerable, have silently endured these crimes. We have the technology and means to address this issue, but we have lacked the

political will to implement a remedy. Please do not allow this scandal continue. My heartfelt thanks for your time and cooperation in this matter.

Respectfully,

Robert W. Dumond, LCMHC, CCMHC, Dip. CFC

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REFERENCES

AIDS Weekly Plus. (1999). High AIDS rates, other infectious diseases reported in U.S. prisons. *AIDS Weekly Plus*, September 13, 1999.

Alarid, L.F. (2000). Sexual assault and coercion among incarcerated women prisons: Excerpts in prison letters. *The Prison Journal*, 80(4): 391-406.

Baro, A.L. (1997). Spheres of consent: An analysis of the sexual abuse and sexual exploitation of women incarcerated in the state of Hawaii. *Women and Criminal Justice, 8*(3): 61-84.

Bartollas, C. & Sieveides, C.M. (1983). The sexual victim in a coeducational juvenile correctional institution. *The Prison Journal,* 58(1): 80-90.

Bowker, L.E. (1980). *Prison victimization*.. New York: Elsevier North Holland.

Carroll, L. (1977). Humanitarian reform and biracial sexual assault in a maximum security prison. *Urban Life*, 5(4): 417-437.

Chelala, C. (1999). More mentally ill people reported in US prisons. *British Medical Journal*, 319(7204): 210.

Cotton, D.J. & Groth, A.N. (1982). Inmate rape: prevention and intervention. *Journal of Prison and Jail Health*, 2 (1), 47 - 57

Cotton, D.J. & Groth, A.N. (1984). Sexual assault in correctional institutions: prevention and intervention. In I.R. Stuart, Ed. (1984). *Victims of sexual aggression: Treatment of children, women and men.* New York: Van Nostrand Reinhold.

Davis, A.J. (1968). Sexual assaults in the Philadelphia prison system and sheriff's vans. *Trans-Action*, 6 (2): 8-16.

DeGroot, A.S. (2001). HIV among incarcerated women: An epidemic behind the walls. *Corrections Today*, 63(1): 77-81, to 97.

DeGroot, A.S., Hammett, T., & Scheib, R.G. (1996). Access to HIV services in prison and jails: A public health concern. *AIDS Reader*, May-June 1996.

DeNoon, D.J. (1999). Prevention opportunities missed in jails, prisons. *Tuberculosis & Airborne Disease Weekly*, September 20, 1999

Donaldson, S. (1993). *Prisoner rape education program: Overview for administrators and staff.* Brandon: VT: The Safer Society Press.

Dumond, R.W. (1992). The sexual assault of male inmates in incarcerated settings. *International Journal of the Sociology of Law,* 20(2): 135 - 157.

Dumond, R.W. (2000). Inmate sexual assault: The plague which persists. *The Prison Journal*, 80(4): 407-414.

Dumond, R.W. & Dumond, D.A. (2002a). The treatment of sexual assault victims. In C. Hensley (Ed.), *Prison sex: Practice and policy.* Boulder, CO: Lynne Rienner Publishers, Chapter 5, pp. 67-88

Dumond, R.W. & Dumond, D.A. (2002b). Training staff on inmate sexual assault. In C. Hensley (Ed.), *Prison sex: Practice and policy*. Boulder, CO: Lynne Rienner Publishers, Chapter 6, pp. 89-100.

Fagan, T.J., Wennerstrom, D. & Miller, J. (1996). Sexual assault of male inmates: Prevention, identification, and intervention. *Journal of Correctional Health Care*, 3(1): 49-66.

Forst, M., Fagan, J.V. & Vivona, T.S. (1989). Youth in prisons and training schools: Perceptions and consequences in treatment - custody dichotomy. *Juvenile and Family Court Journal*, 40(1): 1-14.

Fruend, K. (1991). Caring for the victim of sexual assault (Editorial). *American Journal of Preventative Medicine*, 7(6): 459 - 460.

Fuller, D.A. & Orsagh, T. (1977). Violence and victimization with a state prison system. *Criminal Justice Review*, 2(2): 35-55.

Gilligan, J. (1997). *Violence: Reflections on a national epidemic*. New York: Vintage Books.

Harrington, S.P.M. (1999) New Bedlam: Jails – not psychiatric hospitals - now care for the indigent mentally ill. *Jail Suicide/Mental Health Update*, 9(2): 12-17.

Hensley, C. (2000). *Consensual and forced sex in male Oklahoma prisons*. Paper presented at the annual meeting of the Academy of Criminal Justice Sciences, New Orleans, LA, March 22, 2000.

Herman, J.L. (1992). Complex PTSD: A syndrome in survivors of prolonged and repeated trauma. *Journal of Traumatic Stress*, 5(3): 377-389.

Jones, D.A. (1976). *The health risks of imprisonment*. Lexington, MA: D.C. Heath.

Katz, J. (Ed.). (1976). *Gay American history*. New York: Thomas Cromwell.

Knowles, G.J. (1999). Male prison rape: A search for causation and prevention. *The Howard Journal*, 38(3) 267-282.

Kupers, T.A. & Toch, H. (1999). *Prison madness: The mental health crisis behind bars and what we must Do About It*. San Francisco: CA: Jossey-Bass.

Lockwood, D. (1978). *Sexual Aggression Among Male Prisoners*. Ann Arbor, MI: University Microfilms International.

Lockwood, D. (1980). *Prison Sexual Violence*. New York: Elsevia/Thomond Books.

Lockwood, D. (1994). Issues in prison sexual violence. In M.C. Braswell, R.H. Montgomery, Jr. & L.X. Lombardo (Eds.) *Prison Violence in America, 2nd Edition*. Cincinnati: Henderson.

MacIntyre, C.R. et al. (1999). Unrecognized transmission of Tuberculosis in prisons. European *Journal of Epidemiology*, 15(8): 705-709.

Mariner, J. (2001). *No Escape: Male Rape in U.S. Prisons*. New York: Human Rights Watch.

Moss, C.S., Hosford, R.E. & Anderson, W. (1979). Sexual assault in prison. *Psychological Reports*, 44(3): 823-828.

Nacci, P.L. (1978). Sexual assault in prisons. *American Journal of Corrections*, 40(1): 30-31.

Nacci, P.L. & Kane, T.R. (1983). The incidence of sex and sexual aggression in Federal prisons. *Federal Probation*, 47(4): 31-36.

Nacci, P.L. & Kane, T.R. (1984a). Sex and sexual aggression in Federal prisons: inmate involvement and employee impact. *Federal Probation*, 48(1): 46-53.

Nacci, P.L. & Kane, T.R. (1984b). Inmate sexual aggression: Some evolving propositions, empirical findings, and mitigating counter-forces. *Journal of Offender Counseling, Services and Rehabilitation*. 9(1-2): 1-20.

Reindollar, R.W. (1999). Hepatitis C and the correctional population (Emerging and reemerging issues in infectious disease – Hepatitis C: A meeting ground for the generalist and specialist.) *American Journal of Medicine*, December 27, 1999: 1005.

Saum, C., Surratt, H., Inciardi, J., & Bennett, R. (1995). Sex in prison: Exploring the myths and realities. *The Prison Journal*, 75(4): 413-430.

Scacco, A.M. (1975). *Rape in Prison.* Springfield, IL: Charles C. Thomas.

Scacco, A.M. (Ed.). (1982). *Male Rape: a Casebook of Sexual Aggression.* New York: AMS Press, Inc.

Struckman-Johnson, C.J., Struckman-Johnson, D.L., Rucker, L., Bumby, K., & Donaldson, S. (1996) Sexual coercion reported by men and women in prison. *The Journal of Sex Research,* 33(1): 67-76.

Struckmam-Johnson, C.J. & Struckman-Johnson, D.L. (1999, November). Pressured and forced sexual contact reported by women in three Midwestern prisons. Paper presented at the joint annual meeting of the Society for the Study of Sexuality and the American Association of Sex Educators, Counselors, and Therapists, St. Louis, MO.

Struckman-Johnson, C.J., Struckman-Johnson, D.L. (2000). Sexual coercion rates in seven Midwestern prison facilities for men. *The Prison Journal,* 80(4): 379-390.

Tewksbury, R. (1989). Measures of sexual behavior in an Ohio prison. *Sociology and Social Research*, 74(1): 34-39.

Toch, H. (1977). *Living in prison: The ecology of survival.* New York: Free Press.

Toch, H. (1992). *Mosaic of despair: Human breakdowns in prison.* (Revised Edition). Washington, D.C. : American Psychological Association.

Torrey, E.F. (1999). How did so many mentally ill persons get into America's jails and prisons? *American Jails*, 13(5): 9-13.

Weiss, C. & Friar, D.J. (1974). *Terror in the prisons: Homosexual rape and why society condones it.* Indianapolis: Bobbs-Merrill.

Wooden, WS & Parker, J. (1982). *Men behind bars: Sexual exploitation in prison.* New York: Plenum Press.

Case Cited

Farmer v. Brennan, 511 U.S. 825 (1994)

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UNITED STATES SENATE COMMITTEE ON THE JUDICIARY

STATEMENT FOR THE RECORD
LARA STEMPLE, EXECUTIVE DIRECTOR
STOP PRISONER RAPE

IN SUPPORT OF THE "PRISON RAPE REDUCTION ACT OF 2002"
JULY 31, 2002

Rape in prison is an ugly reality that most people have learned to ignore, but prisoner rape is an institutionalized form of cruelty that infringes upon basic human rights, contributes to the spread of disease, and perpetuates violence both inside and outside of prison walls. Stop Prisoner Rape (SPR) is a nonprofit human rights organization dedicated to ending sexual violence against men, women, and youth in all forms of detention. We endorse the Prison Rape Reduction Act of 2002 as an important first step toward addressing this serious and widespread abuse that plagues institutions nationwide.

BACKGROUND

Number of Americans at Risk

One out of every 140 people in the United States is now behind bars, the highest rate of any industrialized nation. Today, nearly 2 million people are serving time, and more than 10 million separate admissions to and discharges from prisons and jails occurred in 1999 alone.

The risks associated with sexual assault in prison, however, extend beyond prison walls. Families, loved ones, and the general public are affected by the debilitating and sometimes dangerous aftermath of prisoner rape. Upon release, rape survivors may bring with them emotional scars, sexually transmitted infections, and learned violent behavior that continue the cycle of harm.

Rates of Abuse

The few studies that have been done on prisoner rape reveal astonishing rates of abuse. A recent study of prisons in four Midwestern states found that approximately one in five male inmates reported a pressured or forced sex incident while incarcerated. About one in ten male inmates reported that that they had been raped.

Rates for women, who are most likely to be abused by male staff members, vary greatly among institutions. In one facility, 27 percent of women reported a pressured or forced sex incident, while another had virtually no reported sexual abuse. The discrepancy between facilities points to the important fact that such abuse is *not* inevitable. As with the abuse of men, the problem of sexual abuse of women in prison has not been adequately studied.

Youth in detention are also extremely vulnerable to abuse. Research has shown that juveniles incarcerated with adults are five times more likely to report being victims of sexual assault than youth in juvenile facilities, and the suicide rate of juveniles in adult jails is 7.7 times higher than that of juvenile detention centers. As states try growing numbers of juveniles as adults, the risk of sexual abuse becomes much greater.

Men, women, and youth detained by the Immigration and Naturalization Service (INS) are also at risk of sexual abuse. Though SPR has learned of numerous instances of such abuse in INS detention, this issue has never been the subject of research, and the INS has failed address this issue in its detention policies.

Unfortunately, no conclusive nationwide data exist for any of the above mentioned groups.

Characteristics of Victims

Though anyone can become a victim, in the case of male prisoner-on-prisoner rape, many are first-time or non-violent offenders in the early part of their sentences who are unable to defend themselves or who lack the protection that comes with gang membership. Younger, smaller, gay inmates or inmates that are simply perceived to possess feminine traits are targeted most often.

For women prisoners, particular characteristics do not play such a large role in determining who will be targeted for sexual abuse by male staff, but first-time offenders, young women, and mentally disabled women are particularly vulnerable.

The Nature of Rape in Prison

Believing they have no choice, some male prisoners consent to sexual acts to avoid violence. For others, gang rape and other brutal assaults have left them beaten, bloodied, and in rare cases, dead.

Often, those who live through the experience are marked as targets for further attacks, eventually forcing victims to accept long term sexual enslavement in order to survive.

Treated like the perpetrator's property, the victim may be forced into servitude that includes prostitution arrangements with other male prisoners.

Male custodial officials have vaginally, anally, and orally raped female prisoners and have abused their authority by exchanging goods and privileges for sex. In many women's facilities, male corrections officers are often allowed to watch female inmates when they are dressing, showering, or using the toilet, and some regularly engage in verbal degradation and harassment of women prisoners. Women also report groping and other sexual abuse by male staff during pat frisks and searches.

Health & Safety

Rates of HIV are ten times as high inside of prison as outside, making forced or coerced sex – where prevention methods are virtually nonexistent – a deadly proposition. Though reliable statistics are unavailable, inmates have contracted HIV through prisoner rape, a phenomena that has been described as "an unadjudicated death sentence."

In addition to the possibility of disease exposure that both male and female rape victims experience, female inmates have been impregnated as a result of staff sexual misconduct. Some of these women have then been further subjected to inappropriate segregation and denial of adequate healthcare services.

Immediately following an incident of rape, victims may experience vaginal or rectal bleeding, soreness and bruising (and much worse in the case of violent attacks), insomnia, nausea, shock, disbelief, withdrawal, anger, shame, guilt, and humiliation. Long term consequences may include post traumatic stress disorder, rape trauma syndrome, ongoing fear, nightmares, flashbacks, substance abuse, anxiety, depression, and suicide.

For male survivors, feelings of rage can be suppressed until release, when survivors may engage in violent, antisocial behavior and the aggressive assertion of their masculinity, including the commission of rape on others.

Many survivors of prisoner rape frequently blame themselves. Male survivors often feel that they have been stripped of their "manhood." The tendency of perpetrators to feminize their victims and the general use of misleading terms such as "homosexual rape" cause many heterosexual men to feel that their sexuality has been compromised. Gay survivors may blame their sexual orientation for the rape.

Survivors involved in perpetual sexual exploitation (sometimes spanning years) who must repeatedly submit to avoid further violence experience serious and enduring psychological consequences.

While the suffering endured by victims of rape goes far beyond what anyone might consider just punishment, these health and safety concerns are extremely relevant to the general public as well.

The Cost of Prisoner Rape

Prisoner rape also costs taxpayers dearly in the form of higher rates of recidivism and re-incarceration, increased violence, higher rates of substance abuse, lawsuits brought by victims, mental health services, and medical care including treatment for HIV and other sexually transmitted infections.

THE NEED FOR LEGISLATION

Although prisoner rape violates international, U.S., and state laws, the response to prisoner rape thus far has been indifferent and irresponsible. Current institutional policies regarding sexual violence are in need of reform and greater enforcement. The Prison Rape Reduction Act creates important incentives and standards, encouraging states to respond more responsibly.

The bill creates three programs in the Department of Justice: one dedicated to collecting national statistics about the problem, one to facilitate confidential reports of prisoner rape and provide training about how to address it, and one that will provide grants to combat the problem. The bill also creates an investigative commission which will produce a report and new national standards to address prisoner rape which states may adopt or opt out of.

Nationwide data on prisoner rape is sorely needed. Gathering comprehensive data on sexual assault behind bars is essential to developing effective programs to combat the problem.

Currently, reporting procedures, where they exist, are often ineffectual, and complaints by prisoners about sexual assault are routinely ignored by prison staff and government authorities. In general, corrections officers are not adequately trained to prevent sexual assault or to treat survivors after an attack.

Even simple prevention measures, such as pairing cellmates according to risk, are uncommon, and basic supervision is often lacking. Prisoner rape occurs most easily when no one is around to see or hear, particularly at night and in hidden areas that are difficult to monitor. Inmates complain about a lack of vigilance, even reporting that screams for help have gone unanswered.

Punishment for prisoner rape is rare. Few public prosecutors concern themselves with crimes against inmates, and instead leave such problems to the discretion of prison authorities. As a result, perpetrators of prisoner rape almost never face charges. Staff members who sexually abuse inmates are rarely held accountable, facing only light administrative sanctions, if any. In fact, some female inmates have reported retaliation from corrections officers against whom reports of sexual misconduct have been lodged.

Prisoner rape has been used in some cases as a tool to punish inmates for misbehavior. Male inmates have testified that they were forced into cells with known sexual predators as a form of punishment for unrelated misconduct.

Potential victims of prisoner rape are routinely separated from the rest of the prison population in administrative segregation (similar to solitary confinement) as a putative solution to prisoner rape. Such isolation is extremely difficult to endure, discourages reports of abuse, and effectively punishes victims.

Overcrowding and insufficient staffing are among the chief reasons for prisoner rape, and recent changes in criminal justice policy have exacerbated the problem by swelling prison populations beyond capacity. In 1985, the inmate population was approximately 750,000. Today, it is approximately 2 million.

States are currently overwhelmed by the growing number of people held in prisons and jails. Most have failed to respond adequately to incidences of prisoner rape in their facilities. This failure has resulted in significant health and safety concerns not only for the incarcerated but for society at large.

States need immediate aid and guidance from the federal government. The Prison Rape Reduction Act of 2002 provides a much-needed framework for change, and Stop Prisoner Rape urges its passage.

SURVIVOR STORIES

SPR works closely with survivors of rape in prison. Statements from three survivors are included for the record below.

Tom Cahill

In 1968, I was arrested for civil disobedience in Texas. I was and placed in a cell with 30 other prisoners, for the next twenty four hours I was tortured and gang raped.

To add to the horror I was experiencing, I later learned from a cellmate that my rape was deliberately orchestrated by the guard who put me there as something called a "turning out party." Among other things, the guards lied to my cell mates, telling them that I was a child molester and promised them an extra ration of Jell-o if they would "take care of" me.

Two years later, I got married and started a portrait business that was quite successful for a while. But as often happens in post traumatic stress disorder, there was a delay of about six years before the full impact of my rape hit me. The trauma of the experience came back daily, and I was no longer able to live my normal life. The only trauma I have had in my life was rape in jail in 1968. I lost my business and my wife. I was homeless for many years, until I received a disability pension from the Veterans Administration.

Rape is crazy-making. It may be the ultimate humiliation, with very serious and long-lasting psychic damage to the victim as well as to close loved ones who are secondary victims

I have struggled for a long time to try to understand this kind of cruel act, and while I still don't understand it, I am sure part of it was politically motivated. I was a peace activist. To the guard and the government at that time, I was the enemy.

Whatever the reason, however, my story is not unique. I consider my rape and resulting trauma mild compared to most of the prisoner rape cases I've heard or read about. SPR often hears from survivors of prisoner rape that guards sometimes use rape as a management tool, putting people in dangerous situations to punish them and to reward the would-be rapist.

In 1982, I began to do research into prisoner rape and decided to find a way to stop this abuse. I teamed up with another activist and prisoner rape survivor, Stephen Donaldson. In prison, he was sexually tortured for two days.

Not long before he died in 1996 of AIDS contracted by rape in prison, Stephen Donaldson agreed with me that, especially as veterans, we both felt thoroughly betrayed by our country. We were tortured, the authorities knew it was happening, and no one did anything to stop it. In fact, in my case, it was encouraged.

Johanna Ciniceros

I was raped on March 20, 1997 at the Central California Women's Facility (CCWF) in Chow-Chilla, CA. I was assigned to the Electrician's Shop. . . . I worked for a man, who was my boss. . . . In the course of two weeks, I had other state employees telling me to be careful with him, don't turn my back. Then one day he called over to me at the shop and had me get the tool box. He then said that we were going to the Facility Gym to fix a short in the wiring system. At this time there was no one on the main yard nor in the gym as both places were closed . . . .

Anyway, we reached the gym and he unlocked the doors. We went inside, now, inside this gymnasium were beds to accommodate 200 women, however, they were not being utilized at this time. I stopped to use the rest room as he proceeded on through the gym.

When I came out, I called to him to see where he was. And he answered. I followed his voice to the back of the gym, past the office. He was standing by an open door that lead into a catwalk between the gym and the library. As I stepped in, he stepped in closed the door and bolted it. He flipped the light switch off, it was pitch black in there. He pushed me down on to a mattress and proceeded to pull down my pants and panties. We are required as prison inmates to wear state issue clothing to our assigned jobs which are elastic waist bands, so he had no problem getting them down. The catwalk was about 4 ft. wide, open wall beams (2x4's). He bit my forearm in three different places, I had

bruises on my legs and back where I fought him and tried to turn over, as I was face down. Anyway, I ended up hysterical.

. . . I never got to talk to any police officers . . . . They found the mattress, they found that the lock had been changed on the catwalk and that [he] had the only key to it. . . . They never let me talk to anyone, no police, no detectives – nothing. . . . I'm telling the truth. Please help me.

Bert Allen

My rape took place very shortly after arriving at a county jail. It took place in a shower with no staff around. I was a pre-trial detainee at the time. I had never been in a jail before and I had come in with an injury to my side so I was not expecting it. The rape resulted in a life-long disease – Herpes II. I have also been diagnosed now with post-traumatic stress disorder. I believe rape is used as a weapon to harm.

Judges either don't care or don't know what to do to protect those they incarcerate.

I have nightmares that come every night, and uncontrolled waves of fear towards correctional officers. I don't know how to work this out with my family. Although they are very supportive they want me to be more "up" and I don't know how to do that. It has been even harder for me since my mother works in corrections. A person who has been raped has no ability to heal without some kind of change of attitude in the system. Although my mom has a tremendous education in her field she lacks the ability or understanding of what is happening inside me.

There just are no courses to teach correctional officers and staff including wardens on how to handle this problem.

The victim needs to be treated as a victim and not told to stuff it. The same officers that abused me at Alfred Jail were the ones who turned the other way during my rape and still they asked me to share how I feel.

My feelings are like walking into a town that was hit by a nuclear weapon. You're there and there is not much, only gray dirt and skeletons of buildings you used to know. Everything is gone as you remember it.

Everything seems changed and you're told to just start over. Where do you start? The people are changed or have moved on. I feel changed forever from the fallout.

THE EAGLE GROUP
611 Pennsylvania Ave. SE, #174
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July 29, 2002

Honorable Edward M. Kennedy
Honorable Jeff Sessions
Senate Judiciary Committee
Senate Dirksen Building – 224
1st & C Streets, NE
Washington, DC 20510

Dear Senators Kennedy and Sessions:

Although I will be out of the country the week of scheduled hearings on the Prison Rape Reduction Act of 2002 that you and Congressmen Wolf and Scott are sponsoring, I am writing to express my appreciation for the leadership that you are providing on a critically important issue.

I have worked in the corrections profession for more than thirty-five years in a broad range of positions. I have served as director, commissioner, or chief executive officer of the state correction systems of Massachusetts, Maryland, and Oregon, the jail systems of Philadelphia and Santa Clara County, California and the New York State juvenile justice system.

Prison rape impacts on every jail, prison, and juvenile facility in the United States. For too long, the reality of its horrors has been ignored not just by the public but by those of us with professional responsibility for the safety and well-being of incarcerated prisoners. By so doing, we have thus significantly failed to address an issue of violence and public health, and the repercussions of our failure extend far beyond the walls of the country's correctional institutions.

The legislation you are sponsoring will shed light on dark violent places and provide prison and jail staffs with ideas, resources and performance accountability -- all desperately needed if we are to lower the level of prison violence that exists today. Of these, what may be the most critical virtue of The Prison Rape Reduction Act of 2002 is the fact that it will make corrections professionals more accountable and focused in their responsibility to abate and eliminate prison rape. By so doing, the Act will also impact on the overall level of violence in America's prisons as well as in the communities to which almost all offenders ultimately return.

I know I speak for my professional colleagues when I say we welcome your willingness to focus on this issue. By taking action, you clearly demonstrate an

understanding that the problem of prison rape is an essential priority for those who care about a safe and just criminal justice system.

In the United States we sentence people to jail and prison as punishment and to protect the public safety. We do not *and must no longer* sentence them to be raped, murdered, and exposed to dangerous disease. Thanks to your leadership, a historic step may shortly be taken to bring that day about.

Those of us in the correction profession endorse your efforts to make our institutions more humane and effective, and I and many others are prepared to help in any way we can to make your legislation the reality it must soon become.

Sincerely,

Frank A Hall
Managing Director, The Eagle Group

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Testimony of Mark Earley
President, Prison Fellowship Ministries

Before the United States Senate
Committee on the Judiciary

On the Prison Rape Reduction Act of 2002

July 31, 2002

Mr. Chairman and Members,

Thank you Mr. Chairman and Members of the Committee for inviting me today to speak in support of the Prison Rape Reduction Act of 2002. I want to particularly thank Senators Kennedy and Sessions as well as Congressman Frank Wolf and Bobby Scott for their leadership introducing this important legislation.

My name is Mark Earley and I am the President and CEO of Prison Fellowship Ministries. Prior to my joining this ministry, I served as the Attorney General of Virginia from 1998-2001.

My words today are markedly influenced by Prison Fellowship's 26 years of ministry to prisoners, ex-prisoners, victims, and their families. Founded in 1976 by Charles W. Colson, Prison Fellowship is the largest prison outreach and criminal justice reform organization in the world. Its programs reach prisoners, ex-prisoners, families of prisoners, and victims of crime in all 50 states and in 95 countries worldwide.

Based on the premise that at the heart of every criminal act is a destructive decision, Prison Fellowship volunteers and staff equip churches and communities to help prisoners, ex-prisoners, and youth at risk, reject crime and become contributing members of their families and communities. Each month we produce 400,000 copies of our publication for inmates, Inside Journal, which is distributed to state and federal prisons across the country. Our Angel Tree program provided Christmas gifts to 612,000 children of inmates last year. This fall Interchange Freedom Initiative, a faith-based 24-7 program, will open our fourth prison in Minnesota. And in the last year alone, Operation Starting Line, our evangelistic outreach in prisons with teaching about Biblical standards of justice, hope, and love brought its program to 174 different prison facilities in eight different states, reaching an estimated 85,467 inmates.

"A bruised reed he will not break…In faithfulness he will bring forth justice."
Isaiah 42:3

When writing about prison rape earlier this year, Chuck Colson recounted, "I have been in prison myself, have visited over 600 prisons during the last 25 years, and have seen firsthand the utter devastation created by rape in prison."

This close contact with prisoners and their families makes the reality of prison rape inescapable for me, for Chuck Colson, and for our 295 employees and thousands of volunteers nation-wide.

The Problems about Prison Rape

Consequences of prison rape affect everyone. Ninety-five percent of prisoners are released into society. The experiences of an inmate behind bars directly affect society upon his or her release.

The rate of HIV in prisons today is 10 times higher than the population at large[1]. While this statistic alone does not indicate a high incidence of rape spreading HIV behind prison walls, it means that every rape potentially has life threatening consequences for the victim, and his ability to successfully re-enter society.

Other physical and psychological consequences of prison rape include vaginal or rectal bleedings, soreness and bruising, insomnia, shock, withdrawal, anger, shame, guilt, humiliation, with long term consequences ranging from post traumatic stress disorder to rape trauma syndrome, to self-hatred, depression, and even suicide[2].

There are more than 2 million Americans in prison today, and recent reports state that anywhere from 250,000 to 600,000 of them are victimized every year.

A 1996 survey of prisoners in Nebraska state prisons found that 22 percent of inmates said they were forced to have sexual contact while incarcerated.[3] A survey in one Southern state conducted under condition of anonymity asked about the frequency of sexual coercion in prison. There, prisoners estimated that 1 in 3 inmates were coerced, prison guards said 1 in 5, and prison officials estimated 1 in 8[4]. Even the lowest estimate pinpoints an astonishing 250,000 prisoners as rape victims. In December 2000, the *Prison Journal* published a study based on a survey of inmates in seven men's prisons in four states. The results showed that 21 percent of the inmates had experienced at least one episode of pressured or forced sexual contact since being incarcerated[5]. If you are curious why there are no definitive numbers, the answer is that there is not a single government entity that collects data on how often rape occurs in prison, add to that the victims' reluctance to report prison rape out of shame or fear of reprise.

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[1] "Inmate Rates of HIV Infection and AIDS-Related Deaths Drop," National Commission on Correctional Health Care, 22 March 2000.
[2] Joanne Mariner, "No Escape, Male Rape in U.S. Prisons," *Human Rights Watch*, April 2001
[3] Struckman-Johnson, C.J., Struckman-Johnson, D.L., Rucker, L., Bumby, K., & Donaldson, S. (1996) "Sexual coercion reported by men and women in prison." *The Journal of Sex Research*, 33(1): 67-76.
[4] "Rape Crisis in U.S. Prisons," *Human Rights Watch*, World Report 2001, 19 April 2001
[5] "Sexual Coercion Rates in Seven Midwestern Prison Facilities for Men," Struckman-Johnson C.; Struckman-Johnson D. *The Prison Journal*, December 2000, 80(4), 379-390.

Though there are very few studies regarding female prisoners, we do know that rape is also a serious threat for women. One study found that 27% of the female prisoners in a particular facility reported that they had been pressured or forced into a sexual encounter[6].

In 1996, the Human Rights Watch began a more in-depth examination of the nature of how and why rape occurs, collecting and investigating reports of prisoner rape from 200 inmates in 37 different states. These shocking accounts detail specific encounters of rape as wells as the general nature and attitude toward rape in prisons by both inmates and prison officials - and that attitude unfortunately is clearly either one of indifference or acceptance of the status quo.

Jack Cowley, a retired warden from the Oklahoma correctional system for over 20 years and now working as Prison Fellowship's Director of Operations for the Interchange program shared with me that,

> "Prison rape to a large degree is made more serious by the deliberate indifference of most prison officials. Oftentimes these officials will purposefully turn their back on unspeakable acts in order to maintain "peace" - allowing aggressive predators to have their way. Additionally, many prison rapes involve intimidation of the weaker inmate to the point where he reluctantly gives consent in order to survive - rape none-the-less. Thus managing a 1,000-man prison designed for 500 becomes much easier. Survival of both staff and inmates is best insured."

However, prisons *can* be managed in a way that preserves human dignity.

Being tough on crime does NOT mean that rape conditions in the prisons should be tolerated for even one minute. Those behind bars are indeed incarcerated for real crimes. But even the most devastating of crimes never warrants or excuses a prison sentence filled with fear, sexual intimidation, and rape.

The Proposed Legislation

The Prison Rape Reduction Act of 2002 has drawn support from a broad bipartisan coalition spanning the range from Focus on the Family, the Christian Coalition, The Southern Baptist Convention and National Association of Evangelicals to the National Association for the Advancement of Colored People, National Council for La Raza and the Religious Action Center of Reformed Judaism. The goal is very straightforward - to effectively and comprehensively eliminate prison rape while respecting the role of States and local governments in the administration of correctional institutions. The Act would establish three programs at the Justice Department to:

1) Collect statistics and establish an annual public review of prison performance in the reduction of rape.

[6] Stop Prisoner Rape Factsheet, http://www.spr.org/en/doc_01_factsheet.html

2) Ensure that there is a confidential way for inmates to report incidences of rape.

3) Issue grants to state and local governments to enhance education and reward the prevention and punishment of rape.

The Act will also create a commission to examine the problem of prison rape in America, and recommend standards. The U.S. Attorney General is to review the Commission's report and recommendations and to issue, within one year, national standards to reduce prison rape in federal prisons, as well as to gather annual statistics on prison rape.

Lastly, the legislation requires prison accreditation organizations to incorporate prison rape prevention practices into their accreditation reviews.

All of these programs are in dire need. I would like to direct the bulk of my comments to the importance of statistic gathering. Society only measures things it cares about, and as a nation, we need to begin caring about prison rape. The fact that it is acceptable to joke about this violation of human rights should be shocking to Americans. I need only cite the recent 7-Up commercial, targeted to the prime soft-drink market of 12-24 year olds no less, where a man in prison is warned not to bend over and pick up his can of soda, and I quote *The Washington Post* description of the ad:

> "The spokesman hands out 7-Up in a prison. He drops a can and says, 'I'm not picking that up,' referencing the old 'don't drop the soap' joke. Later, he sits in a cell, hugged by an inmate. 'When you bring the 7-Up, everyone is your friend,' the spokesman says. Then, he appears nervous: 'Okay, that's enough being friends.' The cell door slams."[7]

Another shocking and disappointing comment made by a state attorney general, that he would love "to personally escort [Enron Corp. Chairman Kenneth] Lay to an 8-by-10 cell that he could share with a tattooed dude who says, 'Hi, my name is Spike, honey,'"[8] will remind the committee of our society's general attitude of irreverence in this area. The magnitude of our indifference will only be reduced with hard numbers from a federal agency.

This program will provide a way for prisoners to report incidences of sexual assault and rape confidentially and with the assurance that someone is listening. Providing prisoners with an effective and consistent way to report rape is essential to curbing the current state of hopelessness prevalent in victims today. Prison rape is largely underreported by inmates because of their substantiated fear that being a "snitch" will lead to further acts of violence from other prisoners, and because there are few convictions for reported rapes.

Closer monitoring of individual incidences of rape and of particularly notorious prison systems will help discourage prison officials from using rape as a form of prison control, where rape is overlooked and even encouraged according to some reports. *The Los Angeles Times* reported the case of Eddie Dillard, a 23-year old gang member from Los Angeles - a frightening example. Dillard was serving time for assault with a deadly weapon when he kicked a female guard. He

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[7] Frank Ahrens, "Cracking the Code of Advertising,". *Washington Post* 3 May 2002.
[8] Carl Ingram, "The Energy Crisis," *LA Times* 13 July 2001.

was transferred to the cell of Wayne Robertson, known within prison walls as the "Booty Bandit." Robertson was an enforcer for the guards, helping them rein in troublesome newcomers while officials looked the other way. When Dillard protested the transfer, he was told that "since you like hitting women, we've got somebody for you." Robertson beat, raped, and tortured Dillard for days[9]. The guards were later criminally charged and while they were ultimately acquitted, there was no dispute as to the basic facts of the case, merely whether or not liability extended to prison officials.

The statistics program's potential to identify prisons with particularly high numbers of rape provides a strong incentive for prison officials to stop ignoring and especially to stop encouraging rape, and the act's prevention and prosecution program will train and assist federal, state, and local officers in detecting, preventing, reducing, and punishing rape.

Establishing a national standard for the occurrence of prison rape will make it possible to identify individual prison systems with rates of incidence that require investigation, and the grant program helps reward prisons who are showing progress.

As Attorney General, my responsibility was to defend the Commonwealth of Virginia, and I took that obligation seriously. The right of the states to operate free from federal interference save in very limited circumstances is an important principle to me. This piece of legislation strikes a balance, carefully crafted to respect sovereignty of states while giving guidance and incentives to meet the constitutionally mandated obligation to protect prisoners from the consequences of rape discussed today.

Conclusion

Knowledge of prison rape is well spread, both inside prisons and out. The very fact that a website exists with a "prison dictionary" of commonly used terms across the nation is sobering. Included in these terms are different words for predator, being raped, etc.[10] Terms like "turn out," "rustler" and "tree jumper" are repeated in hundreds of letters from every state, illustrating that reports of rape are not anomalies.

What remains shocking is the attitude to which we cling. When asked about prison rape, Massachusetts Department of Correction spokesman Anthony Carnevale's explained, "Well, that's prison…I don't know what to tell you.[11]" For the 5 percent of the American population who will spend time in prison some day, this acceptance is worse than opposition. I can express this truth no more clearly than through the words of a prisoner who was severely beaten for refusing to submit to demands for sex by another inmate, "The opposite of compassion is not hatred, it's indifference.[12]"

---

[9] Mark Arax and Richard Chon, "4 Guards Acquitted of Setting Up Prison Rape," *Los Angeles Times*, 9 November, 1999; Christian Parenti, "Rape as a disciplinary tactic," *Salon*, August 23, 1999, www.salon.com/news/feature/1999/08/23/prisons

[10] Inmate Dictionary, http://www.inmatesplus.com/inmate_dictionary.htm, accessed 7/26/02

[11] Christian Parenti, "Rape as a disciplinary tactic," *Salon*, 23 August, 1999.

[12] Human Rights Watch, letter from M.M., Floriday, 30 July, 1999.

Prison rape cannot be considered just another aspect of the punishment. Speaking to this, Charles Colson has said, "We may be tempted, in the privacy of our hearts, to whisper, 'They deserve it.' But no matter what crime somebody has committed, no part of his sentence should include being sexually assaulted, exposed to sexually transmitted diseases, such as AIDS and hepatitis C, or degraded.[13]"

Imprisonment is a loss of control. Inmates cannot adequately protect themselves, they cannot choose their "neighbors" or their cellmates. Because the states, because the federal government, because the prison officials have the control, it is our responsibility to protect them. Winston Churchill said, "The mood and temper of the public in regard to the treatment of crime and criminals is one of the most unfailing tests of the civilisation of any country.[14]"

For the sake of the men and women behind bars, for the sake of justice, and for the sake of our civilization, I urge you to pass the Prison Rape Reduction Act.

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[13] Federal law to reduce rape, disease transmission behind bars, *Corrections Professional*, 12 July, 2002.
[14] U.K., H.C., Parliamentary Debates, 5th series, vol. 19 col. 1354(20 July 1910)

STATEMENT OF SENATOR ORRIN G. HATCH
RANKING REPUBLICAN MEMBER
Before the SENATE JUDICIARY COMMITTEE
Hearing on the
"Prison Rape Reduction Act, S. 2619"
July 31, 2002

Good afternoon. Today's hearing is on a topic that generally does not get much attention because it concerns a section of society that people often do not view sympathetically. Rightfully, most people do not spend much time wondering about the conditions inside of our nation's prisons and jails. As policy makers, our focus is on preventing crime, prosecuting wrongdoers, and assisting victims of crime. While I believe that this is where our focus should remain, we can not turn a blind eye to the violent crimes, particularly rape, that take place in our country's prisons and jails. I thank Senators Kennedy and Sessions for holding this hearing and examining what steps can be taken to prevent violent crime in prisons, to prosecute those who perpetrate crimes in prisons, and to assist inmates who are victims of violent crimes. The intent of this hearing is not to garner sympathy for convicted inmates, but rather to discuss openly what can be done to ensure that our prisons are run safely and properly.

The overwhelming majority of the approximately two million inmates currently serving time in the United States today will be reintegrated into society at some point. It is disturbing to learn that an estimated 10 percent of these inmates has been raped. This is simply unacceptable and law enforcement officials must do more to prevent these heinous, violent acts from taking place. Prison rape should *not* be an inevitable consequence of being sentenced to prison. As the Supreme Court has clearly stated, rape is not a part of the penalty that offenders pay for their crimes.

All victims of rape are devastated by the violent act and suffer severe physical and psychological pain. The fact that some victims of prison rape are subjected to continuous abuse and believe that they are unable to take action to end the abuse adds to their psychological trauma. Moreover, inmate-on-inmate rape creates serious public health consequences by significantly increasing the transmission of HIV and AIDS, other sexually transmitted diseases, tuberculosis, and hepatitis B and C. It is also reported to be a contributing factor in prison homicides, violence, and prison riots.

All too often, violent prison crimes are committed with impunity. It is clear that measures need to be taken to prevent these serious crimes from occurring, such as enhanced penalties for those who commit violent crimes while serving time. If, for example, an inmate is already serving a life sentence, there is little to deter that person from committing all sorts of ghastly crimes. It may be time to consider whether the death penalty may be appropriate to deter these sort of "nothing to lose inmates."

Society will benefit directly from safety and security improvements in our prisons and jails. I thank our witnesses for testifying today on this sensitive subject, and I look forward to working with Senators Kennedy and Sessions and law enforcement officials to reduce the incidence of violent crime in our nation's prisons and jails, particularly the violent act of rape.

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United States Senate
Committee on the Judiciary
Hearing on the Prison Rape Reduction Act of 2002
July 31, 2002

Statement of Human Rights Watch
Submitted by Wendy Patten
U.S. Advocacy Director
Human Rights Watch

Rape Crisis in U.S. Prisons

Prison rape is a devastating human rights abuse that is widespread in U.S. prisons. Corrections authorities have done too little to prevent it from happening, to protect the victims, and to punish those responsible. The Rape Reduction Act of 2002 will encourage much-needed efforts to ensure that a prison sentence is not a sentence to violence. We hope the Act signals renewed congressional concern about the conditions under which more than two million Americans are confined. International human rights standards, constitutional law, and basic decency mandate safe and humane prisons. Too often, that mandate is honored in the breach.

Human Rights Watch Report

Human Rights Watch has published the first major nationwide report on male inmate-on-inmate rape. Our findings and recommendations are based on more than three years of research that included correspondence with over 200 prisoners in thirty-four states, inmate interviews, and a comprehensive survey of state correctional authorities.

Our report illuminates the nature of prison rape and its psychological and physical impact. Prison rapes can be unimaginably vicious and brutal. Gang assaults are not uncommon. Victims may be left beaten, bloody, and, in extreme cases, may die of their injuries. Some prisoners unable to escape a situation of sexual abuse find themselves the "slaves" of their rapists. Certain prisoners are

targeted for sexual exploitation the moment they enter a penal facility: their age, looks, sexual orientation, and other characteristics mark them as candidates for abuse.

The prevalence of prisoner rape is well documented. The interviews detailed in our report, as well as other research, shed light on its pervasiveness. A study in seven Midwestern prisons showed that 21 percent of inmates have experienced at least one episode of pressured or forced sex since being incarcerated. Correctional officers in one southern state surveyed by their department estimated that one-fifth of prisoners were coerced into sex.

The prevalence of rape in prison is not just a problem of individual conduct. It is a consequence, in part, of the failure of the public to support adequate staffing, housing, and programs for a massive prison population. Prison rape – as with other forms of prisoner violence – is not, however, just a function of overcrowded prisons with idle inmates who are inadequately supervised. Prisoner sexual abuse also directly reflects the failure of correctional authorities to take the problem seriously. As our report documents, correctional officials generally deny that prisoner-on-prisoner rape is a major problem. In too many prisons, prevention measures are meager and effective punishment is rare. A central problem is the deficient response – an in many instances deliberate indifference – on the part of prison officials to complaints of rape. By failing to take reasonable measures to prevent and punish rape – and, indeed, in many cases, by taking actions that make sexual victimization likely – prison authorities permit this physically and psychologically devastating abuse to occur.

Our report provides detailed recommendations for action by the U.S. Congress, the Justice Department, federal and state prison officials, and state and local prosecutors. Five critical recommendations bear highlighting. First, prison officials must develop and implement comprehensive protocols on staff response to inmate-on-inmate sex abuse. Second, prisoners must have access to adequate complaint mechanisms that are taken seriously by correctional staff and victims who make complaints must be protected from further abuse. Third, criminal charges should be pursued where appropriate, and the Civil Rights Division of the Department of Justice should investigate reports of prison sexual abuse and vigorously pursue any that rise to the level of pattern and practice cases. Fourth, prisons must develop and implement sexual abuse prevention programs. Fifth, prison officials must provide prisoners who are victims of rape and sexual assault proper care and treatment. HRW's full report, entitled *No Escape: Male Rape in U.S. Prisons*, can be found on line at www.hrw.org/reports/2001/prison/.

The Prison Rape Reduction Act of 2002

The Prison Rape Reduction Act of 2002 represents an important step in addressing the problem of prison rape. The bill focuses on rape prevention, as well as on investigation and punishment. It provides federal resources and support in the form of information, assistance, training, and grants to federal, state, and local authorities to strengthen their response to this pressing problem. The bill directs the Department of Justice to establish a confidential reporting system for prisoners seeking to report incidents of rape. It also mandates the collection of national statistics and creates a commission to draft national standards to prevent and punish prison rape. We are pleased that Congress has recognized the importance of prison rape as part of the larger

phenomenon of prison violence, and commend Senators Kennedy and Sessions and Representatives Wolf and Scott for their leadership.

While the legislation, if enacted, will mark an important first step in dealing with prison rape, it does not address several critical aspects of the problem. Human Rights Watch urges Congress to make the following changes to the bill to strengthen its effectiveness in remedying this pervasive human rights abuse:

Purpose and findings – The bill should include a purpose and findings section. After briefly describing the problem, Congress should clearly express its view that prison rape is a human rights violation and an affront to human dignity, and that all prisoners should be safe from rape, sexual abuse, and other violence.

Coverage of sexual assault by correctional staff – While the issue of rape and sexual abuse by correctional staff is mentioned in the legislation, the language needs to be strengthened to ensure that sexual abuse of inmates by correctional staff is fully addressed along with inmate-on-inmate rape. As we documented in our 1996 report on sexual abuse of women in U.S. prisons, *All Too Familiar*, male correctional employees have raped and sexually abused female prisoners, sometimes by physical force and sometimes by providing or threatening to withhold goods and privileges. They also engage in sexual touching during mandatory pat-frisks and in prurient viewing. The bill should mandate that all prison sexual abuse – whether committed by inmates or by correctional staff – be addressed in data collection, training, technical assistance, standards, prevention programs, complaint mechanisms, and investigation and punishment.

Prison Litigation Reform Act (PLRA) – Reducing the incidence of rape and protecting the legal rights of inmates requires access to the courts. Prisoners, however, face multiple impediments to seeking judicial protection of their rights under the PLRA. The legislation should mandate an assessment of existing obstacles to obtaining judicial remedies by inmates and the degree to which these obstacles contribute to the problem of prison rape. Moreover, at least with regard to prisoners alleging rape, sexual abuse, or other forms of violence, the legislation should create an exemption from the stringent requirements of the PLRA, which impede the ability of prisoners to seek judicial protection of their constitutional rights.

Meeting national standards – While the National Prison Rape Reduction Commission should take into account the feasibility and cost effectiveness of proposed standards, the principal objective in setting standards must be the effective prevention, investigation, and punishment of prison rape. Given that our report documents inadequate responses to this problem by state officials, the Commission should not encourage states to maintain such inadequate practices simply because improvement would require the expenditure of additional funds. Simply put, states must meet their obligation to provide safe and humane conditions of confinement.

Rape of juvenile offenders – In calling for a comprehensive legal and factual study of prison rape, the legislation should specifically refer to an assessment of the special risks posed by housing juveniles in adult prisons and of the incidence of prison rape of juvenile offenders, whether housed in adult prisons or juvenile facilities.

Attorney General's report on complaints – While fully respecting victim confidentiality, the Attorney General's report on the program to collect, review, and refer complaints from prisoners alleging prison rape should be made available to the public.

In sum, we hope the introduction of this legislation signals a renewed willingness on the part of the Congress to address prison conditions more broadly, and to protect the rights of prisoners to safe and humane treatment. Sexual assault of prisoners violates their constitutional and international right to be free of cruel and inhuman treatment or punishment. Prison rape is an affront to human dignity, and shames the society that allows it to occur. The eventual enactment of this legislation will take an important step toward ensuring the rights of prisoners to be free from rape. Rape and violence should not be part of any prisoner's sentence.

from the office of

Senator Edward M. Kennedy

of Massachusetts

FOR IMMEDIATE RELEASE
July 31, 2002

CONTACT: Stephanie Cutter
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STATEMENT OF SENATOR EDWARD M. KENNEDY AT THE SENATE JUDICIARY COMMITTEE HEARING ON "THE PRISON RAPE REDUCTION ACT OF 2002"

Today, the Judiciary Committee considers a serious problem in prisons, jails, and detention facilities.

In 1994, the Supreme Court ruled that "being violently assaulted in prison is simply not part of the penalty that criminal offenders pay for their offenses against society." Government officials have a duty under the Constitution to prevent prison violence.

Too often, however, officials fail to take obvious steps to protect vulnerable inmates. We know that hundreds of thousands of inmates across the nation – not only convicted prisoners, but pretrial detainees and immigration detainees as well – are victims of sexual assault each year. Of the two million prisoners in the United States, it is conservatively estimated that one in ten has been raped. According to a 1996 study, 22% of prisoners in Nebraska had been pressured or forced to have sex against their will while incarcerated. Human Rights Watch recently reported "shockingly high rates of sexual abuse" in U.S. prisons.

Prison rape has devastating physical and psychological effects on its victims. It also has serious consequences for communities. Six hundred thousand inmates are released from prison or detention each year, and their brutalization increases the likelihood that they will commit new crimes after they are released.

Infection rates for HIV, other sexually transmitted diseases, tuberculosis, and hepatitis C are far greater for prisoners than for the American population as a whole. Prison rape undermines the public health by contributing to the spread of these diseases, and often giving a potential death sentence to its victims.

It is long past time to address this epidemic. Last month, Senator Sessions and I proposed the Prison Rape Reduction Act, a bipartisan bill to deal with the problem of prison rape, while still respecting the primary role of states and local governments in administering prisons and jails.

Our bill directs the Department of Justice to conduct an annual statistical review and analysis of the frequency and effects of prison rape. It establishes a special panel to conduct

-more-

hearings on prison systems, prisons, and jails where the incidence of rape is high. It directs the Attorney General to collect complaints of rape from inmates, transmit them to the appropriate authorities, and review how the authorities respond. It also directs the Attorney General to provide information, assistance, and training to federal, state, and local authorities on the prevention, investigation, and punishment of prison rape.

Our bill also authorizes $40 million in grants to enhance the prevention, investigation, and punishment of prison rape. These grants will strengthen the ability of state and local officials to prevent these abuses.

Finally, our bill establishes a commission that will conduct hearings over two years and recommend national correctional standards on a wide range of issues, including inmate classification, investigation of rape complaints, trauma care for rape victims, disease prevention, and staff training. These standards should apply as soon as possible to the Federal Bureau of Prisons. Prison accreditation organizations that receive federal funding should also adopt the standards. States should adopt the standards too. If they "opt out" by passing a statute, they will suffer no penalty, but states that fail to act at all will lose 20% of their prison-related federal funding.

An extraordinary coalition of churches, civil rights groups, and concerned individuals has joined together to act on this issue. It is not a liberal issue or a conservative issue. It's an issue of basic decency and human rights.

I commend this coalition for its impressive moral leadership, and I thank Chairman Leahy for the opportunity to hold this hearing.

In the House, our legislation is sponsored by two human rights leaders, Congressmen Frank Wolf and Bobby Scott. With its growing support in Congress, and the broad coalition of other supporters, we hope that this bill can be signed into law this year.

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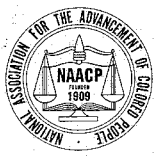

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STATEMENT OF HILARY SHELTON
ON BEHALF OF THE NATIONAL ASSOCIATION FOR THE ADVANCEMENT OF COLORED PEOPLE
ON THE ISSUE OF PRISON RAPE
JULY 31, 2002

Good morning. My name is Hilary Shelton, and I am the Director of the NAACP Washington Bureau.

I am here in support of the Prison Rape Reduction Act of 2002, co-authored by Senators Kennedy and Sessions and Congressmen Wolf and Scott.

Although in the 1930's, about 75% of the people entering America's prisons were Caucasian, roughly equal to the Caucasian representation in the general public, today the inverse is true and nearly three-quarters of those entering America's prisons every year are African American or Hispanic American.

In fact, in a sobering and frankly disturbing study, the U.S. Department of Justice has reported that nearly one in three African American male babies born in 1992 will end up in prison during their lifetime.

Perhaps even more upsetting is that this statistic will be true if the incarceration rate stayed at the 1992 level. Unfortunately, it has gone up considerably since then.

Many more children of color will enter America's jails and juvenile institutions.

You cannot talk about prisons in America today without talking about race.

It is no exaggeration to say that incarceration issues have become one of the major civil rights issues of our generation.

There are many things we need to do to address this dilemma – adequately fund treatment programs, address racial disparities in mandatory sentencing and juvenile confinement, and create alternatives to incarceration.

But regardless of what we do, we will still need prisons, and we still need to make them as humane and decent as we possibly can both because it is the right and moral thing to do, and because damaged inmates make damaged citizens.

That is why the NAACP is here today with our good friends from the House and the Senate to offer our support for this landmark legislation to actually do something to improve conditions in America's prisons.

The scourge of prison rape that has been ignored for far too long.

Of the two million prisoners in the U.S., a conservative estimate is that one in ten has been raped.

A 1996 study of the Nebraska prison system reported that 22% of male inmates had been pressured or forced to have sex against their while incarcerated; of these, over half had submitted to forced anal sex at least once.

Human Rights Watch has reported "shockingly high rates of sexual abuse" in U.S. prisons.

An op-ed piece ran in today's Washington Post authored by Vincent Schiraldi of the Justice Policy Institute and Mariom Bell of Prison Fellowship Ministries entitled Prison Rape is No Joke.

It struck me when I read this over and as we discussed our support for this bill that it is amazing in this day and age that we even have to remind people that forcible sex or coerced sex of anyone, particularly someone in the custody of this state, needs to be taken seriously.

Prison rape is no joke, and the trivialization of this issue has gone on for far too long.

That's why we're proud to support this historic legislation. The bill directs the Department of Justice to collect prison rape statistics and provide training and assistance to prison officials.

It authorizes $40 million in grants to enhance the prevention and punishment of prison rape at the state and local level.

Finally, it establishes a commission that will conduct comprehensive hearings over two years and then recommend national correctional standards.

Once implemented by the Attorney General, these standards will apply to the federal Bureau of Prisons and prison accreditation organizations; states that adopt the standards or "opt out" by passing a statute will face no financial penalty.

The NAACP is proud to associate ourselves with this bill also because we feel that the bi-partisan spirit that surrounds this legislation is a model for other cooperative efforts and gives the bill a high likelihood of actually being enacted into law.

No one is treating this as a symbolic effort, and we all expect that with our hard work and the efforts of this broad, left-right coalition, that the Prison Rape Reduction Act will pass and start addressing the scourge of prison rape in an expeditious manner.

national association of evangelicals
Richard C. Cizik
VICE PRESIDENT, GOVERNMENTAL AFFAIRS

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July 30, 2002

Honorable Edward M. Kennedy
Honorable Jeff Sessions
Senate Judiciary Committee
Dirksen Senate Office Building, Room 224
First & C Streets, N.E.
Washington, D.C. 20510

Dear Senators Kennedy and Sessions:

We are delighted to hear that you will be holding hearings on the "Prison Rape Reduction Act of 2002"on Wednesday, July 31, 2002. This is an important step in rectifying an ongoing outrage in our nation's prison system.

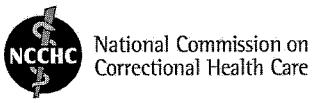
The National Association of Evangelicals (NAE), though the Washington Office for Governmental Affairs, wishes to convey its strong support for this legislation. We come to this decision based upon a concern for biblical justice and the dignity of every human being. Indeed, it is downright shameful that we as a nation tolerate a situation wherein approximately a quarter of all prisoners in state and federal prisons will be the victims of sexual pressuring, attempted sexual assault and completed rapes.

The "Prison Rape Reduction Act of 2002" (S. 2619 and H.R. 4943) is both moderate and federalism-friendly. It calls on the states to address this horrendous problem and holds them to accountable. We think it is entirely appropriate to require that the Department of Justice report on the prevalence of prison rape, cite those systems that remain a problem, establish a clearinghouse for complaints and a commission to set standards to reduce and eliminate prison rape.

You can count on our help in generating public interest in this critical legislation among our 51 member denominations, 45,000 churches, and hundreds of humanitarian and faith-based organizations that assist the needy in our society. We are proud of your actions and commit ourselves to pushing for reform throughout the states.

Sincerely yours,

Rev. Richard Cizik
Vice-President for Governmental Affairs



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Testimony of Edward Harrison, President
National Commission on Correctional Health Care
to the
United States Senate Committee on the Judiciary
on the
Prison Rape Reduction Act of 2002
August 8, 2002

The National Commission on Correctional Health Care (NCCHC) expresses its support in general for the Prison Rape Reduction Act of 2002 and, in particular, for those provisions that will help correctional health care professionals to identify and treat inmate-patients with serious infectious disease, chronic disease, and mental illness resulting from or exacerbated by prison rape.

NCCHC is committed to improving the quality of health care in our nation's jails, prisons, and juvenile detention and confinement facilities. We are supported by 36 major national professional associations representing the fields of health, law, and corrections (see attached list). Our published *Standards for Health Services* and voluntary accreditation program for facilities that meet those standards are widely recognized by the medical, correctional and legal professions as the basis for improved health care in correctional facilities.

The U.S. Supreme Court has made it clear that inmates have a constitutional right to necessary medical and mental health care. Rape can lead to serious infectious and chronic diseases as well as mental illness. As a public health matter, serious diseases affecting inmates, including sexually transmitted diseases, HIV/AIDS, and hepatitis, can be transmitted to the thousands of daily visitors, the half million correctional employees, and other inmates if appropriate precautions are not implemented. Just as important, it is a sometimes overlooked fact that nearly 12 million people are released from correctional facilities each year, and so the burden of disease — the public health risk as well as the cost — is often carried to the public at large.

The prevalence and incidence of disease in corrections is enormous. In the National Institute of Justice's 2002 report to Congress, "The Health Status of Soon-to-be-Released Inmates" prepared by our organization, analysis of data from 1996 and 1997 found:

- Between 1.3 million and 1.4 million inmates released from prison or jail were infected with hepatitis C.

- Chronic or current hepatitis B infection was reported in 155,000 released inmates; given national prevalence rates, this indicates that between 12% and 15% of all individuals with chronic or current hepatitis B infection spent time in a correctional facility.

- An estimated 98,500 to 145,500 HIV-positive inmates were released from prisons and jails. There were at least 465,000 cases of sexually transmitted diseases among released inmates. The prevalence of AIDS is five times higher among inmates than among the total population in the United States.

- On any given day, an estimated 22% to 30% of state prison inmates have an anxiety disorder; 13% to 19% have major depression; 8% to 14% have dysthymia; 6% to 12% have post-traumatic stress disorder; 2% to 5% have bipolar disorder; and 2% to 4% have schizophrenia or another psychotic disorder.

Most prisons (and jails) fail to conform to nationally accepted clinical guidelines for care and treatment of disease, and a significant proportion fail to adhere to national health care standards, thus increasing health risks to patients and the public. The Prison Rape Reduction Act of 2002 would establish national standards for enhancing medical and mental health treatment for rape victims. The Act also encourages the development of rape reporting systems, which would enable health care providers to identify incidents and monitor trends, ultimately helping to ensure that they are identifying, diagnosing, and treating the affected population. We applaud all such efforts that would ensure better medical and mental health care.

The legislation requires prison accreditation organizations to incorporate rape prevention practices into their accreditation reviews. Further, it requires the organizations to have standards for the "detection, prevention, reduction, and punishment of prison rape." While we support what we believe is the intent of this language, we point out to the Committee that there are many specialty organizations, including ours, that accredit only a small portion of a prison's overall operation. Extending our standards to areas in which we have no mandate or expertise, such as punishment of inmates or staff as proposed in the Act's language, would be onerous and counterproductive.

Health professionals should be involved solely in providing care and treatment. NCCHC standards prohibit correctional health care staff from engaging in adversarial relationships with their patients, such as collecting forensic information without the consent of the patient. Such collection activities should be left to custody staff or outside experts in this field so health staff can maintain an appropriate provider-patient relationship. In no event should correctional health care staff be involved in meting out punishment to their patients. This language should be clarified in the Act.

If the Act passes with this change, it will help bring needed attention to an important social, medical, and moral issue. Thank you for your consideration.

03/01

National Commission On Correctional Health Care

SUPPORTING ORGANIZATIONS

American Academy of Child & Adolescent Psychiatry
American Academy of Pediatrics
American Academy of Physician Assistants
American Academy of Psychiatry & the Law
American Association for Correctional Psychology
American Association of Physician Specialists
American Association of Public Health Physicians
American Bar Association
American College of Emergency Physicians
American College of Healthcare Executives
American College of Neuropsychiatrists
American College of Physicians – American Society of Internal Medicine
American Correctional Health Services Association
American Counseling Association
American Dental Association
American Diabetes Association
American Dietetic Association
American Health Information Management Association
American Jail Association
American Medical Association
American Nurses Association
American Osteopathic Association
American Pharmaceutical Association
American Psychiatric Association
American Psychological Association
American Public Health Association
American Society of Addiction Medicine
John Howard Association
National Association of Counties
National Association of County and City Health Officials
National District Attorneys Association
National Juvenile Detention Association
National Medical Association
National Sheriffs' Association
Society for Adolescent Medicine
Society of Correctional Physicians

STATEMENT OF BILL PRYOR
ATTORNEY GENERAL OF ALABAMA
IN SUPPORT OF THE
PRISON RAPE REDUCTION ACT OF 2002
Hearing Before the
U.S. Senate Judiciary Committee
Wednesday, July 31, 2002
Washington, D.C.

I wholeheartedly support the proposed Prison Rape Reduction Act of 2002 (the Act) for three reasons. First, the Act addresses a problem that can give rise to violations of the eighth and fourteenth amendments of the U.S. Constitution. Second, the Act promotes effective criminal justice and public safety. Third, the Act respects the sovereignty of state and local governments to redress what is predominantly a state and local problem.

It is proper for Congress to study and address the incidence of the rape of inmates in American prisons. Congress foremost should set policies and standards for the prisons of the federal government. In addition, because the Supreme Court has held that the deliberate indifference of prison officials to the incidence of rape of inmates violates the ban of cruel and unusual punishment, under the eighth and fourteenth amendments, see *Farmer v. Brennan*, 511 U.S. 825, 832 (1994), it is proper for Congress to evaluate the scope of this problem in all prisons, including those operated by state and local governments. The moral obligation of government to prevent, punish, and deter rape in our society does not end at the walls of prisons operated by government.

There is much speculation and conjecture about the problem of prison rape, but there is little reliable data about this problem. The Act will require the respected Bureau of Justice Statistics of the U.S. Department of Justice to compile that data. Reliable

information is the key component for any further work under the Act, for a productive dialogue for those who work in the criminal justice systems, and for a national consensus for solutions.

Second, the aim of this legislation ultimately is to improve the efficacy of the criminal justice system and, therefore, promote public safety. We should be concerned that an inmate who has been the victim of violent crime, especially rape or other sexual assault, will be as or more dangerous and prone to reoffend after his release from prison in contrast with when he was first incarcerated. The purpose of the prison system should be not only to incapacitate a dangerous offender during his sentence but to restore that offender to a condition that makes it less likely that he will engage in criminal behavior after the completion of his sentence.

Third, the Act respects the sovereignty of state and local governments under our system of federalism. The Act will establish national standards, not unfunded mandates, and the Act will require the consideration of costs in achieving three standards. The Act will require state and local governments that receive federal funds for prisons to make a deliberate choice either to adopt or not adopt the national standards eventually established under this Act, but the Act will respect the freedom and flexibility retained by the States to address this matter.

I applaud Senator Sessions and Senator Kennedy for their sponsorship of this legislation and leadership on this important issue.

Jul-30-02 08:25am From- T-994 P 01/01 F-983

JOHN GOWANS
General

THE SALVATION ARMY

(Founded in 1865)
WILLIAM BOOTH, FOUNDER

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July 30, 2002

Honorable Edward M. Kennedy
Honorable Jeff Sessions
Senate Judiciary Committee
Senate Dirksen Building - 224
1st & C Streets, NE
Washington, DC 20510

My dear Senators:

We wish to add our voice to the growing coalition of faith communities who have committed to working together in support of the Kennedy-Sessions-Wolf-Scott Prison Rape Reduction Act of 2002.

In a typical state prison, 10% of the prisoners will be the victims of completed rapes at least one time during the course of their incarceration. Troubled youth, jailed in adult prisons, report being sexually assaulted five times as frequently as youths in juvenile facilities. Rape in any environment is an outrage and to ignore the reality of this growing issue within the walls of our prison system is to sacrifice the dignity of human life.

As the Senate Judiciary Committee will hold hearings on this bill in the next few days I want to alert you of the full support of The Salvation Army for this initiative and urge you to move quickly toward its passage. This bill is about fundamental human dignity and it has wide bipartisan support. It is designed to generate significant public interest in the problem, and will also make prison officials accountable for failing to address the issue.

We cannot sit in disregard or indifference to the ever present threat of rape against an inmate population of nearly 2 million men and women.

Sincerely yours,

George E. Hood, Major
National Director of Public Affairs

RELIGIOUS ACTION CENTER
OF REFORM JUDAISM
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Testimony of Rabbi David Saperstein
Director, Religious Action Center of Reform Judaism
In Support of the Prison Rape Reduction Act of 2002

Committee on the Judiciary
United States Senate

July 31, 2002

Good afternoon. I am Rabbi David Saperstein, director of the Religious Action Center of Reform Judaism, and I'm pleased to join you today to speak in support of the Prison Rape Reduction Act of 2002. This important legislation would address a profound violation of human rights whose shameful prevalence has been overlooked in this country for far too long.

First, let me commend Senators Kennedy and Sessions and Representatives Wolf and Scott for their passionate, bipartisan leadership on this issue. We could not ask for congressional champions more dedicated to upholding the basic values of human dignity. Their example should demonstrate to all Americans our shared capacity to transcend religious, ideological, and partisan differences and unite behind a common vision of fundamental decency on issues where core principles are at stake.

The scourge of prison rape is just such an issue: Studies show that nearly 25 percent of the more than two million individuals in federal and state prisons across the country will be the victims of some form of sexual assault or harassment during their period of incarceration. In a typical state prison, one in 10 prisoners will be the victim of a completed rape. Once so brutalized, victims are far more likely to be victims of repeated rape. These are staggering statistics that should by themselves arouse the moral outrage of all people of conscience.

The comprehensive Human Rights Watch report *No Escape: Male Rape in U.S. Prisons* reminds us, however, that these statistics represent traumatic incidents of violent abuse that have been perpetrated upon real people. The report contains information from more than 200 prisoners in 34 states, and notes that in addition to the often "unimaginably vicious and brutal" physical effects of sexual assault, prison rape victims also suffer serious and enduring psychological stress, manifesting itself through "nightmares, deep depression, shame, loss of self-esteem, self-hatred, and considering or attempting suicide. Some of them also describe a marked increase in anger and a tendency toward violence." And tragically, AIDS, HIV and other sexually transmitted diseases devastate lives physically and emotionally. Sadly, too many prison officials turn their backs on the problem, or even worse, encourage it as a means of control.

All religious traditions teach that the ultimate judgment of a society depends on how it treats the most vulnerable of its inhabitants. Certainly, incarcerated individuals fit into this category. No matter what crime a person has committed, no one deserves to be brutally raped as a condition of his or her punishment. But for too many people in the American penal system, prison rape is merely par for the course.

We must not allow this terror to continue. The bill at issue today provides a responsible, measured approach to the problem, setting up mechanisms for the study, reporting, and prevention of prison rape. Most importantly, the legislation promises to bring to the forefront a tragic plague that is too often a punch line and too rarely a subject of genuine concern in our civic life.

The Prison Rape Reduction Act would direct the Justice Department to set up three programs to address the problem: one to collect and publish comprehensive information, one to serve as a clearinghouse for the reporting of sexual assaults in prison and to provide training and assistance to prison officials, and one to make grants to state and local programs aimed at preventing and punishing prison rape. Further, the bill would establish a national commission charged with setting standards for averting sexual misconduct in penal facilities and able to play a critical role in educating the American public on this crisis. As one who was honored to serve as the chair of a federal commission established by a unanimous act of Congress, I can testify to the potential of such commissions to be a vitally effective goad to executive and legislative officials and to the public conscience.

These reforms would, for the first time, signal a serious engagement with the problem by the federal government. Such an engagement is vital, because turning our back on prison rape would not only violate the Eighth Amendment's protection against cruel and unusual punishment, it would also mean betraying our most fundamental moral values, which tell us unequivocally that if we can prevent another person from being viciously attacked, we must.

I'm here today to tell you that we can prevent prison rape; we should prevent prison rape; and we must prevent prison rape.

Because of the profound moral clarity of the issue, a remarkable coalition of conscience has come together in support of this legislation. Jewish, mainline Protestant, Evangelical, and Unitarian groups, civil rights, human rights, and criminal justice reform advocates, health care professionals and youth workers, liberals, conservatives, and everyone in between – we all believe that prison rape is wrong, and that we can, and must, do something about it.

Some of us work together frequently; others less so. For example, it is not so common that Reform Jews and conservative Evangelicals find common ground to work together, but when we do, you can be sure that the issue at stake is one that cuts to the heart of a principle so basic that no reasonable person can stand in the way of its genuine manifestation.

We have joined together in the past on issues of similarly essential principle. Our common concern for the world's poor brought us to the table to advocate international debt relief. Our common disgust at the most foul human rights violations drives our work to prevent international sex trafficking and to end slavery in the Sudan. Our common understanding of the ennobling power of religious belief guides our quest for religious freedom, and to end religious persecution both at home and around the world.

One of the Torah's most radical innovations was to put forward the notion that human beings are created *b'tselem elohim* – in the image of God. The use of divine terminology to describe the human state serves to raise up humankind, to proclaim the infinite worth and potential of each individual person.

The implications of such a concept are far-reaching and profound, imposing on individuals and societies the obligation never to degrade others, to recognize the potential in all for redemption, and to assist the most vulnerable.

That this includes the prisoner is clearly reflected in the Bible in two separate places, where it pronounces a prohibition on raping those captured in war (imprisonment for criminal activity was not known in the ancient Jewish world), both women (Deuteronomy 21:10-16) and men (Deuteronomy 23:16-17). Intrinsically, rape is regarded as a vile sin – under some circumstances, the Bible holds rape to be a civil wrong that requires payment of damages by the perpetrator as compensation for pain, suffering, shame, and blemish (Deut. 22:28-29); in others, rape is categorized as a capital offense (Deut.22:25).

We must recognize that to allow the epidemic of prison rape to continue unabated is to reject the spirit of the divine that connects us all. Therefore, I urge the members of this committee to join with Senators Kennedy and Sessions in supporting the Prison Rape Reduction Act.

Thank you for your time.

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July 30, 2002

Honorable Jeff Sessions
Senate Judiciary Committee
United States Senate
Washington, D.C. 20510

Via facsimile: 202-224-3149

Dear Senator Sessions:

Thank you for introducing S.2619, the Prison Rape Reduction Act of 2002. We have been privileged to work with a broad coalition of outside organizations in support of this effort and appreciate your leadership in bringing it to the Senate and the nation.

We believe that every individual has inherent dignity. When a prisoner suffers from sexual abuse, this innate dignity is assaulted. While we believe that criminal acts should be prosecuted and punished, we also believe that no one should be violated while serving a prison term.

S. 2619 calls on states to address the issue of prison rape and holds them accountable if they do not. It is a measured response to a critical problem in our prison systems. With over half a million prisoners returned to our society every year, we have a vested interest in seeing that prisoners are treated justly as they serve their prison terms.

We commend you for your leadership on this legislation.

Sincerely,

Shannon Royce

Shannon Royce
Director of Government Relations and Counsel
Ethics & Religious Liberty Commission
Southern Baptist Convention

FROM C. STRUCKMAN-JOHNSON FOR SENATE HEARING JULY 31, 2002

July 31, 2002

Dear Members of the Senate Judiciary Committee:

Michael Horowitz has asked me to submit a letter in support of passage of the Prison Rape Reduction Act of 2002 that will be introduced today in the Senate. Mr. Horowitz had originally asked me to give oral testimony, but I was recently hospitalized and am unable to attend the hearing.

As a Professor of Psychology at the University of South Dakota, I am one of a small number of researchers who has conducted research on the incidence of sexual assault in American prisons. In 1994, I conducted a study of three state prison facilities for men and one facility for women in a Midwestern state. In 2000, I investigated seven state prisons for men and three state facilities for women in five more Midwestern states. Altogether, I have sent anonymous surveys to over 9300 men and women in prison.

I have received responses from nearly 2,300 men. Based on their reports, I estimate that from 22%-25% of men in state prisons have experienced some level of sexual assault. In about half of these cases (or at least 10% of all prisoners responding to my survey), the victims were forced to engage in oral and/or anal sex – a condition that meets the legal definition of rape. The remaining half of the cases did not result in rape. Instead, the victims were sexually groped or managed to fight off a rape attempt. Prison staff were involved as perpetrators in about 20% of all reported incidents.

Based upon responses from over 300 female inmates, I estimate that from 7% to 27% of women in state prisons have experienced some level of sexual assault. In at least one women's prison, from 5% to 7% of the female inmates had been raped. In three other small facilities that I investigated, the victims were subjected to groping and rape attempts, but were not raped. Based upon this limited sample, I would say that sexual assault of women in some prisons may be at low to moderate levels. However, in some facilities, sexual assault of female prisoners can potentially match the levels found in prisons for men. My studies show that about 55% of the sexual assaults in women's prisons are committed by other inmates, while 45% are committed by staff.

I now have over 500 anonymous written reports of sexual assault collected in a scientific manner from male and female prisoners. These data reveal that most victims of prison sexual assault experience profound and long-lasting negative effects. In my 2000 study of 10 state prisons, over 72% of victims became nervous and distrustful of people, 58% had depression, and 43% had symptoms of post-traumatic stress disorder. About a third of the victims had thoughts of committing suicide, and 17% reported that they had attempted suicide. One in five (20%) victims had physical injuries. One third of the victims said that the incident caused them to act violently against another person.

I have learned that sexual assaults can happen to almost any type of prisoner at any time and almost anywhere in the prisons. While inmates were most likely attacked in their cells or showers, they also reported incidents in kitchens, laundry rooms, libraries, teaching rooms, and even the chapel. One of my most memorable reports was from an elderly male prisoner who escaped from being raped while bedridden in the infirmary. I have numerous reports of men who were sexually assaulted while they were in protective custody.

I have learned that sexual assault rates can be reduced depending upon characteristics of a prison facility. The prisons with the lowest rates are those that have low prison populations (e.g., less than

FROM C. STRUCKMAN-JOHNSON FOR SENATE HEARING JULY 31, 2002

1,000 men per facility), good security policies in place, and vigilant and motivated correctional officers. Sexual assault rates are higher when a facility uses dormitory-style housing, holds a high proportion of prisoners who have committed crimes against persons, and has racial tension among inmates, as well as staff.

I also have collected anonymous surveys from over 650 correctional officers and other staff working at the 14 prisons in my two studies. I do have some evidence that there are prison facilities were the staff are "blind" to or uncaring about the problems of sexual assault. (Please see my attached response from an anonymous correctional officer). For the most part, though, correctional officers who have responded to my studies are concerned and upset by the sexual assault problems that confront them in their facilities. Correctional officers and inmates actually agree on many common sense and often inexpensive solutions to sexual assault. These solutions include better screening procedures to identify and separate vulnerable inmates, segregation of sexual predators, training of staff and inmates in prevention tactics, and development of better communication between staff and inmates.

Given the availability of these many solutions, I do not see prison sexual assault as an insurmountable problem. I strongly concur with the opinion of Mr. Michael Horowitz that the passage of the Prison Rape Reduction Act of 2002 will lower the incidence of prison rape by putting the spotlight on it. Once prison sexual assault is made a priority issue, prison administrations can easily implement new policies that could moderate any possible sexual assault problems. My data suggest that substantial numbers of correctional officers will welcome these changes.

The Prison Rape Reduction Act of 2002 will also remedy the very difficult problem of measuring the incidence of prison sexual assault. There are many reasons why I and a few other academics are the "lone rangers" of prison sexual assault research. Prison rape is a grim topic that invokes themes of hidden violence, illicit sexuality, homosexuality, victim-blaming, shame, embarrassment, prejudice, and denial. No one wants much to talk about it—including its victims, perpetrators, correctional officers, prison administrations, and the general public. Passage of the Prison Rape Reduction Act of 2002 will create the mechanism for collecting valid, reliable data on sexual assault levels in prisons and jails across the country. The Act will give us the numbers that will allow us to accurately assess the dimensions of the problem, and to plan the most effective policies for its alleviation.

Those who wish to review my data can go to The Journal of Sex Research, 33, 1996, pp.67-76, and The Prison Journal, 80, December, 2000, pp. 379-390. A new article on sexual assault of women in prison is due out in The Journal of Sex Research in August, 2002.

Respectfully Submitted

Cindy Struckman-Johnson, Ph.D.
Professor of Psychology
University of South Dakota
(605) 624-8858

FROM C. STRUCKMAN-JOHNSON FOR SENATE HEARING JULY 31, 2002

A correctional officer's response to Cindy Struckman-Johnson's 2000 survey on prison sexual assault in Midwestern Prisons:

The question was "What do you think are some good ways to prevent sexual assault in prisons"?

I see young, good looking, but weak white men coming into the prison. They are being placed in a room with 70 tough, hard black men. They stand no chance of making it 24 hours without being assaulted sexually. I feel they need to be housed in separate quarters until they can learn what to do to protect themselves. At my unit-our classification officer deliberately places people in the worse spots so they can be raped. He feels this is part of their punishment and enjoys hearing it happened to them. Officers see inmates having sex all the time. Most choose to ignore it. Most feel its mutual consent. Most don't understand one inmate could be raping the other one. Officers need to do everything possible to stop it. They don't. At my unit they don't check rooms or showers. Most female officers won't go into the bath/shower area for nothing. They need more training on this subject. They need to open their eyes. I seen a young boy come to the infirmary one night. He was crying. He had been raped. The infirmary personal treated him like dirt. They made him feel like he had asked for it. Like it was his fault 7 black men wanted to be his "friend". He was bleeding. He had been hurt inside badly. They did for him what they legally had to. They never showed any compassion or emotion. They even laughed at him. The boy was patched up and sent back to the barrack he was assigned to. That is where the attack had occurred. It probably happened again during the night. If so he didn't report it again. Why should he bother. About 2 weeks later he cut his wrists. He survived. Mental health said he wasn't crazy so he couldn't stay there. Our unit does have Protective Custody barrack but the boy wanted to go to school and to church. PC doesn't get to. He chose to go back to his assigned barrack. Now 2 months later I see him hanging out with rough looking black men. They have made him their "punk". He gives them sex whenever and however they want it. This is everybodys fault. It doesn't have to be like this. Get some people in the system who will do their job not just get a paycheck. Sure I think some do deserve everything (plus some) that they get. A lot don't.

Note: This is a verbatim written response with grammatical and spelling errors preserved.

Statement of Congressman Frank Wolf
Senate Committee on the Judiciary
Hearing on Prison Rape
July 31, 2002

Thank you Mr. Chairman for giving me the opportunity to be here today to testify on an issue of vital importance to our nation's prison system - the ongoing problem of prison rape.

I want to acknowledge the efforts of my Virginia colleague Bobby Scott who could not be here today but whose efforts along with yours and Senator Sessions make this issue truly bipartisan. I believe that our legislation, The Prison Rape Reduction Act of 2002, will go a long way in addressing a problem that has too long been quietly swept under the rug. With this broad array of support, I am hopeful that the Congress will pass the Prison Rape Reduction Act of 2002 before the end of this year.

Prison rape to be sure is not a dinner conversation issue. For years no one has wanted to talk about it much less act to address the problem. But as you know Mr. Chairman, this issue is one of compassion, and the broad base of support it has shows that it transcends one's political affiliation and ideology. Society is finally coming to grips with this vile act.

Of the 2 million prisoners in the U.S., a conservative estimate is that one in 10 has been raped. A 1996 study of the Nebraska prison system reported that 22 percent of male inmates had been pressured or forced to have sex against their will while incarcerated; of these, over half had submitted to forced sex at least once.

Other reports and investigations have all demonstrated that there is a shockingly high rates of sexual abuse in U.S. prisons.

Prison rape, like all other forms of sexual assault, is torture – the infliction of severe emotional and physical pain as punishment and coercion. Long after the body has healed, the emotional state remains traumatized and shamed; the individual is stigmatized.

The Supreme Court has made clear: "Being violently assaulted in prison is simply not part of the penalty that criminal offenders pay for their offenses against society." Deliberate indifference to prison rape violates the 8th Amendment's prohibition against cruel and unusual punishment.

This is not just a matter of protecting inmates. Society also pays dearly for ignoring prison rape. All major studies show that prison rape costs the taxpayer in recidivism and increased violent crime. Inmates, often non-violent first time offenders will come out of a prison rape experience severely traumatized and will often leave prison more violent than when they entered. Finally, the high incidence of rape within prison leads to the increased transmission of HIV, hepatitis and other diseases, which in turn costs all of society.

While these policy realities of prison rape seem clear, to view this issue from the perspective of an individual inmate is necessary to understand the true nature of this abhorrent act. Rape may be the ultimate humiliation, with very serious and long-lasting psychic damage to the victim as well as to close loved ones who are secondary victims. Prison rape receives virtually no attention by our media, our politicians, or the public at large.

What actually happens to the victims of prison rape? Prison rape survivors become rapists themselves in a demented attempt to regain what they think of as their "lost manhood." Some prison rape victims retaliate by murdering their rapists, receiving added years to their sentence. Another outcome of prison rape is suicide. Researchers have found that suicide is the leading cause of death behind bars. Sexual harassment is the leading cause of prisoner suicide.

No matter where the survivor ends up, severe psychosis is the most common outcome of prisoner rape. Sexual assault can often break a prisoner's spirit. In the advanced stages of rape trauma syndrome, a survivor's mood often swings between deep depression and rage. Prisoner rape may be the quickest, most cost-effective way of producing a sociopath. According to researchers, the fact that most men on death row were sexually abused earlier in life should come as no surprise. Indeed, it is a fact that society ignores at its own peril.

In April of 2001, the group Human Rights Watch published a report entitled *No Escape* that was a comprehensive investigation into the prison rape epidemic. Human Rights Watch deserves to be commended for this effort and I think that members of Congress concerned about our prison system should read this report.

The report shows that many of the inmates that are victims of rape were young and were often placed in prison as non-violent offenders. Also, many were scheduled for short sentences and would soon be returning to society.

The report also published some of the actual letters written by inmate victims of prison rape. For example an inmate in Florida writes.....

> *I was young and yes I was weak. My weight was only 120 pounds, the first few months I was raped and beat up many times, I would always fight back, I wanted my attackers to know that I was not a willing subject for their evilness. I went to the guards for help and was told there was nothing that could be done, that I would have to stand up like a man and take care of my own troubles.*

I have attached excerpts from other letters that were published in the Human Rights Watch report that I would like to submit to the Committee for the record.

<u>Excerpts from Inmates Testimony to Human Rights Watch</u>

New inmates are often treated like property by older and more violent inmates. An inmate in New York writes....

When a man finally gets his victim, he protects him from everyone else, buys him anything, the victim washes his clothes, his cell etc. In return the entire prison knows that this guy has a "BITCH" or "girl." Now I've seen this happen many times. The response from the guards is "the strong survive," "who cares," or they join in the teasing and tormenting. But someone who is not "protected" has other problems. I've seen inmates attacked by two or three men at a time and forced to the floor, while three men hold him down the fourth rapes him. I've known two men who have hung themselves after this.

An inmate from Arkansas.....

I had no choice but to submit to being Inmate B's prison wife. Out of fear for my life, I submitted to sex, and performing other duties as a woman, such as making his bed. In all reality, I was his slave, as the Officials of the Arkansas Department of Corrections under the 'color of law' did absolutly nothing.

An inmate from Minnesota writes.....

Most of the prisoners who rape are spending 5 to life. And are a part of a gang. They look for a smaller weaker individual. And make that person into a homosexual then sell him to other inmates of gangs. Anywhere from a pack of cigarettes to 2 cartons. . . .No one cares about you or anyone else. If they show kindness or are trying to be helpful, it is only because they want something. And if they are offering you protection you can guarantee that their going to seek sexual favors. . . . When an inmate comes in for the first time and doesn't know anyone. The clicks and gangs. Watch him like Wolves readying there attacks. They see if he spends time alone, who he eats with. Its like the Wild Kingdom. Then they start playing with him, Checking the new guy out. (They call him fresh meat.)

An inmate who was put in jail fora DUI offense.....

I've been sentenced for a D.U.I offense. When I first came to prison, I had no idea what to expect. Certainly none of this. I'm a tall white male, who unfortunatly has a small amount of feminine characteristics. And very shy. These characteristics have got me raped so many times I have no more feelings physically. I have been raped by up to 5 black men and two white men at a time. I've had knifes at my head and throat. I had fought and been beat so hard that I didn't ever think I'd see straight again. One time when I refused to enter a cell, I was brutally attacked by staff and taken to segregation though I had only wanted to prevent the same and worse by not locking up with my cell mate. There is no supervision after lockdown. I was given a conduct report. I explained to the hearing officer what the issue was. He told me that off the record, He suggests I find a man I would/could willingly have sex with to prevent those things from happening. I've requested protective custody only to be denied. It is not available here. He also said

there was no where to run to, and it would be best for me to accept things...I probably have AIDS now. I have great difficulty raising food to my mouth from shaking after nightmares or thinking to hard on all of this...I've laid down without physical fight to be sodomized. To prevent so much damage in struggles, ripping and tearing. Though in not fighting it caused my heart and spirit to be raped as well. Something I don't know if I'll ever forgive myself for.

One Florida inmate, serving less than one year in prison.....

I was raped in prison from Feb 1991 through Nov 1991. From that it left me H.I.V. positive.

Mr. Chairman, we are learning more stories of prison rape. These accounts have only recently been cataloged, as often inmates, have been afraid to speak out for years. Throughout my career I have long believed that criminals deserve tough sentences. And I still believe that being tough on criminals serves to protect our larger society.

But ignoring prison rape has nothing to do with being tough on criminals. Deliberate indifference will only serve to undermine the entire criminal justice system. A man who is sentenced to time should serve that time but he is not sentenced to being raped and possibly contracting HIV.

I believe that our legislation will provide a chance to gain a full picture of how widespread this abuse is and offer incentives for correctional facilities to finally address it. For too long prison rape has been ignored. It is time to bring attention to this issue.

Thank you for allowing me the chance to testify here today and I would be happy to take any questions.

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