

TESTIMONY OF HELEN C. TRAINOR BEFORE THE DEPARTMENT OF JUSTICE PANEL ON NATIONAL STANDARDS TO PREVENT, DETECT, AND RESPOND TO PRISON RAPE

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Good morning, and thank you for inviting me to these hearings. My name is Helen Trainor. I was the Director of the Virginia Institutionalized Persons Project (VIP) of the Legal Aid Justice Center in Charlottesville, VA from May, 2007 until August, 2010. To my knowledge, the VIP Project was the first attempt in the history of Virginia to examine conditions inside Virginia's prisons and to try to bring about systemic reform. I also served as a clinical adjunct professor of mental health law and prisoner rights at the University of Virginia School of Law and for many years, as an assistant federal public defender in Miami. I have argued over 50 cases in the United States Court of Appeals for the Eleventh Circuit and came to Washington, D.C. in 2002 as a 2002-03 United States Supreme Court Judicial Fellow.

I am here today to tell you about what I learned about Fluvanna Correctional Center for Women (FCCW) as a result of the work I did on behalf of the inmates there from May, 2007 to August, 2010. During the three and one half years I worked in Virginia, I met with approximately 100 women and corresponded with perhaps 150 others. The primary focus of my work at FCCW was to investigate medical treatment; the treatment of disabled inmates; and the treatment of lesbian inmates.

I. Executive Summary. Of all of the complaints about sexual misconduct I have heard from inmates at FCCW, the complaints relating to officer on inmate misconduct outnumber those relating to inmate on inmate misconduct by a factor of about ten to one. It is therefore striking that the list of policies and practices that follows are aimed at deterring inmate on inmate sexual misconduct rather than the true source of the problem. I believe these policies and practices serve a dual purpose. First, they create the illusion that inmate on inmate sexual misconduct is an issue, thus deflecting the unwanted attention FCCW received as a result of a recent sex scandal involving a major. Second, by creating a culture of degradation, shame, and intimidation, they ensure that sexual victimization of inmates by officers will continue unabated and unchallenged.

II. Profile of FCCW

When FCCW first opened in the late 1990's, it was regarded as one of the most progressive women's prisons in the United States. Its campus is open, and consists of a number of two-story buildings encircling an open park-like area, with outdoor walkways connecting all of the buildings. Its mission was to provide a place where troubled women would have an opportunity to grow—educationally, vocationally, and spiritually—and to make better choices for themselves in the future. FCCW enjoyed a respectful relationship between prison administrators and security personnel and the inmates; a near perfect security record; and a low recidivism rate.

More than 100 community volunteers visited FCCW weekly, to assist as lay chaplains and to offer a range of programs—from liturgical dance, to basic financial planning and budgeting, to good parenting skills. In addition, the Department of Corrections maintained a dog training program, a tailor shop, a braille translation shop, an optical shop, to name just a few of the vocational training

opportunities made available to the inmates. In addition, FCCW is the only full-fledged medical facility serving women in Virginia's correctional system.

FCCW houses women who have committed a variety of crimes—from selling controlled substances to committing murder. Most, if not a majority, have been victims of domestic violence by partners or spouses. FCCW is a level 3 (out of 6) medium security prison and one of only two prisons for women in Virginia. More than two-thirds of the prisoners are African-American. The majority are 35 years old or older and are serving median sentences of 20 years. The majority of correctional officers are African-American, male, and 35 years or younger.

III. Years Between 2007 and 2010

Around 2009, a new assistant warden and a new major were hired. The major is charged with maintaining security in the prison. It has never been clear to me what his reporting relationship to the warden or assistant warden is, but he appeared to have complete autonomy to change the conditions of incarceration if he believed that security needs warranted it. This particular major came to FCCW from a previous position at Nottoway, a level 4 prison for men. Nottoway is considered one of the most dangerous prisons in Virginia. Following is a list of policies implemented by the new major that I believe served no purpose other than to degrade, humiliate and intimate the women at FCCW.

A. Referring to the Women in Degrading Terms. One of the first changes the new major made was to change the language of respect between officers and prisoners. In my files, I have a copy of an e-mail he wrote to staff in which he refers to the inmates as “mother f—ing bitches”, “whores” and “dopers” and describes his intent to transform FCCW into a higher security facility which he believed was consistent with the range of crimes for which the women were incarcerated. Moreover, the correctional officers routinely referred to the wing in which “butch” women were housed as the “locker room” and to the women as “little boys”. One woman with facial hair was told to “wipe the dirt off your face”.

B. Requiring the Women to Wear Tight Clothes. New inmates during this timeframe were instructed to go to the clothing storeroom to get the appropriate prison garb. Male officers were stationed outside the fitting room and were permitted to send the women back into the storeroom if the garments were not sufficiently tight-fitting to suit the officer.

C. Punishing Women for Looking “Butch”. Unit managers were authorized to identify women who looked “butch” on the basis of their appearance, notably a preference for wearing baggy clothes and having short hair. The assumption was that women who looked “butch” were, in fact, sexual predators and should therefore be punished. The major created a new wing in Building 5 for these women. This wing was in permanent modified lock-down and the women housed there were placed last on the lists for educational and vocational opportunities.

D. Punishing Women for Having Any Physical Contact With Other Inmates. All of the inmates, whether or not deemed “butch”, were punished for any exchange of affection, whether they

threw hearts in the air, embraced each other for comfort or solace, or exchanged a hug in the context of religious observances.

E. Restricting Toileting. The major also decided that women were congregating in the bathrooms at night, notwithstanding lockdown conditions at night, and so he instituted a policy of restricting the use of restrooms during the night lockdown hours. FCCW only has “dry” cells with restrooms located at the back of each dormitory. Under the new policy, the inmate was required to notify the officer on duty of the need to use the restroom. The inmate would then be placed on a list of others waiting to use the restroom with a resulting wait of up to two hours. A number of elderly inmates or inmates on diuretics were forced to urinate in any container they could find in their cells, even though it meant an immediate transfer to segregation.

F. Increased Use of Segregation as Punishment and for Retaliation. The administration designated the entirety of Building 8 as segregation, substantially increasing the number of isolation cells. Prior to the new administration, inmates who committed minor infractions, such as having two pairs of glasses in her cell, or having more than one authorized book in her cell, would merely receive a “ticket”. Under the new policies, minor infractions were punishable by days in isolation. I know of at least three inmates who worked with me on the “butch” practices and who also spoke to the press about the practices who were sent to Building 8 for months at time.

Moreover, Wing A of Building 8 was designated as step-down unit from total isolation. Conditions in Wing A are nearly indistinguishable from the conditions in the other wings, except there is double bunking and inmates can, at times, congregate. This allows the administration to adhere to rules limiting the amount of time an inmate can be placed in segregation for any single infraction by moving inmates from total isolation to step-down and then back to total isolation in a vicious cycle of punishment.

G. Degrading Conditions in Segregation. There are two types of isolation at FCCW. There is administrative segregation in which the inmate lives in a regular cell, wears her own clothes, has access to programming in her cell and can bring in books, writing paper, and personal mementos. The other type is a “strip cell” in which the inmate wears a paper garment and the cells contain only a padded bed with restraints, a sink, and a toilet. There is a drain in these cells so that if the inmate smears feces or menstrual blood on the walls, the cell can be easily cleaned. The major instituted a new policy in both types of segregations of requiring officers to lead inmates to showers or “recreation” on a dog leash.

H. Using Medical Care to Demean and Objectify Inmates.

1. Denying Inmates Privacy During Medical Consultations and Examinations. In order to minimize the number of occasions in which women might have an opportunity to exchange affection, the major instituted a policy of holding daily sick call in the officers’ locker rooms. This policy forced inmates to disclose their medical problems and submit to medical exams in the same room used by the officers for breaks and for storage of their possessions. The medical director conducts rounds in the infirmary once per week. This is accomplished by his standing outside each multi-bed ward and

yelling across a glass partition: “Mrs. Jones, how are you doing today? Ms. Smith, how is that hernia doing?” I know of one inmate who learned that she had HIV because another inmate had seen her medical record in an examining room.

2. Denying Inmates the Right to Participate in Their Care. Inmates are not allowed to play any role in their medical treatment. They are not told of the results of diagnostic tests, nor how they might assist in their treatment, nor why certain medication/or procedures are being ordered (or not ordered). There is no such thing as informed consent at FCCW. One inmate had asked for diagnostic tests for a serious cough for two years and when the tests confirmed that she had stage 4 lung cancer, the only notification she received from the medical director was: “You are in God’s hands now”.

3. Consistently Disparaging the Credibility of Inmates Complaining of Medical Problems. I was told by FCCW’s medical director that he does not believe that the women at FCCW suffer from physical problems. Pointing to a Bible and reciting a passage from Proverbs, the medical director explained that the inmates are, in reality, suffering from moral anguish resulting from the crimes they have committed. One of our clients was an elderly woman for whom the medical director would not order colostomy bags that would fit her particular incision. She complained so often that she was put in solitary confinement in the infirmary. She reported that the medical director entered her cell and without her permission, assaulted her by tearing off her bedclothes and attempting to take a picture of her incision.

Moreover, medical staff at sick call is instructed not to offer more than palliative care even for the most alarming symptoms. I have seen innumerable complaints describing total lack of concern for such symptoms as inability to breathe, inability to walk, loss of 40 pounds in two weeks, and swelling of the limbs and chest. One woman who was suffering a stroke was told she must walk to the infirmary so that the nurse could determine whether, in fact, she was suffering a stroke.

4. Inhumane Treatment of Inmates in Medical Emergencies. I received innumerable reports of inmates who had fallen, who were bleeding, could not breathe, or were suffering a heart attack or a stroke who were denied emergency treatment. I also received reports of inmates who did receive emergency attention who were shoved, pushed, or thrust onto stretchers despite howling in pain.

Respectfully submitted,

Helen C. Trainor