

TESTIMONY OF THOMAS CLINTON

Good afternoon. I truly appreciate the opportunity to appear before the National Review Panel on Prison Rape today, and hope that by sharing my story with you, I can help end the sexual victimization of prisoners. As a gay male of small stature who was convicted of a nonviolent offense, I found that I was a target of sexual harassment and abuse throughout my incarceration. Prison officials did little to provide protection for me, despite the numerous complaints I made. Even after I was victimized, I was treated in a punitive manner, to the point where I almost felt it was pointless to speak up for my rights.

On November 23, 2004 I was raped by a newly arrived inmate at Trinity River Conservation Camp in Lewiston, California. I had been assigned to clean the bathrooms and as I was finishing up, this inmate came into the showers and said he had been assigned to help me. I did not question him, or think anything of it, but he caught me off guard and attacked me. He pushed my face into a corner, causing a large cut across my cheek, and then forced himself inside of me. That evening, still in a state of confusion and shock, I tried to tell one of the corrections officers about the assault. As I started to tell him what happened, the officer told me not to say anything further, but to wait until the following morning so that I could talk to the sergeant. That night I received no medical attention, I was not interviewed about the assault, and no evidence was collected. It was as if I was expected to go on with my daily routine pretending nothing had happened. I should have been taken to the hospital that night, and the investigation process should have been started immediately. Instead, I sat in an open dorm, afraid of my assailant, and worrying about the injury to my rectum, which was bleeding, and the cut to my cheek which was swollen and bruised. I was in physical pain from the assault, and was trying to contain the confusion, terror and hopelessness I felt. I was afraid that if other inmates noticed that something was wrong with me, they would guess that I had been raped, and I would continue to be assaulted. I didn't sleep, but instead sat up the whole night wondering how this had happened, why the officers weren't doing anything to help me, and what was going to happen to me.

Not really knowing what to do, or how to demand my rights, I waited until the following morning to make a report of the assault. Unfortunately, rather than take a report, the sergeant in charge of investigations pressured me to sign a form stating that no assault had taken place, that nothing had happened between the other inmate and me, and that we were not enemies. He told me that unless I signed the form, he would have to transfer me and that I would lose all of the good behavior credits I had accumulated since being at the Camp. Out of fear that my release date would be delayed, I complied, but the sergeant still transferred me out of the minimum security camp and sent me to the California Correctional Center in Susanville, where I knew I would be put in segregation.

The rapist and I were transferred to Susanville in the same vehicle, and as we arrived at the gate of the facility, the corrections officer stepped out of the SUV, leaving the rapist and I alone, and giving the rapist the opportunity to threaten me. He told me that I better keep my mouth shut. For trying to make a report of the assault, I was being treated by corrections officers as if I had done something wrong, and was in fear for my

life because of my assailant's threat. Although I wasn't aware of it at the time, I would eventually lose my good behavior credits, solely because I reported a sexual assault.

I thought about not saying anything else about the attack out of fear that I would only cause more problems for myself, but when I got to Susanville I told the watch commander about what had happened. He took down my statement after informing me that the sergeant at the conservation camp hadn't mentioned anything about the assault. He then told me that I had to be placed in protective custody pending the completion of an investigation. When I was taken in for my intake check-up, the Susanville medical staff processed me while other inmates were lined up within earshot to receive their medication, which made it impossible for me to explain the situation without further publicizing myself as a rape victim. I was also working under the assumption that the medical staff had been made aware of what had happened and that it was not necessary for me to go out of my way to explain any further. I later found out that the medical staff was never told about the assault and thus did not know they were supposed to have done a sexual assault exam. This entire situation could have been alleviated had I been given access to confidential medical care. Most survivors of sexual assault in prison do not want to publicize that they have been raped for fear of becoming more of a target. I suggest that procedures be put in place and corrections officers be properly trained to carry them out so that victims of sexual assault can get the confidential medical attention they need without further jeopardizing their safety.

At this point I was placed in administrative segregation (in lock-down with no programming) but still I had not been properly examined and no rape kit had been performed. Several days went by and on November 27, 2004, I received an envelope that contained a confidential memorandum detailing my statement of the assault. It was a memo prepared by the intake officer and was supposed to remain confidential. In the memo, the officer stated that he believed I had been the victim of a sexual assault and that the rapist had a history of violent and dangerous behavior. I was shocked to find out that the corrections officers had known that this was a dangerous predator, and yet they had placed him in a housing unit with me, a nonviolent offender. On December 3, 2004 I was released into general population, but on December 6, officers realized that the rapist received a copy of the memo and I was sent back to administrative segregation for my protection. Because the copy of the memo that had been delivered to the perpetrator was never recovered, officials believed it was being circulated amongst the inmates in general population, thus making me a target for further sexual assaults. I did not want to be put back into protective custody because I knew from my previous experience that it meant I would be in lock-down, often going days without getting my daily hour of recreation time. While in administrative segregation, inmates are required to get an hour of recreation time outside of their cells every 23 hours, but the corrections officers would often deny me this right. Thus, another recommendation I have for CDCR is that compelling victims of sexual assault to be placed in protective custody is bad policy, because it amounts to punishment and only adds to a sexual assault victim's trauma. There needs to be a less punishing form of protective custody for sexual assault victims than automatic placement in administrative segregation.

Because the corrections officers knew that they were at fault for releasing the confidential memo into the general population, their attitudes toward me became more

hostile. They began referring to me using derogatory terms such as “fag” and “queer.” I was constantly being humiliated by staff, especially in the presence of other inmates. My ordeal went on for several more months, and I felt like corrections officers were punishing me on a daily basis, despite the fact that I never had any disciplinary problems. For example, they kept me from acquiring grievance forms. Every Thursday an officer would come around with a cart of different forms, but nearly every time I requested a grievance form, I was told that they had run out. Other times they would tell me they didn’t have any more pens. Once I was finally able to acquire these forms, they would somehow be lost after I submitted them. Seven different times I submitted forms and never received the required confirmation of receipt. This led me to believe that the officers who took the forms from my hands weren’t submitting them to the appropriate authorities. How could I exhaust administrative remedies if I was being denied access to the first step of the grievance process?

In what I believe was another act of retaliation, in the transfer from the Trinity River camp to the facility in Susanville, all of my personal belongings were lost. Officers told me that they had been misplaced, but I later found out that my box of belongings had never been picked up from the receiving office despite the fact that I continuously asked for it.

The retaliation by officers included denial of medical care as well. The facility was aware of the chronic pain I’ve suffered in my legs for several years now, and they knew that the condition required me to take pain medication. Still, the medical technician refused to provide the medication, although I repeatedly requested it and there was no legitimate reason to deny me. I believe he was doing it in retaliation for my attempting to file grievances against his fellow officers.

Making the situation worse, it was winter and I was placed in a cell near the back door of the unit. Every time that door was opened the ventilation system would blow the cold winter air directly into my cell. Because of the problems with my legs I requested a cell transfer, but they did not want to move me and instead left me in that cell with a thin foam mattress and a thin blanket. The cell was so cold I would put my milk near the walls to keep it chilled and could breathe on my small window and write the word “cold” on it with my finger. I repeatedly requested a thick mattress and a heavier blanket to alleviate some of the pain I was still experiencing in my rectum as a result of the attack, but I would watch as thick mattresses and extra blankets were distributed to other prisoners, and empty cells further from the back door would become empty and full again as I was passed up.

During this time I knew my legal mail was being opened because all of the envelopes I received had been opened using a razor. This was being done before the letters ever reached me, and although I asked that corrections officers not pre-open my legal mail, they continued to do so. The Susanville corrections officers also kept all of my self-paid magazine subscriptions, which kept me in a deep sense of isolation and with nothing to do in my cell all day but ponder the senselessness of my situation.

When I was assaulted I suffered a torn rectum and had been continuously bleeding, but months went by before I was given a proper examination and a rape kit was performed. After my initial attempts to get medical help right after the assault, I gave up.

I would have told one of the corrections officers about my need for medical attention, but the segregation cells are less than 12 inches apart, which would have made it very easy for all the other inmates in the area to hear what I was saying.

In January 2005, while I was still in physical pain from the assault, desperation forced me to try to figure out how to ask for a confidential medical examination. I wrote my request on a piece of paper and presented it to the sick call doctor. I wrote that I was raped at the camp, that I had stopped bleeding, but that I was still in pain. The doctor looked shocked and immediately informed the medical technician on duty. While in the presence of other inmates, the medical tech yelled “We have a rape!” loud enough for everyone in the unit to hear. I was humiliated and frightened to the point that I put the note I had written to the doctor in my mouth, chewed it up, and swallowed it. I wanted to get rid of any evidence that could put me at further risk. This may sound extreme, but I think people on the outside cannot comprehend how vulnerable some of us are to further attacks.

At this time, I was interviewed, given an exam, and sent to the medical ward. Now, nearly two months after the assault, a rape kit was performed and it concluded that there was still some damage to my rectum. Considering the amount of time that had elapsed, it was not a surprise that no DNA evidence was collected tying the rapist to the crime. After the examination, I was sent back to administrative segregation.

In February 2005, nearly three months after the attack, I was finally given the opportunity to speak with the social worker in charge of my case and I hoped that things might get better, but he was very antagonistic and went so far as to say that I had “asked for it” and that I got what I deserved for “choosing” to be gay. At this time, the social worker informed me that no charges would be filed against the rapist and that he had been placed back into the general population, while I would remain in segregation. Up until this point, I had still assumed that the rapist would be charged, just like I had initially assumed that I would be given an examination promptly and that my medical needs would be addressed.

I’d also like to address the issue of housing. At one point I had to get a new cellmate, but I was reprimanded for refusing an inmate who was obviously interested in having sex with me since during the interview process, he asked me several sexually explicit questions. During the same round of interviews I met a 57 year-old gentleman with whom I got along well and who obviously was not a threat to me, so I requested that we be placed together and explained my reasoning. I told the officer that the first inmate wanted sex from me, and that I feared he might attack me, but the officer filed a disciplinary infraction on me for opposing the sexually threatening inmate, and as a result of trying to protect myself from further victimization, 30 days were added to my sentence. I believe that the process by which inmates get paired can easily be changed to better protect vulnerable persons from attacks by their cellmates. Without segregating them, or denying them access to programming, I think that persons who are vulnerable to attack should be celled together so that they are not victimized by larger, more violent and more experienced predators. If an inmate knows that he may be attacked by a particular individual, that person should not be punished for voicing concerns about them.

All of the injustice I was facing was really starting to add up. I felt isolated and persecuted. It reached the point that I developed extreme anxiety and was eating my own hair to abate the isolation I felt. I really felt like I was going insane. Writing became my only vehicle of release, and I kept a 274 page journal of all names, dates, times, places, and incidents of abuse and retaliation.

After the sexual assault examination in January, I had been given a security classification hearing date. At the classification hearing, the first sergeant's threats that I would lose my good behavior credits were finally realized. The warden of the Susanville facility was present and told me that my release date of April 27, 2005 would be delayed. When I confronted her about it, she said she didn't care if it was punishment or not. I served nine extra months on my sentence, not because of anything I had done wrong, but because I had reported an assault. The official response for the loss of my credits was that because I had been permanently transferred out of the Trinity River Conservation Camp, a minimum security facility, I was no longer eligible to receive credits for good behavior and thus the credit I had already accumulated was no longer valid.

At the hearing, it was concluded that I would be sent to the California Men's Colony in San Luis Obispo. In the dorms of CMC's general population, I was confronted with a whole new set of problems. There were approximately 100 inmates in each dorm and I was constantly being sexually harassed and pressured for sex. Inmates would follow me to the shower, to the bathroom, and would pull on my covers at all hours of the night. Officers are supposed to patrol the dorms at all times, especially during the night, but somehow inmates were able to get up and pull on my covers on their way to the bathroom, which was intended as a signal for me to either follow them or face a possible physical assault. On the yard, inmates were selling my photo so that everyone knew who the "new girl" on the block was; I was referred to as the "new girl" as a derogatory reference to my being gay. I was moved from dorm to dorm five different times as inmates bribed the housing clerk to have me moved into their dorm thinking that I would have sex with them. Eventually I started using this situation in my favor, and bribed the clerk to have especially aggressive inmates moved into different dorms and away from me. Still, the harassment was constant and obvious, but officers seemed to ignore the situation. I couldn't eat or walk to the dining hall without having to deal with derogatory comments and cat calls. I couldn't eat hot dogs, burritos, or popsicles because the other inmates would make crude comments and holler at me from across the hall. Staff would ignore this, or laugh along with the inmates. Several other inmates and I once overheard one of the corrections officers say that if he had his way with homosexuals, "[he] would have them all in separated dorms so they would get their asses kicked and be forced to roll up and go where their asses belong."

I was so exhausted by the daily harassment that I had no choice but to enter into a relationship with another inmate in my dorm in order to keep the rest of them off of me. In exchange for his protection from other inmates, I had to be with him sexually any time he demanded it. It was so humiliating and I often cried silently at night in my bed. This person was a drug user, physically abusive toward me, and generally unstable, but dealing with one is better than having ten or more men demanding sex from you at any given time.

In my view, facilities need to provide an orientation handbook to gay and transgender inmates that teaches them how to notice the warning signs prior to a sexual attack. In dorms, we should be placed together so that we have a sense of support and so we don't feel completely isolated, because predators know that an isolated prisoner is more vulnerable. Healthy and responsible relationships with other inmates and staff should be encouraged so that people feel encouraged to speak out if an issue does come up. Resources and information about sexual abuse should be freely offered. County jails should inform the CDCR when a gay or transgender inmate will be transferred to the receiving prison so that they are prepared to properly meet that inmate's needs. Most of all, the responsibility for avoiding a sexual assault cannot be laid solely on us, the inmates. Correctional staff must do much more to prevent and respond to sexual violence. Staff members who are slow to respond to reports of sexual assault, or who abuse or harass inmates on the basis of their sexual orientation need to be reprimanded, terminated, or prosecuted depending on the specifics of the situation. In general, there needs to be more focus on the needs of gay and transgender inmates, and corrections officers should undergo sensitivity training so that they do not bring their prejudices to their work at the prison facility.

I have heard from some of the gay inmates that I met while in prison, and they continue to deal with homophobia from corrections officials and a general unwillingness to take the common sense steps that will protect them from sexual abuse. Now that I have been released, I am working on a civil lawsuit that addresses some of the difficulties that I encountered while incarcerated. I found that my appearance and sexuality played a major role in some of the violations that I endured, and I sincerely hope that by sharing my story with you, it will in some way help other gay prisoners. Once again, thank you for allowing me to talk with you about my experiences in the California Department of Corrections and Rehabilitation.