

**Testimony Review Panel on Prison Rape California State Prison,
Sacramento, Prison Road, Represa, California
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Human Services**

Honorable Members of the Review Panel on Prison Rape, Honored Guests and Witnesses, Ladies and Gentlemen. I am honored to testify before this distinguished panel and I wish to extend my sincerest thanks for the opportunity to do so. The Review Panel on Prison Rape is a vital ingredient in assuring full implementation of the *Prison Rape Elimination Act of 2003* and in promoting full compliance among correctional agencies in meeting the act's ambitious goals.

Prison sexual assault has been called "the most serious and devastating of non-lethal offenses which occur in corrections" (Cotton & Groth, 1982: 47), because its impact is so profound upon its victims, and ultimately society. American correctional agencies are poised to more effectively manage this grave problem with the Review Panel on Prison Rape's contribution.

My name is Robert W. Dumond, and I am a board certified and licensed clinical mental health counselor, and diplomate of clinical forensic counseling who has provided services to crime victims and offenders, (juvenile & adult) in a number of settings, since 1970, most notably within the Office of the Essex County District Attorney and the Massachusetts Department of Correction. Having extensively researched, written and lectured about prison sexual assault, and treated hundreds of victims and survivors in community and correctional settings, and, I feel that I can offer substantive information for the Review Panel to consider in its future deliberations. I have also had the privilege of providing services to the National Institute of Corrections and the Moss Group, Inc. in providing correctional training to correctional agencies nationwide, and consultation to a number of federal agencies addressing this problem (National Prison Rape Elimination Commission, US Department of Justice, & Bureau of Justice Statistics). These experiences have afforded me insights into the national response since passage of P.L. 108-79. It is my hope that my discussion will be beneficial to the Review Panel in its important work. I wish to note, however, that the testimony I am providing is mine alone, and does not necessarily represent the opinions of any agency or organization with which I am currently (or have been in the past) associated.

What has the research in the last 40 years identified re. prisoner sexual violence?

Despite the small number of empirically based studies on prisoner sexual violence, the literature has contributed a great deal of knowledge about the problems of prisoner sexual violence, which is extremely important to consider, which I would like to acknowledge for the Panel's consideration in crafting responsive solutions.

There are predictable factors which contributing to incidence of prisoner sexual violence:

- Inadequate facilities
- Lack of supervision
- Gangs of aggressors
- Prison overcrowding
- Inadequate/non-existent classification
- Withdrawal of surveillance
- Institutional architectural features

These factors are well documented in the literature and should be used to initiate appropriate remedies (Bartollas & Sieveides, 1983; Bowker, 1980; Carroll, 1977; Chonco, 1989; Cotton & Groth, 1982, 1984; Davis, 1968; Dumond, 2006, 2003, 2000, 1992; Fuller & Orsage, 1977; Jones, 1975; Lockwood, 1980; Nacci & Kane, 1983, 1984a, b; Saum, Surratt, Inciardi & Bennett, 1995; Struckman-Johnson, Struckman-Johnson, Rucker, Bumby & Donaldson, 1996; Struckman-Johnson & Struckman-Johnson, 2000; Tewksbury, 1989; Wooden & Parker, 1982)

Certain places/types of correctional institutions may even encourage sexual victimization.

Dormitories, cottages and barracks housing have been identified as areas where sexual assaults often occur, as well as other indefensible/little supervised areas such as showers, hallways, closets, etc. (Bowker, 1980; Cotton & Groth, 1982, 1984; Davis, 1968; Lockwood, 1980; Nacci & Kane, 1983, 1984a, b; Saum et al., 1995; Struckman-Johnson et al., 1996; Struckman-Johnson & Struckman-Johnson, 2000; Wooden & Parker, 1982). The recent BJS Survey of Sexual Violence reported by correctional authorities in 2005 (Beck & Harrison, 2006) identified that most incidents occurred in the victim's cell/room, followed by common area, dormitory and program service area.

Staff attitudes and behavior influence prisoner sexual assault in institutions.

Correctional staff may contribute to prisoner sexual assault in one of three ways (Bowker, 1980):

1. They may carry out sexual aggression themselves;
2. They may know about or permit sexual aggression in their presence
3. They may deliberately fail to carry out their custodial responsibilities or "passive participation" (p. 108) which is the most common.

As the most common explanation for the behavior, Bowker (1980) argued the last was the most important because it could be addressed by sound correctional management and training.

While most correctional officers in general report they would respond to incidents of inmate rape, their response is very much influenced by their feelings about the victim.

Several studies conducted by Helen Eigenberg, Ph.D. (Eigenberg, 1989, 2000), a former BOP staff, have shown that:

- Many officers are less likely to respond to incidents in which the victim was homosexual or when the incident appeared consensual
- Some officers actually engage in “victim blaming”
- Staff attitudes affect the number of inmates who report their victimization and the effectiveness of the treatment victims receive

In one study (Eigenberg, 1989), she found that 46% of the staff believed that some inmates deserved to be raped! A later study (Eigenberg, 2000) repeated this finding, although to a lesser degree (23%).

The dynamics of sexual victimization in jails and prisons mirrors victimization in the community: The same operating principles which affect crime in the community operate in jails and prisons – predators look for *means, opportunity and vulnerability*, selecting targets, who are least able to defend themselves, who may be less believed or believable, and who are unliked, often despised and easily ostracized (Donaldson, 1993; Dumond, 2006; Dumond & Dumond, 2002a; Human Rights Watch, 2001). To control their victims, aggressors employ several methods, including *entrapment* (blackmail, exorbitant debts), *pressure tactics* (bribes, threats to withdraw love, use of alcohol/drugs) and/or *force tactics* (threats of harm, being scared by perpetrator size/strength, being physically held down, and having a weapon present, physical assaults), accompanied by psychological manipulation. (Chonco, 1989; Dumond, 2006; 1992; Dumond & Dumond, 2002a; Groth, Burgess & Holmstrom, 1977; Human Rights Watch, 2001; Kunselman et al., 2002; Struckman-Johnson & Struckman-Johnson, 2002, 2000; Struckman-Johnson et al., 1996).

Certain prisoners are more vulnerable within incarcerated settings.

While anyone can be the victim of prisoner sexual assault, research has demonstrated that certain prisoners (both male & female) appear to be at increased risk:

- the young and inexperienced
- first time offenders
- those with mental illness or developmental disabilities

Additionally, certain male prisoners also appear to be particularly vulnerable:

- physically small and weak
- those with mental illness or developmental disabilities
- those who are “not tough” or “street wise”
- those who are not gang affiliated
- those who are homosexual, transgendered or who appear overly effeminate
- those who have violated the “code of silence” [“rats” or “snitches”]

- those who are disliked by staff or other inmates
- those convicted of sexual crimes themselves
- those who have been previously sexually assaulted

(Coolman, Glover, & Gotsch, 2005; Cotton & Groth, 1982, 1984; Davis, 1968; Donaldson, 1993; Dumond, 2006, 2003, 2000, 1992; Dumond & Dumond, 2002a, 2002b; Hensley & Koscheski, 2005; Human Rights Watch, 2001; Kunselman et al., 2002; Lockwood, 1980; Scacco, 1982; Smith & Batiuk, 1989; Stop Prisoner Rape/ACLU National Prison Project, 2005; Tewksbury & Potter, 2005; Weiss & Friar, 1975; Wooden & Parker, 1982). Donaldson (1995: 39) notes that “the more of these factors apply, the more likely the victimization. If most of these factors apply, rape becomes a probability.” 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).

Once an inmate has been shown to be vulnerable or weak, he is likely to be targeted repeatedly (Chonco, 1989; Davis, 1968; Dumond, 2006; Lockwood, 1980; Smith & Batiuk, 1989; Wooden & Parker, 1982). To counteract this continuing cycle of victimization, an inmate victim/target may respond in a number of ways:

- they may seek protective custody and experience a more restrictive lifestyle
- they may seek protection through “protective pairing” {“hooking up”}, trading their body with one inmate to avoid continuing victimization
- they may act out violently themselves, becoming a sexual aggressor toward other inmates (Chonco, 1989; Davis, 1968; Donaldson, 1993; Dumond, 2006, 2000, 1992; Human Rights Watch, 2001; Kupers, 1999; Lockwood, 1980; Nacci & Kane, 1983, 1984a; Wooden & Parker, 1982).

The impact of prison sexual assault is devastating and catastrophic to its victims.

The effects of sexual violence are well known and extremely deleterious. Victims of sexual violence undergo a destructive, catastrophic, life-changing event (Ruch, Chandler, and Harter, 1980) and are likely to experience “physical, emotional, cognitive, psychological, social and sexual” problems (Cotton and Groth, 1982: 51) as a result. Even one event may precipitate a lifetime of pain and suffering (Allison & Wrigthsman, 1993). Sexual assault victims (male & female) report a wide range of mental health problems including

- anxiety
- depression
- posttraumatic stress disorders
- suicidal feelings/attempts
- exacerbation or increase of previous psychiatric disorders

(Burgess, 1985; Burgess & Holmstrom, 1975, 1974a, 1974b, Cotton & Groth, 1982, 1984; Dumond, 2006, 2001, 2000, 1992; Dumond & Dumond, 2002a; Fagan et al., 1996; Groth et al., 1977; Kupers, 1999; Lockwood, 1980; Scacco, 1975, 1982; Struckman-Johnson & Struckman-Johnson, 2002, 2000; Struckman-Johnson et al., 1996).

Sexual victimization in incarcerated settings may be more debilitating.

In jails and prisons, however, the effects of such victimization may be even more debilitating, due to the unique structure of incarceration that increases the impact upon victims. Ironically, in situations of captivity, sexual violence creates circumstances which exponentially impact upon the victim and which complicate and exacerbate their recovery (Dumond, 2006, 2000, 1992; Dumond & Dumond, 2002a; Herman, 1992; Human Rights Watch, 2001; Kupers, 1999; Toch, 1992a; Turner, 1992). Research has demonstrated that incarcerated victims are more often physically assaulted during attacks and they may experience repetitive assaults by multiple assailants over a period of time (Human Rights Watch, 2001; Struckman-Johnson & Struckman-Johnson, 2000, 2002; Struckman-Johnson et al., 1996). As a result, victims may experience on-going psychological trauma, terror, helplessness, and fear as the physical/sexual abuse continues. Herman (1992), in fact, has been postulated that in situations of prolonged and repeated trauma, the resultant syndrome is a more debilitating complex PTSD. In addition, the very fact of having been victimized has enormous social consequences: victims routinely experience a loss of social status, and are at risk of increased vulnerability within the jail or prison (Donaldson, 1993; Dumond, 2006, 2003, 2000, 1992; Dumond & Dumond, 2002a; Herman, 1992; Human Rights Watch, 2001; Kupers, 1999; Lockwood, 1978, 1980; Scacco, 19982, 1975; Toch, 1992).

In cases of staff sexual misconduct, victims additionally feel the ultimate betrayal and alienation by experiencing violation by those with the duty and responsibility of insuring for the safety and security, thereby increasing their pain and suffering (Amnesty International, 1999; Baro, 1997; Burton et al., 1999; Coomarasswamy, 1999; Dumond, 2006, 2000; Human Rights Watch, 1996; LIS, Inc., 1996; Smith, 2003, 1998). Most prison sexual assault victims also do not report their victimization to correctional authorities, for many reasons [fear of retaliation, concern about being believed, thinking that reporting would cause more problems and make their prison experience more difficult], and, as a result, may not receive much needed therapeutic prophylaxis and treatment [medical & mental health] (Donaldson, 1993; Dumond, 2006; Dumond & Dumond, 2002a; Mariner, 2001; Moss, Hosford, & Anderson, 1979; Struckman-Johnson & Struckman-Johnson, 2002, 2000; Struckman-Johnson et al., 1996; Wooden & Parker, 1982).

Whatever an Inmate Victim Does May Compromise Their Wellbeing & Safety:

Inmate victims of prisoner sexual violence face a double bind which adds to the burden of their victimization, and may increase their confusion and despair (Toch, 1992). Whatever they choose to do to respond may create a “no-win” situation and profoundly affect their future inside: (1) If they choose protective custody (P.C.), they risk further labeling, increased stigmatization, reduced programs and services, and the potential trauma of isolation itself [“SHU Syndrome”] (Grassian, 1983; Grassian & Friedman, 1986; Hodgins & Cote, 1991; Kupers, 1999); (2) If they fight back to defend themselves, they risk being labeled a “troublemaker”, facing institutional discipline and denial of parole; (3) If they choose “protective pairing” or “hooking-up”, they avoid further victimization by being coerced into sex with a “protector” or long-term sexual slavery; (4) If they remain in population, they may be further confronted by their perpetrator or

others aware of the victimization. (Donaldson, 1993; Dumond, 2006, 2003, 2000, 1992; Dumond & Dumond, 2002a; Human Rights Watch, 2001; Kupers, 1999; Toch, 1992; Wooden & Parker, 1982). It is essential, then, that staff set the occasion for prisoners to report and to be provided with the necessary services.

Having provided an overview of the major findings of the literature, it is now appropriate to respond to the specific questions posed.

1. What factors and environments are and are not conducive to deterrence of sexual assault in prison?

In institutions and agencies where senior managers take security and prisoner sexual violence seriously, where there are clear rules and established guidelines regarding the conduct of prisoners and staff, and where staff enforce security in a firm but fair manner experience decreases in sexual assault and increases in institutional safety.

Overwhelmingly, the empirical data has identified that in institutions where there is apathy and neglect by correctional staff and administrators, where sexual behavior is ignored or encouraged by staff, and where there is lax security, sexual violence abounds (Alarid, 2000; Bowker, 1980; Cotton & Groth, 1984, 1982; Dumond, 2006, 2003, 2002a, b; 2000; 1992; Lockwood, 1980; Nacci & Kane, 1984 a, b, 1983; Struckman-Johnson & Struckman-Johnson, 2002, 2000; Wooden & Parker, 1982).

In the nearly 40 years of research, there has been almost universal consensus on a number of key strategies which are vital in reducing prisoner sexual violence:

- Increased surveillance and supervision through the use of human & technological resources
- Increasing the number of staff to provide such surveillance and supervision
- Improved inmate improved screening, classification, placement and segregation of vulnerable prisoners and inmate sexual predators in the appropriate security level
- Comprehensive, on-going staff training addressing victimization, coercion, attitudes & response
- The use of scientific management principles to collect data efficiently and make rational correctional decisions

(Alarid, 2000; Bowker, 1980; Cotton & Groth, 1982, 1984; Dumond, 1992, 2002b; Lockwood, 1980; Nacci & Kane, 1983, 1984 a, b; Struckman-Johnson & Struckman-Johnson, 2000, 2002; Wooden & Parker, 1982). Good security can only be maintained where there are adequate staffing levels with properly trained staff, where the administration utilizes scientific management techniques to screen, identify and track vulnerable prisoners, potential perpetrators and locations where staff need to be deployed to improve management. Upon examination of four Mid-Western prison systems, Struckman-Johnson & Struckman-Johnson (2000) found that the use of barracks housing, racial conflict, lax security, and large inmate populations (> 1000) appeared to increase rates of sexual coercion: administrators could minimize sexual coercion by employing “a sufficient number of motivated security staff and tight security measures” (Struckman-Johnson & Struckman-Johnson, 2000: 389).

It has been argued that “prison rapes cannot occur without the connivance or at least deliberate inattention of prison authorities” (Sagarin & MacNamara, 1975: 21). Correctional authorities (especially administrators) are critical players in the daily lives of prison inmates because they are able to significantly influence the structure, culture, and activities of their institutions (Hensley, Dumond, Tewksbury, & Dumond, 2002). Staff must consistently promote pro-social attitudes and behaviors in which human dignity and respect are fostered between staff and prisoners and among prisoners themselves.

We have learned a great deal from the work of the National Institute of Corrections on staff sexual misconduct over the last ten years. Creating safe prisons requires this we address the what McCamble and Layman (2000) have described as the “sexualized workplace” – the verbal and non-verbal communications, dress, demeanor, and relationships among staff which establishes the work environment and culture. Created by staff on staff interplay which then migrates to prisoners, a sexualized work environment is created when there is open discussion within the hearing of prisoners about staff member’s personal lives, when there is a tolerance for name, when the use of nicknames and disrespect between staff are tolerated, and when there are inappropriate jokes, or pranks with sexual innuendos (McCambell & Layman, 2000). Unfortunately, prisoners are quick to learn the facility’s culture and tolerance for racist, sexist, or other inappropriate language by listening to and observing staff.

The sexualized work environment sets up an atmosphere of potentially permissive behavior or prisoners, and erodes the professional boundaries which should exist between staff and prisoners, allowing over-familiarity or undue familiarity between staff and prisoners, where no subject is off-limits or considered professionally inappropriate. In such environments, the conditions for staff sexual harassment and misconduct abound. More insidiously, prisoners may adopt staff’s contempt for certain prisoners (e.g. the mentally ill, gay, lesbian, bisexual & transgendered) and these already vulnerable individuals may be subjected to increased contempt and abuse, both physical and sexual. The Commission on Safety and Abuse in America's Prisons (2006) recent analysis underscored many of these issues in its recent report, *Confronting Confinement*, and promoting a change in the culture of incarceration and enhancing the profession featured prominently in their catalog of important recommendations.

2. What system protocols and polices require examination?

Addressing prisoner sexual violence requires policies and procedures which encompass the full range of issues likely to be encountered. The model response of prevention, intervention and prosecution to prisoner sexual violence (Cotton & Groth, 1982, 1984; Dumond, 1992) has been expanded and updated to reflect data collection, and is included in **Table I** (Dumond, 2005). This model adopts the “systemic approach” (Moss & Wall, 2005) developed by the National Institute of Corrections in response to staff sexual misconduct, because no effective response can be Initiated without including a number of inter-related components, including security, investigations, medical & mental health, human resources to policies and procedures.

Policies and procedures developed in response to prisoner sexual violence should, at the minimum, incorporate four dimensions (prevention, data collection & analysis, interdiction & prosecution, and intervention) and specifically examine a variety of issues

succinctly examined in the recent Urban Institute report (Zweig, Naser, Blackmore, & Schaffer, 2006):

- Preventing sexual violence
- Staff training related to sexual violence
- Detecting incidents of sexual violence
- Documenting incidents of sexual violence
- Investigating reports of sexual violence
- Procedures related to victim reporting
- Protecting victims from on-going violence
- Protecting victims from retaliatory violence
- Programs to serve victims of sexual violence
- Apprehending perpetrators
- Sanctioning perpetrators

Jurisdictions may have separated their policies to specifically address inmate-on-inmate sexual violence and staff sexual misconduct & harassment separately, or created a unified policy. In addition to the specific policies themselves, there should be related sections/references in other agency policies, including investigations; classification; housing; inmate discipline; booking; transportation; medical services; mental health services; program services; staff training (pre-service & in-service); inmate orientation; inmate property; record keeping; confidentiality; re-entry, to name but a few.

Jurisdictions and agencies whom you examine should be able to articulate not only their specific policies to address prisoner sexual violence but also identify the changes and augmentations to other related policies that were required to improve their response.

Specific protocols, procedures and post-orders should be tied to each policy created, in which “which identifies what services which staff will provide and under what circumstances” (Cotton & Groth, 1982: 54). It should also be recognized, however, that the presence of policies and procedures alone are insufficient. The true test of their utility and effectiveness is in their implementation and follow-through, which are facilitated through comprehensive staff training & education, inmate orientation and strong administrative oversight and enforcement (Cotton & Groth, 1982, 1984; Dumond, 2003; 2000; 1992; Dumond & Dumond, 2002a, b). In your deliberations, the Review Panel may seek to analyze not only the policies and procedures themselves, but evaluate the familiarity of staff and consistency of implementation and oversight.

3. What staff positions in such a system would be key witnesses?

Organizations are complex entities in which there may be competing interests and agendas among different strata of the organizations (executive managers, middle-managers, line supervisors, staff), different disciplines (security/custody staff; classification staff; medical & mental health staff; program & education staff), and at different locations and types of facilities (maximum, medium, minimum and pre-release). Agency-wide initiatives and procedures may be well understood and adopted at executive levels of the organization, but may not have transcended through different strata of the organization. As such, the Panel may wish to include witnesses from a variety of levels and disciplines in order to ensure an accurate portrait of what is occurring. Because prisoner sexual violence cuts across widely diverse genres, it may be appropriate to seek

testimony from knowledgeable agency representatives from management, classification, security/investigations, human resources, programs/medical/mental health services and staff training. It could also be helpful to inquire of collateral witnesses from the community (external law enforcement/prosecutor; medical/mental health providers; victim's families). While this may seem cumbersome, involving multiple witnesses would provide the opportunity to understand and explore the disparities in understanding and implementation which are inevitable in large, complex organizations.

Most importantly, there must be a vehicle to ensure safety and protection to all witnesses who provide testimony – witnesses must know that they can confide accurate, relevant assessments of what the agency is doing without fear of retribution, job loss, or other negative consequence as a result. An effective vehicle to insure that all witnesses are provided adequate protection must be developed and operationalized if the Review Panel is to receive accurate, credible testimony.

4. How to scrutinize the training of correctional officers and medical staff on prison rape?

Staff training is the linch-pin to initiating and institutionalizing comprehensive change in attitudes and behaviors in correctional institutions. On the whole, most correctional staff are professionals committed to safety, security, and justice, and, given appropriate training and skill development, they will respond and incorporate the training received.

The National Institute of Corrections (NIC) has a long and distinguished history of providing high quality, substantive training to correctional professionals, using a wide variety of formats, diverse methods of delivery, by an inter-disciplinary staff of experts. In the areas of staff sexual misconduct and prisoner sexual violence, in particular, they have distinguished themselves in providing outstanding training to the field, and providing comprehensive, substantive resources for correctional agencies to draw upon (training videos, written resources, technical assistance).

I am honored to have been and continue to be part of a number of these training experiences with NIC and the Moss Group, Inc., with whom they have a collaborative agreement. The leadership of Executive Director Thigpen, and the considerable skill, vision and commitment of Andie Moss and the cadre of consultants whom she has assembled are surely making a dramatic impact in improving the professions' response to prisoner sexual violence. All correctional agencies can avail themselves of these resources and services free-of-charge – one important inquiry, then, by the Review Panel, is the degree to which a particular agency has utilized these resources.

In assessing the training being provided, the Panel may wish to utilize the model developed by the Urban Institute - assessment of the training involves a review of the staff training modalities, the individuals providing training, and the specific topics and curricula being presented (Zweig et al, 2006). Each of these dimensions provides insight into the type, quality, and likely effectiveness of the training being provided. The Panel should evaluate when training is provided (pre-service, in-service, unit supervision/instruction), the materials utilized (written materials, curricula, videos and other assisted media, computer-based training), who is providing the training, internal agency staff (administrators, correctional staff, mental health staff) or staff external to the agency (prosecutors, staff from community-based programs, rape crisis centers), and the

topics covered in the training. A theme which has been articulated by a number of venues throughout the country in the training in which I have been involved is the credibility of the trainer – whoever is providing the training must be skilled, knowledgeable, competent and above reproach – trainers should not have been themselves involved in staff sexual misconduct incidents or unprofessional behavior. Because of the sexuality is complex and may be uncomfortable, trainers should be skilled at discussing issues and promoting understanding.

There are impediments and barriers to training [difficulty in changing institutional culture, time required, high staff turnover, lack of quality resources] (Zweig et al, 2006) which must be recognized and addressed by all correctional agencies. New staff should be provided with a comprehensive examination of prisoner sexual violence as part of pre-service training. Existing staff should be provided with a comprehensive training, reinforced in an on-going basis with specialized training for specific types of staff (investigators, classification, unit managers, medical & mental health). In examining this training, the Panel may wish to inquire about the topics covered in these training sessions, using the model developed by the Urban Institute identified **Table II**:

Table II. Topics Covered in Sexual Violence Training in Case Study States (Zweig et al, 2006: 62)

- Defining prison sexual violence
- Specifics about the Prison Rape Elimination Act
- Specifics around state legislation and criminal statutes
- Specifics around punishments, prosecution, and liability of staff perpetrators
- Information about the effects of prison sexual violence in the prison community
- Education about what behaviors are unacceptable around prison sexual violence
- Addressing situations where inmates report being vulnerable to prisoner sexual violence
- Detecting victims
- Detecting staff perpetrators
- Detecting inmate perpetrators
- Dynamics of staff-on-inmate prisoner sexual violence
- Dynamics of inmate-on-inmate prisoner sexual violence
- Investigating incidents
- Addressing victims' safety needs
- Addressing victims' medical needs
- Addressing forensic evidence collection
- How to document reported incidents
- Implementing disciplinary action

5. What are likely barriers to reporting, accurately investigating, and deterring prison rape?

The challenge faced by the Review Panel in evaluating data about the incidence of sexual violence in American correctional institutions is daunting. Of primary importance is the recognition that, of all categories of crime, rape and sexual violence are the most underreported crime in the United States, which makes an accurate assessment of its

occurrence difficult, especially in correctional settings. There are three major methods of reporting crime: administrative records of crimes reported to law enforcement agencies (e.g., Uniform Crime Reports), victimization surveys (e.g., National Crime Victimization Surveys), and self report studies (Bartol & Bartol, 2004; Dumond, 2006). In the community, the rate of reporting of rape and sexual assault to police varies considerably – recent studies suggest a wide diversity. In the 2000 National College Women Sexual Victimization Survey, fewer than 5% of the completed or attempted rapes were reported to police (Fisher et al, 2000) while 38% of the victims of rape sexual assault reported their victimization to police in the most recent National Crime Victimization Survey (Catalano, 2006). Victims may be unwilling to report out of fear, guilt, shame, feeling that they will not be believed or treated sensitively.

Underreporting of sexual violence is a major issue in correctional settings as well, for many of the same reasons outlined above, but also for reasons which relate to specific dynamics of the environment. Many authorities have argued that if a prisoner reports being sexually victimized, he/she may be placed in a “no-win” situation (Cotton & Groth, 1982, Dumond, 2006; Kunselman, Tewksbury, Dumond, & Dumond, 2002): staff may respond poorly or blame the victim (Eigenberg, 1989, 2000); a victim may have to be placed in protective custody, segregation, or transferred (Chonco, 1989); or a victim may be labeled as a “homo” or “punk” (Smith & Batiuk, 1989) or “snitch” (Dumond, 1992; Eigenberg, 1994). Admitting sexual victimization is admitting weakness to a sexual predator (Toch, 1977), which promotes further victimization in the alien world where power and aggression are glorified, and where social status and sexual behavior are often joined (Chonco, 1989; Cotton & Groth, 1982; Dumond, 2006, 1992; Kunselman, Tewksbury, Dumond, 1992; Smith & Batiuk, 1989, West, 1977). While an insidious and pervasive “inmate code” exercises a strong influence on prisoners to discourage and deter reporting, a similar “code of silence” also exists among staff, discouraging reporting to confront and address staff sexual misconduct (Human Rights Watch, Smith, 2006, 1998).

I share these reflections to acknowledge that the task of remedying these issues is complex. We can and will improve reporting of victimization when prisoners believe that their reports will be taken seriously, that they will be provided with adequate protection and safety, and when substantive interventions are available, including appropriate discipline and prosecution when appropriate. When staff, too, understand that prisoner sexual violence often is associated with introducing contraband into the institution, and destabilizing safety and security for all of those who live and work in such settings. There is a direct relationship of prisoner sexual violence and community safety – when a prisoner is victimized while incarcerated, that individual may respond by numbing themselves with alcohol and substance abuse and/or they may act out violently toward others. Silence and complacency make the environment unsafe for all who inhabit our jails and prisons, violates the constitutional rule of law, and continues the cycle of victimization into the community.

6. How to assess the role of the correctional officers’ union in deterrence of prison rape?

Working in a correctional environment is dangerous and all staff should be accorded a just wage, appropriate benefits and protections, especially against unfair action and when a worker is injured. Correctional officer unions are an important part of ensuring those

rights. It is imperative, however, that they also be part of the solution of making correctional environments safer. Unions must certainly diligently represent their members against unfair and undue administrative action, but they also must recognize that management must be able to identify, and appropriately discipline employees who violate institutional rules and safety, especially when staff engage in staff sexual misconduct. There are some jurisdictions where administrators are stymied in their ability to appropriately intervene and discipline employees because the administrative remedies are limited by contractual requirements. Accordingly, the tenor of labor-management relations is an important indicator of the dynamics of the correctional culture.

In addressing the requirements of the Prison Rape Elimination Act, some agencies have facilitated open dialogue with their respective unions, in an attempt to encourage positive, constructive involvement. Such inquiries should be made, in order to assess the tone of the current labor-management relations which exist, and assess the strategies employed to remedy serious deficiencies.

Concluding Comments:

American corrections is currently faced with problems which are unprecedented in its historical development: jails and prisons throughout the country are struggling with the realities of overcrowding, underfunding, understaffing, and inadequate resources (educational, vocational, medical, and mental health) to meet the needs of a population which continues to grow unabated (Dumond & Dumond, 2005). Prisoners on the whole are serving longer periods of time, getting older, and experiencing substantial medical and mental health disorders (Anno, 2000; Champion, 2001; NIJ/NCCHC, 2002; Tonry & Petersilia, 2000). In the twenty-first century, jails and prisons have become the ‘de facto’ psychiatric facilities of the United States: America’s jails and prisons currently house more mentally ill than the nation’s psychiatric hospitals collectively (Chelala, 1999; Harrington, 1999; Human Rights Watch Torrey, 1997)

I am convinced that the vast majority of correctional professionals are law-abiding and dedicated to preserving safety and security of their institutions and communities. Given the proper tools, training and resources, corrections can, and will respond affirmatively to alleviating prisoner sexual violence. However, we must realize that corrections is a subset of the body politic itself – it is subject to budgets, political climate and understanding of the public. Adequate financial and programmatic resources must be mobilized to ensure appropriate staffing levels and services to keep jails and prisons safe, and to ultimately keep communities safe. Ultimately, the general public will have to be properly engaged in this dialogue, so that safe, constitutional correctional settings can be facilitated. Corrections can, and must, together with its community partners, respond with the vision and leadership to the problem of prisoner sexual violence. I look forward to joining this effort to creating safer and humane incarceration within American corrections.

I would like to thank the Panel for allowing me to share with you the facts regarding a problem which must be remedied. We have the technology and means to address this issue, and now, with your help, we will implement substantive remedies. My heartfelt thanks for your time and cooperation in this matter.

I swear that the above is true to the best of my knowledge, skill, and ability, submitted this fifteenth day of November, 2006, under the pains and penalty of perjury.

Respectfully submitted,

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Brief Biography

Robert W. Dumond is a board certified (NBCC) and licensed (MA & NH) clinical mental health counselor, certified rape investigator, and a diplomate of clinical forensic counseling (ACCF) who has provided services to adult and juvenile crime in a number of criminal justice venues since 1970, most the Essex County (MA) District Attorney's Office and the Massachusetts Department of Correction, where he served as Psychologist III, mental health director, and most recently as Director of the Research and Planning Division. He has held a faculty appointment with Franklin Pierce College, Division of Continuing Education and Professional and Graduate Studies and has researched, written and presented extensively on the issue of prison sexual assault, developing the first curriculum for Rape Awareness Training for the Massachusetts Department of Correction. He has also provided expert testimony in a number of jurisdictions of the U.S. District Court and in several state courts. He contributed language to the Prison Rape Elimination Act of 2003, and testified on its behalf before the United States Senate, Committee on the Judiciary in 2002. He is a Governor's Appointee to the New Hampshire Department of Corrections Citizen's Advisory Board (Executive Committee & Chair, NHSP-M), a member of the Board of Advisors for Stop Prisoner Rape, and as a member of the NH Disaster Behavioral Health Response Team. He has been a consultant on prisoner rape to several federal agencies, including the U.S. Department of Justice, Bureau of Justice Statistics, and continues to serve as a consultant to the National Institute of Corrections, the Moss Group, Inc., the National Prison Rape Elimination Commission, and the Moss Group, Inc. and a number of state agencies.

Figure 1. Cycles of victimization in the sexual assault of inmates.

