

1 The standards are there. We all know that all
2 people have a right to be free from sexual violence,
3 including those who are incarcerated and completely
4 under state control. Changing correction officials'
5 attitude and public attitude is crucial and
6 rewarding systems that show progress and punishing
7 those that do not truly will help. We stand ready
8 to provide whatever expertise we can to the Review
9 Panel that might be useful. And I really want to
10 thank the three of you for the time that you have
11 taken to be here and to everyone attending today's
12 hearing. There are a lot of important stakeholders
13 in the room and I welcome any questions or comments
14 on my testimony.

15 Thank you very much.

16 MR. MCFARLAND: Thank you very much.

17 Questions?

18 MR. SEXTON: I do. I have a question for
19 you MR. CLINTON. As I was listening to your

20 testimony, I went through Title 15, which I
21 understand every inmate gets that comes into the
22 California system; is that correct?

23 MR. CLINTON: It is called Our Bible.

24 MR. SEXTON: As I went through, I looked
25 at the appeal, at the grievance. I looked at

1 inspection of legal mail, which you were saying you
2 didn't want them to do, but which they have every
3 right to do. I am reading about legal forms. I am
4 reading about confidential materials, and I am
5 reading about appeals of disciplinary actions. This
6 is just in the few minutes that I had to go through
7 it.

8 My question is: Understanding that you're a
9 victim of a crime, was your crime investigated and
10 moved forward in a criminal action?

11 MR. CLINTON: Just to clarify. You say
12 they have every right to go through confidential
13 mail. Before we go forward, they have a right to
14 look at it and review in your presence, but they are
15 not allowed to open it or review it out of your
16 presence. They are able to go like this. They say
17 this is legal mail, here you go. When they open it
18 out of your presence, there is a tendency to read
19 it. There is a big difference understanding. Maybe

20 that wasn't clarified in here. You guys need to

21 understand that. It was being opened --

22 MR. SEXTON: I only had 30 minutes.

23 MR. CLINTON: I want to make sure we are

24 on same page, that that is what happened. When you

25 review it, like if I take a document, a legal

1 document --

2 MR. SEXTON: Just out of curiosity. It
3 says to determine the possible presence of
4 contraband all incoming confidential mail will be
5 inspected prior to delivering to an inmate.

6 MR. CLINTON: It has to be opened in the
7 presence of an inmate. What page are you on?

8 MR. SEXTON: I am on Page 64. My question
9 is this: Did you have the opportunity to pursue a
10 criminal case? Had you -- if a criminal case was
11 not pursued, then it is difficult to get some of the
12 sides of the story, and I have been a cop for 30
13 years, so we deal unfortunately with rapes. But
14 where we are talking about a situation of
15 confidentiality, in my state you are going to get to
16 a point no matter what you do that this is going to
17 be become a public -- it's going to -- it will come
18 up in a public hearing, a trial. Or my other
19 question that goes to this as I go through this, and

20 I think you answered it, why didn't you take any
21 legal action? Was a call to a third party that was
22 outside, contact to a parent, any contact to a
23 friend by phone? Was there any kind of
24 communication saying that I got a problem in here, I
25 need to speak to an attorney, I need to speak to the

1 warden, I need to speak to somebody about my
2 problem, those types of things? I have not heard.
3 I am curious why they weren't pursued.

4 MR. CLINTON: Are you talking about the
5 criminal action against the aggressor?

6 MR. SEXTON: Yes, sir.

7 MR. CLINTON: They do that. I don't have
8 any control over that.

9 MR. SEXTON: You don't have the
10 opportunity to sign a warrant?

11 MR. CLINTON: I didn't know that. We are
12 put in segregation. You have nothing. I mean
13 nothing. I had half a blanket and a mat about that
14 thick.

15 MR. SEXTON: I thought you said that you
16 came back out in general population, tried to get
17 your room moved to the back of the building closer
18 to --

19 MR. CLINTON: That was when -- I got out

20 on December 3rd. I went back on December 6. That

21 is a weekend. There is no way to do anything.

22 MR. SEXTON: What kind of phone access do

23 you have?

24 MR. CLINTON: We didn't have any phone

25 access. You have to sign up for phones usually a

1 week prior. They are in cages in the general
2 population. They are not in the gym.

3 MR. SEXTON: You had no phone contact, you
4 had no way to get a message --

5 MR. CLINTON: No, not until later on.
6 Once I got my 115 for the 30 extra days, I had an
7 interview on the hearing with a lieutenant, the
8 lieutenant that heard it, and he found my property
9 within ten minutes. Then I had stamps. Then I had
10 envelopes. I could start writing.

11 MR. SEXTON: How about --

12 MR. MCFARLAND: 115 is a disciplinary?

13 MR. CLINTON: Disciplinary infraction.

14 MR. SEXTON: How about the possibility of
15 filing out the federal forms, that could be filed
16 against the state for what had taken place to you at
17 that time? Was that ever pursued or thought of?

18 MR. CLINTON: Everything I learned on
19 legal stuff I learned actually beginning about in

20 segregation. We don't have access to the law

21 library.

22 MR. SEXTON: The Bible.

23 MR. CLINTON: I wasn't given one of these.

24 When you are put in segregation, you are supposed to

25 get one of these. It actually says that, 3002, when

1 you are in segregation. I wasn't given this. I
2 wasn't given a 602 form.

3 MR. MCFARLAND: What is 602?

4 MR. CLINTON: An appeal form, a grievance
5 form. I wasn't given anything. Later on, once I
6 was able to acquire it, I was able to start
7 acquiring it from a psych tech that was under
8 investigation for being, quote, too friendly with
9 inmates. Given information that he was able to get
10 me a form. He had to go to another facility. They
11 don't want you to have a form. If you don't have a
12 form you can't bring it into the courts. You have
13 to exhaust the administrative remedies.

14 I contacted Lassen County Superior Court, and
15 they said they couldn't do anything until you've
16 exhausted your administrative remedies. I wrote a
17 handwritten letter once I was able to get stamps and
18 everything else. All that was in my property.
19 Until I get my property, I have nothing. I have no

20 legal books, no Title 15, nothing.

21 MR. MCFARLAND: Was your assailant ever
22 prosecuted?

23 MR. CLINTON: No. They put him back in
24 the general population. They let him go in general
25 population. As far as I know, nothing happened.

1 MR. MCFARLAND: Do you know if it is
2 standard procedure in CDCR for them to provide the
3 incident report to both alleged predator and victim?

4 MR. CLINTON: No. What they did with
5 that, if I understand you correctly, the
6 confidential memorandum, they are not allowed to do
7 that in here. What it was --

8 MR. MCFARLAND: In here? For the record.

9 MR. CLINTON: In Title 15.

10 MR. MCFARLAND: Referring to the Bible?

11 MR. CLINTON: To the Bible. So basically
12 they are not allowed to release that document. That
13 document is under confidential disclosure form.
14 What someone had done, and I don't know how they did
15 it. No one will give me any answers. I know my
16 situation popped a big sting at that institution.
17 And someone, I guess, had went in and copied the
18 confidential or removed it and copied it, and then
19 gave me a copy, which I got to read kind of out of

20 sequence. I was -- I was, like, I don't think I was
21 supposed to have this. I am reading this is really
22 good. This is telling me about the other good. Oh,
23 my God.

24 And he goes, "He has a history of problems.

25 Blah, blah, blah."

1 I used to be a clerk, a disciplinary clerk

2 there. They entrusted me.

3 When I came back down there, "What is wrong?

4 Oh, my God. The sergeant didn't tell me anything.

5 I need to put you in protective custody now."

6 I said, "Okay. I don't know what to do.

7 Okay." Then they find out that confidential

8 memorandum wasn't even supposed to be released.

9 Someone went into the file, and basically in the

10 prison system because you tour it but you don't see

11 it, how it actually works. There is what they call

12 fag haters. They don't like us. And there is a

13 prison word which is vulgar. I really won't say it.

14 MR. MCFARLAND: Go ahead.

15 MR. CLINTON: Cocksuckers. That is what

16 we are called. We are treated just as filthy as we

17 are called.

18 MR. SEXTON: You reference a sergeant, an

19 investigator. Was any personnel action ever taken

20 against these individuals in your statement did not

21 follow policy or treated you incorrectly?

22 MR. CLINTON: When I was going down from

23 Trinity River, the two officers that had me in the

24 van, I have to say they were really nice. And one

25 was female. She was the only female at the camp.

1 Me and her really bonded, as far as I can talk to
2 her like a sister or a mom. If I had a problem, she
3 was really nice. She was almost crying when I was
4 crying, and you could tell it really bothered her.
5 The sergeants, I don't know what is going in that
6 end. I know whenever I approached asking questions
7 I am not allowed an answer because I am an inmate.
8 There is a thing called a citizen complaint or when
9 you do address a staff misconduct, which lets you
10 know most of the time they find the staff innocent
11 of the misconduct. But they don't tell you the
12 outcome of that. They'll tell a citizen, but they
13 won't tell you about the officer, if they found the
14 officer who did it. They won't tell you anything
15 because that is a liability for them. Bottom line,
16 it's a liability to tell me that, "Yeah, we found
17 out who the officer was that did this and his name
18 is Old Buck." Well, yeah, I'm going to name him as
19 a defendant. Anyone knows that. They are not going

20 to give you that information.

21 MR. SEXTON: Nothing happens?

22 MR. CLINTON: As far as I know.

23 MR. SEXTON: I don't know what the law is.

24 I am from Alabama. Would you give us permission, if

25 the law allows us to review your inmate file, to

1 review this?

2 MR. CLINTON: Yeah. I think you'll find
3 it real interesting because my confidential -- I
4 have reviewed more than a paparazzi does of a
5 celebrity. I have more signatures on my
6 confidentials than anyone else. I have other
7 people's folder to see. People have been in and out
8 of there, reading confidentials, writing
9 confidentials on me. Building a case against the
10 person, but I can tell you right now, anything that
11 I have said in here I can prove with documents. I
12 can prove. I can show you things. There can show
13 you little tricks that I haven't told them because
14 they'll use it against me.

15 MR. SEXTON: Can you provide it to this
16 panel?

17 MR. CLINTON: Yeah, to the panel, not
18 CDC.

19 MR. SEXTON: Panel.

20 MR. CLINTON: I will sit down with you and
21 go through it and say, "Look at this. Look at this
22 compared to this." I can prove the warden lied in
23 her appeal response on my time.

24 MR. SEXTON: You're filing a civil action?

25 MR. CLINTON: Yeah. I think it is

1 important that people like me have some sort of
2 dignity and some sort of rights, and they are not
3 given that in prison. This is a good example. You
4 have the yellow booklet, turn to 3004, the Section
5 3004.

6 MR. SEXTON: What page?

7 MR. CLINTON: On Page 15.

8 MR. SEXTON: Sorry.

9 MR. CLINTON: Page 15. I have the new
10 one. I just wanted to check to make sure before I
11 shot myself in the foot.

12 MR. SEXTON: I'm looking at 2004 which was
13 the year you were in.

14 MR. CLINTON: Page 15, 3004, Page 15.
15 Section 3004, rights and respects of others. Says
16 inmates and parolees and employees will not subject
17 other persons to any form of discrimination based on
18 race, religion, nationality, sex, political belief,
19 age, physical or mental handicap. Gay, lesbian,

20 bisexual, transgender is not even covered. That
21 means to the inmate that we have no rights, no
22 respect, no dignity. We have nothing coming.
23 Nothing. 'Cause we are not covered in there.

24 MR. MCFARLAND: You are covered in
25 3004(a), aren't you, as an inmate and parolee, you

1 have the right to be treated respectfully and --

2 MR. CLINTON: They don't see us an inmate.

3 We are seen as what I told you.

4 MR. SEXTON: I believe you were remanded

5 to custody of CDC by a judge; is that correct?

6 MR. CLINTON: Yes.

7 MR. SEXTON: You became an inmate at that

8 time.

9 MR. CLINTON: That is not the way inmates

10 see it.

11 MR. SEXTON: I am going by what the law

12 says.

13 MR. CLINTON: Inmates don't follow the

14 law. We wouldn't be in prison if we did.

15 MR. SEXTON: I understand what you are

16 saying.

17 MR. MCFARLAND: May I ask a question, Ms.

18 Hall-Martinez? You suggest on Page 3 of your

19 testimony that there is some -- you cite some

20 positive developments in the last year. Item D,
21 CDCR began collaborating with SPR to provide
22 community rape crisis center counselors with access
23 to corrections facilities to provide weekly
24 confidential counseling.

25 You were here when I was asking questions, we

1 were asking questions about apparent conflict
2 between expectations of CDCR employees, including
3 mental health counselors, immediate response versus
4 privileged relationship between that counselor
5 relationship. Is this the answer to that conflict?

6 MS. HALL-MARTINEZ: This is an answer at
7 least. We think that this has potential to be
8 reputable in other jurisdictions because there are
9 rape crisis center facilities with trained staff
10 throughout the county really. And as I am sure the
11 panelists know, that is just a resource that is out
12 there. And frankly, there are facility staff,
13 facility mental health staff, that don't necessarily
14 have any training in dealing with sexual assault
15 victims. They are dealing with other mental health
16 issues, and they may have some, but this is a way,
17 in fact, that inmates can be provided with
18 counseling and have access to an outside person who
19 is not subject to the requirements to report that a

20 crime has occurred.

21 MR. MCFARLAND: Would that be
22 prohibitively expensive or do the rape counselor
23 ordinarily charge for their services?

24 MS. HALL-MARTINEZ: It varies. In some
25 cases we have been able to team up with them and

1 they have been able to provide this at a very low
2 cost. Sort of providing reimbursing mileage costs
3 for the staff to get to the facility and that kind
4 of thing. In some instances rape crisis centers are
5 actually limited where their funding comes through
6 the VOCA law, the violence -- the victims of crime.
7 If they only get their funding from that source,
8 they tend not to be able to do what we are asking
9 for. If it is larger, oftentimes urban rape crisis
10 centers, they have more diversified funding. They
11 are able to do this by drawing on those other
12 sources. That is kind of a problematic situation,
13 we think, where the federal law having an unintended
14 consequence because the purpose of what is, in the
15 federal law, as I understand, maybe Ms. Ellis can
16 educate me on this, what I understand is that they
17 can't do that. They can't provide counseling to a
18 person who has committed a crime.

19 MS. ELLIS: Violence against women, the

20 funding for stopping violence against women.

21 MR. SEXTON: Are you talking about funds
22 for violence against women?

23 MS. HALL-MARTINEZ: There is also VOCA Act
24 as well. I don't believe that is just people that
25 have been involved in violent crimes against women.

1 Oh, I see what you mean.

2 MR. SEXTON: Violence.

3 MS. HALL-MARTINEZ: That provides that
4 they have to be -- they can't provide counseling to
5 anyone who has committed a crime. So we have been
6 able to sort of be creative on how we structure
7 this. And again, we are hopeful that this could be
8 reputable in other contexts.

9 MR. MCFARLAND: How do you think the union
10 would respond to canning their mental health
11 counselors in favor of using outside rape
12 counselors?

13 MS. HALL-MARTINEZ: Well, I would imagine
14 they would respond well. I think that the mental
15 health staff at the facilities are already very
16 stretched, and that this isn't a huge amount of time
17 or are resources that we are talking about. You can
18 see just from the sentence in my testimony it is a
19 weekly, one- to two-hour slot of time.

20 MR. MCFARLAND: How would that help MR.
21 CLINTON who gets raped, goes to the sergeant or the
22 officer, the officer says, "Don't tell me anything
23 more, wait until tomorrow morning." What if
24 tomorrow morning isn't the one or two hours that the
25 rape counselor is there?

1 MS. HALL-MARTINEZ: It doesn't help him.
2 It is really meant as a backstop for prisoners that
3 need mental health counseling, counseling to deal
4 with trauma, and in many cases they may have decided
5 that they don't want to report.

6 MR. MCFARLAND: It won't address
7 confidentiality issues unless we had full-time
8 outside counselors.

9 MS. HALL-MARTINEZ: That's correct.

10 MR. MCFARLAND: My problem is that it
11 would [inaudible] federal statutes and might not be
12 appreciated.

13 MS. HALL-MARTINEZ: That's exactly right.
14 What we have is sort of a small stopgap, to provide
15 a service that we think is needed because of many
16 inmates' concern that they really don't trust the
17 facility staff. Frankly, they aren't in a place
18 where they want to come forward. They are
19 definitely in need of some trauma counseling.

20 MR. SEXTON: We have decentralization
21 nationwide of mental health services.
22 Unfortunately, if we go to community-based, we are
23 seeing more get arrested and in county jails and
24 placed in the prison system which has escalated.
25 Basically has replaced the centralized mental health

1 system and is now the prison system again.

2 How are prison administrators supposed to
3 balance out the need? I will give you an example.
4 My jail is about 600 beds, but almost 300 beds -- I
5 am the largest mental health provider in my county.
6 How do I address your concern?

7 MS. HALL-MARTINEZ: I am not following.

8 MR. SEXTON: How do I address to try to
9 provide this outside counseling for rape or sexual
10 assault that may not have occurred during that time
11 and balance out against the overwhelming mental
12 health burden that I've accepted?

13 MS. HALL-MARTINEZ: It seems like there
14 could be, for example, inmates might have access to
15 an 800 number to reach the rape crisis center
16 counselor that way. That would be a low cost way to
17 provide at least a minimal amount of counseling when
18 the person is in some kind of position of need.
19 That is one suggestion.

20 MR. MCFARLAND: Has that ever been

21 suggested to CDC or considered?

22 MS. HALL-MARTINEZ: Actually, the other

23 program that I mentioned that we're working on with

24 SPR talks about placing placards in CDCR facilities

25 that will have both sort of contact information for

1 local rape crisis centers, publicizing their
2 existence and how to reach them and also SPR and how
3 to reach us.

4 And again, this isn't a panacea. It is not
5 sort of a perfect solution by any stretch. It is a
6 way to try to provide, perhaps, assistance to some
7 inmates and even to provide a mechanism for,
8 perhaps, a family member or friend to contact or a
9 rape crisis center, to get them help. If they have
10 the opportunity to use a phone, they may be able to
11 contact a rape crisis center. They could certainly
12 write to SPR. Many inmates write to local rape
13 crisis centers as well. We tried to provide -- we
14 actually have a resource guide state by state. We
15 list rape crisis centers that have indicated the
16 willingness to hear from prisoners.

17 MR. MCFARLAND: MR. CLINTON wanted to say
18 something. And I wonder if you would also address
19 the question how comfortable you would have felt in

20 your situation making that phone call, assume it

21 would be monitored writing that letter.

22 MR. CLINTON: I wouldn't be able to make a

23 phone call in segregation. That's not possible.

24 You don't have phone calls. You don't have

25 nothing.

1 MR. MCFARLAND: Before you went to seg you
2 tried to report the incident and the guy said just
3 to go sleep tonight, wait until tomorrow.

4 MR. CLINTON: I think we talked about
5 that. I think it was that -- we talked about that
6 idea. I said that the biggest problem is the phones
7 are monitored. And the way to work around that is
8 that if policy would be set to where they say you
9 are assigned a caseworker or a correctional
10 counselor, someone who makes sure your central file
11 is correct, he knows about you. If they have any
12 questions, they call him. They each have a little
13 office with a glass window. There is nothing
14 stopping them for letting us dial that number. It
15 has a desk. They can watch us, make sure we don't
16 touch anything. There are people in there that are
17 going to take a chance, take a pen or you are always
18 going to run across those criminal mentalities.

19 I am not saying I shouldn't have done my time,

20 but how I do my time is a question. How I am

21 treated.

22 MR. MCFARLAND: You are suggesting that an

23 800 number be available to that rape counselor, and

24 you make that call from the caseworker's office.

25 MR. CLINTON: Yeah. I go, "Counselor

1 McFarland, I need to make a phone call to the Office
2 of the Inspector General or to the number." He
3 can't ask you any questions.

4 MR. MCFARLAND: Are you comfortable with
5 that, have you just broadcast to the whole unit?

6 MR. CLINTON: They are going to call you
7 in there. Here is the problem with the whole
8 situation. When we are contained like that, they
9 all talk behind your back. It is called bantering.
10 They all release confidential information. I know
11 information about who was fired as assistant
12 medical.

13 MR. MCFARLAND: Because?

14 MR. CLINTON: Because they were child
15 molesters. They release that information. These
16 people who have access to confidential information
17 like correctional officers that have no time in the
18 system, that are not professional sergeants that
19 have 15, 20 years, that have a strong mind and a

20 strong will and respect in their way, they're
21 corrupt, have just the same amount of access. As
22 with my situation, apparently they are not monitored
23 very closely because they were able to release a
24 document I am not supposed to have.

25 MR. MCFARLAND: What are you suggesting as

1 the answer? What should CDCR do to protect your
2 confidentiality and your safety and get you to some
3 confidential counseling?

4 MR. CLINTON: I think the biggest thing --
5 you can call -- one of the things they said was a
6 good idea. If they work with a system in the local
7 county, even though in Trinity River there isn't a
8 rape crisis center because it is, like, up there. I
9 have pet raccoons. That is how to tell you where I
10 am at. Moe, Curly and Larry were their names. I am
11 up in the sticks. You are not going to have it
12 there. They transport you to Susanville, which is
13 California Correctional Center. That is a larger
14 county. That is Lassen County. There is going to
15 be a rape crisis center there.

16 One of the things that I faced as an
17 individual is they tried to talk to me through a
18 cell door. Cells are like duplexes; they are.

19 MR. MCFARLAND: Ad seg?

20 MR. CLINTON: Yes. So anything I say, if

21 I sneeze and three doors down hears me.

22 MR. MCFARLAND: I am trying to focus on

23 you getting an initial phone call to somebody who

24 does not have a duty to immediately squeal on you.

25 MR. CLINTON: It is not going to happen if

1 you are in administration segregation.

2 MR. MCFARLAND: Before ad seg.

3 MR. CLINTON: Before ad seg I don't see if

4 the guy, the officer in charge, is not willing to

5 hear me. I don't see it happening because there is

6 no way to access the phone. This is security. You

7 have to get permission to access the phone. You

8 sign up for phone. If I am understanding you right,

9 there is no way to get that phone call out. You can

10 write, but if you don't have any Yellow Pages, and

11 the only Yellow Pages is up to the office, really

12 difficult to do.

13 I think the biggest thing if you are talking

14 about areas like that is knowledge and education.

15 For instance, there is nothing stopping each prison

16 from carrying the information on websites. There

17 are no websites. They can print them out, create

18 what they call a general order and put them out

19 there everywhere, saturate the area.

20 Everyone has knowledge. Knowledge is power.
21 Knowledge is education. Predators are going to use
22 that to their advantage. But if the victim or
23 potential victim knows the knowledge prior to going
24 into the situation, they are more apt to know what
25 to do and how to handle it. I wasn't even informed.

1 I am the one that appealed the sexual misconduct
2 booklet that is outdated for CDCR because the
3 address in the back are returned to sender. Six
4 years old. So you have to look at it in a way that
5 it is a big system. It is like been going on for
6 almost 126 years. Now all of a sudden they want to
7 deal with it.

8 MR. SEXTON: Mr. Clinton, what were you
9 charged with?

10 MR. CLINTON: Drugs, possession for sale.

11 MS. ELLIS: You are underway.

12 MR. SEXTON: Go ahead.

13 MS. ELLIS: Thank you for sharing your
14 story. The courage that it must take to be able to
15 sit here and do that. I heard you say something
16 about perhaps having the opportunity to select your
17 roommate, your cellmate?

18 MR. CLINTON: Yeah

19 MS. ELLIS: Would you explain that to me

20 again? I want to make sure I heard that correctly
21 in terms of what is allowed and what is not allowed
22 and what opportunities you have along those lines.

23 MR. CLINTON: There is two different times
24 -- administrative segregation, their point is to try
25 to house you with a person of likeness. And that is

1 to cutback on the cost. Having one person in the
2 cell cost them way too much money, to have one
3 person in a cell. So the officer set me up with
4 someone to meet. You go out. You get handcuffed.
5 You go out to a little cage. You get to talk to
6 this guy while the officer's running around and
7 doing the things they do. And they sit you there
8 and you talk. And you kind of see if you have a
9 feeling on this person I am talking to. He wants to
10 find out why I am there. Well, I just had a
11 confrontation, I was raped by a black guy. That
12 causes major problems especially with me being
13 white. It would just -- he kind of let around he
14 was scoping me out, looking at me. I am going to be
15 locked in a cell with nobody around. I am going to
16 get myself some.

17 He started asking questions. "Are you
18 homosexual? Are you active in prison? Do you have
19 sex?"

20 And I'm like, I think I need time to think
21 about this. The officer comes by. "What do you
22 think?"

23 I think I need to sit on it, just think about
24 it. Get away from him. I go to my cell. No.

25 He goes, "Why not?"

1 "My gut tells me it is bad. You know why I am
2 here; this is not going to mix."

3 So he goes, "I can give you a 115 disciplinary
4 infraction for it."

5 "You do what you have to, but I am going to
6 protect myself overall."

7 He went ahead. And I interviewed another man
8 that was 57 years old and I said, "This guy will
9 work out. He is older." We work better with older
10 people.

11 MR. MCFARLAND: Who is us?

12 MR. CLINTON: Us, gays, lesbians,
13 bisexual, GLBTs is what we call ourselves. We work
14 better around older people. Because they are more
15 seasoned. They are out there to prove themselves,
16 nothing like that.

17 So I said, "I think this guy will work." And
18 he worked out really well. I took him as my cell
19 mate. Well, then after that I get disciplinary

20 infraction and the same thing, the assignment.

21 "Well, what did I do?"

22 "And you refused to take cellee."

23 "I have a cellee. What are you talking

24 about?" Because I refused my first cellee.

25 I later got the documentation that was there

1 administrative segregation rules and that was a
2 memorandum, I think, from 1999, something like that.
3 And I found that sexual orientation is not covered
4 in that. So really there is nothing saying that you
5 are particularly vulnerable. I have taken it that
6 is what it was. From an officer's point of view he
7 doesn't have to think that because it doesn't say
8 the specific word. Common sense is not being used.
9 You can't place any policy or law in effect that
10 give a person common sense. It's something you
11 have or you don't.

12 MR. MCFARLAND: You suspected that this
13 individual would be interested in criminal behavior,
14 right?

15 MR. CLINTON: I think that he would
16 pressure me for sex.

17 MR. MCFARLAND: Wouldn't that be a grounds
18 for denying a celled?

19 MR. CLINTON: That is what I told this

20 guy, it's not going to work. You know why I am
21 here. I can't say it because this guys wants me to.
22 You know why I am here, apparently you have an
23 investigation going on that your cops or officers
24 released memorandum.

25 MS. ELLIS: How long were you there?

1 MR. CLINTON: I was there from November.
2 I was out for just like two days and they put me
3 back in when they realized what they had done. And
4 I was there until March.

5 MS. ELLIS: The entire length of your
6 stay, your incarceration, was how long?

7 MR. CLINTON: My entire length was -- I
8 began my incarceration in October of 2003 and I was
9 recently released on another matter. I was supposed
10 to serve time until January 12, 2007. So --

11 MR. MCFARLAND: Does that include the nine
12 months that you lost in good time?

13 MR. CLINTON: It becomes very complex.

14 MR. MCFARLAND: I don't want to hear it.
15 Don't go there.

16 MR. CLINTON: They are trying to figure
17 out how to cut this back.

18 MR. SEXTON: I have a question. You were
19 sitting back here this morning. You were taking

20 notes. Did the State of California just lie to us?

21 MR. CLINTON: Lie to you?

22 MR. SEXTON: Did they lie to us what they

23 are doing in regard to the PREA, the way that inmate

24 situations are handled?

25 MR. CLINTON: I think that the -- I think

1 the administration have really good intentions. I
2 get a good feeling. There is a missing link between
3 it going down to where it needs to go. For
4 instance, there was a new, what we call hynas; that
5 is male, a Hispanic gay male that came on the yard.
6 Well, they said they can move him into my dorm so
7 she will be safe. And I made the comment we need to
8 keep people away because they are going to try to
9 assault him or her. We prefer -- is called a she.
10 And they said, this is their comment. "Maybe a rape
11 will do them good. That is what you deserve when
12 you choose to be homosexual."

13 MR. SEXTON: Who said that?

14 MR. CLINTON: One of the correctional
15 officers.

16 MR. MCFARLAND: Do you know whose name it
17 was? They wear name tags.

18 MR. CLINTON: Yes.

19 MR. SEXTON: Some of these things that you

20 are making allegations of -- my question would be as
21 I read this, there seems to be ample reporting, but
22 there seems to be inmates are allowed to go --
23 everywhere I've gone in this detention -- every
24 correctional officer I have seen in this facility
25 has a name tag.

1 MR. CLINTON: I can tell you the name.

2 MR. SEXTON: Have you reported this?

3 MR. CLINTON: No.

4 MR. SEXTON: Why not?

5 MR. CLINTON: Afraid of retaliation. I
6 was already given nine extra months.

7 MR. SEXTON: Did you report this after you
8 left the prison system?

9 MR. CLINTON: No.

10 MR. SEXTON: Why not? Do inmates not have
11 a responsibility in this process? As I read through
12 this, it seems that inmates have a responsibility in
13 part of this process to make sure that the facility
14 is safe. I see where they have some --

15 MR. CLINTON: Because the other inmate is
16 there. Basically he would be asking to be attacked
17 or discriminated against or be harassed. It sounds
18 really good on paper. That if I file a citizen's
19 complaint, which I can within one year, on the

20 officer it would do some good. But I can tell they
21 always find him innocent. I've never seen anyone
22 file a citizen's --

23 MR. SEXTON: There's never been
24 substantiated?

25 MR. CLINTON: In my three years I've never

1 seen a file with a citizen's complaint where it was
2 substantiated and they actually prosecuted or
3 charged the other officer, in my three years being
4 there. I could be the only person in the world, but
5 that is what I have seen. You are better off to
6 deal with until you figure out what is going on.

7 MR. SEXTON: It's been my experience as a
8 commissioner of ACA, commissioner on accreditation,
9 that roughly 50 percent of grievances that are filed
10 against a facility are founded.

11 MR. CLINTON: Not the ones that I have
12 filed.

13 MR. MCFARLAND: May I ask both of you
14 about what I think was MR. CLINTON's suggestion that
15 housing be addressed, as a recommendation,
16 specifically that gay inmates be housed together so
17 that they would be free of predators?

18 MR. CLINTON: I think a sense of security.
19 When I was first housed at CMC dorms, there was only

20 one of me per 100 inmates in a dorm, which is very
21 aggravating. Because every time someone leaves,
22 another sees an opportunity to come up and talk to
23 you, to harass you.

24 MR. MCFARLAND: That is what you
25 recommended?

1 MR. CLINTON: Yeah.

2 MR. MCFARLAND: Is that what you think?

3 MR. CLINTON: I think it would be better.

4 It is very specific that CDC need to be aware not to
5 segregate them. Like, a lot of times they take them
6 and place them on Level 3 or 4 yard, to put them in
7 close quarters. Not every -- the word gay or
8 homosexual has very many facets to it, like saying
9 the word black. There is a variety of different
10 cultures within that one race.

11 So placing individuals on three or four year
12 yard with lifers. At least they had one Charles
13 Manson people there, a patch killer. Why would --
14 that serve no purpose. When people have something
15 to lose, they are more apt to behave.

16 MR. MCFARLAND: In other words, a Level 1
17 or 2?

18 MR. CLINTON: A Level 1 or 2, if they fit
19 there. You have your sex offenders which are

20 transgenders, which are interacting, having sex.
21 You need to be very specific. There are people that
22 are sex offenders that come in every culture, every
23 race, and you got people who are trying to be
24 functioning, saying this is who I am, I have a right
25 to my body. There is a difference there. You also

1 realize sex offenders have been in the system five,
2 six, ten times, and this is the behavior they are
3 told they are supposed to live.

4 MR. MCFARLAND: Would your suggestion
5 require or depend upon self-disclosure of one's
6 orientation by each inmate upon admission?

7 MR. CLINTON: Like, I don't think -- I
8 discussed that with daily county jail. I wrote a
9 complaint to Sheriff Baca. One of the things that I
10 noticed is that the jail does not communicate with
11 CDC. I don't think a lot of jails in California
12 communicate with CDC or CDC communicate
13 with jails.

14 In L.A. County they have a thing call K11
15 housing which is where they have four or five dorms,
16 and they put all your GLBTs in there.

17 MR. SEXTON: Who?

18 MR. CLINTON: Gays, lesbians, bisexuals
19 and transgenders. Sr. Deputy Bell and Lannin are

20 the ones that handle that. They have a great
21 program. They have been doing that for ten years,
22 housing people, keeping them safe. They are pretty
23 much keeping them safe. They keep a document, a
24 photograph of all these things of this individual in
25 a personnel file. This file that they have on them

1 doesn't go to CDC when the offender gets transferred
2 to state custody.

3 As we know, Chapter 147, within 48 hours you
4 are usually victimized. They are putting Paul
5 Anderson in a cell and after 30 to 90 days in
6 classification they realize it looks like Pamela
7 Anderson and it's already has been raped. There is
8 no communication. Jails need to tell CDC we have
9 somebody coming and you need to make preparations,
10 and they are not doing that. Like me, I got cut and
11 stabbed. I have scars to show it.

12 MR. MCFARLAND: When did you disclose your
13 orientation to CDCR?

14 MR. CLINTON: They knew when I got there.

15 MR. MCFARLAND: How do you know they know?
16 You don't know what they know. Tell me when did you
17 tell them that you were gay.

18 MR. CLINTON: I think I told them when I
19 was in Susanville. I don't remember exactly

20 which.

21 MR. MCFARLAND: It wasn't the first day of
22 incarceration?

23 MR. CLINTON: No. They don't ask you
24 that. The first thing, the process, you go through
25 the whole strip search, put you in cell. You go for

1 a tab score and you do some things. You don't see
2 your counselor or classification until about 30 to
3 90 days after that. When you see a counselor, your
4 counselor asks you all the questions. I don't
5 remember ever being asked that question.

6 MR. MCFARLAND: You are suggesting that
7 all gays be put in segregated housing together for
8 their protection which I am trying to figure out.

9 MR. CLINTON: Segregated housing.

10 MR. MCFARLAND: What you were suggesting
11 is that rather than reflexive protective custody in
12 ad seg, it would be better to house GLBT in K11
13 housing. So doesn't that presuppose that you would
14 have been willing and able to answer the question
15 about your orientation the very first day that you
16 arrived incarcerated?

17 MR. CLINTON: I don't believe I was asked
18 that. I thought it was kind of apparent. If you
19 look at me, you know pretty much.

20 MR. MCFARLAND: Is that the way you would
21 want that segregated housing to be determined, is on
22 the way that admission officer looked at you?

23 MR. CLINTON: I think hindsight, I look at
24 it now, I think that it would have been important to
25 ask me a specific question.

1 MR. MCFARLAND: Would you have been
2 willing to answer that?

3 MR. CLINTON: Yes.

4 MR. MCFARLAND: That day?

5 MR. CLINTON: Yes. I'm pretty apparent.
6 When you look at me, you know, you can tell. Pretty
7 much little bit fruity. It's like -- I look at
8 things that have happened to me now and I realize
9 now with acquired information of what could have
10 been prevented. See, I can't -- being new and
11 learning along the way, it's different than someone.

12 MR. MCFARLAND: That is what I am just
13 trying to explore with you in the time that we have,
14 trying to think through the logistics of your
15 suggested policy recommendation.

16 MR. CLINTON: I think that the jail,
17 personally I think the jail should tell them and
18 warn ahead of time. They transfer information
19 already that they are going to transfer the person

20 to state custody, if they know for a fact that this
21 person is GLBT and they have a bio on this person
22 and he's got breasts.

23 MR. MCFARLAND: You just said that Mr.

24 Baca you know does not communicate.

25 MR. CLINTON: He does not. I talked to

1 jail representative that was here and they said that
2 CDC doesn't want to accept the information. They
3 are putting it back on CDC, CDCR. One or the other,
4 either way both need to communicate with each
5 other.

6 MR. SEXTON: They could send it with
7 medical information. Mr. Chairman, I have one
8 question I have to go back to this. If we were
9 dealing with a violent crime situation in a
10 neighborhood, if we were dealing with it anywhere
11 else, one of the things we always talk to people
12 about is involvement, your activity in reporting,
13 community reporting, back to 101.

14 I hear you say that you basically are
15 condoning the actions of improper conduct of staff
16 and maybe even other inmates, while in your own
17 testimony today you know of personnel within CDC
18 that said inappropriate things, did inappropriate
19 things, said that you all deserved whatever group

20 they were referring to, that they deserved to have
21 something happen to them. Inappropriate.

22 MR. CLINTON: Yes.

23 MR. SEXTON: Yet it is not reported. What
24 has to be been done to get involvement by the gay
25 community inmates in general to report those things?

1 MR. CLINTON: I need to know 100 percent
2 that the person that I am saying the things about
3 will be safe. Will not be touched.

4 MR. SEXTON: Let's walk ourselves through
5 this. Whatever you say, I'm assuming, I believe
6 this is a unionized shop here. So there is going to
7 be a hearing. There is a liberty interest at large.
8 There is going to be a hearing in which you get to
9 have your say, they get to have their say. Part of
10 the American way, constitutional rights. The same
11 thing in regard to the confidentiality. I believe
12 you are talking about with regard to protecting
13 these persons. Eventually it is going to come out
14 to a court situation.

15 What kind of confidentiality are you looking
16 for? No matter what happens, if it moves forward in
17 a criminal aspect, it is going to have a hearing.
18 If it goes to an administrative hearing, the staff
19 is going to have, I'm assuming, some sort of liberty

20 interest, either a Loudermill hearing or something

21 is going to happen.

22 I keep hearing confidentiality. How do you

23 protect everyone and not have the liberty interest

24 of the other party involved, whether it be a

25 criminal action, a civil action or an employment

1 action? I'm missing that part. I think that is an
2 important part of this whole aspect. Eventually, no
3 matter how to try to shield it, keep it away from
4 folks, it will come out in a public venue, in some
5 sort of hearing. How do you work with that within a
6 prison system and maintain the interests that you
7 have?

8 MR. CLINTON: I think if I understand you
9 correctly, what I found in my experiences when I
10 came forward, I said things that should have been
11 handled. They weren't. And as soon as that
12 confidential memorandum was released by a
13 correctional officer, they turned on me like a pack
14 of jackals.

15 MR. SEXTON: When released. Just for
16 hypothetical. It wasn't released then, but yet you
17 reported the sergeant. He went up for disciplinary
18 action. Are you assuming that your either written
19 report or you might even testify, is that going to

20 create a problem for you in the long run?

21 MR. CLINTON: I'm not worried about me.

22 I'm out.

23 MR. SEXTON: How about if you are still in

24 the facility?

25 MR. CLINTON: I would be concerned about.

1 I would think twice. I'm an expendable resource.

2 As soon as I leave there is another bunk there;

3 another inmate will fill it.

4 MR. SEXTON: Had they taken you to the

5 hospital, had they gone through the normal

6 procedures that they described to us today and that

7 that individual had been charged criminally --

8 MR. CLINTON: At Trinity River? No, I was

9 never --

10 MR. SEXTON: I am saying hypothetically.

11 If we go back to the night of your incident, if they

12 had followed the protocol that they talked to us

13 about today, they followed the protocol that we saw

14 in the training, an investigation had come in, they

15 collected all the evidence, I am assuming there

16 would have been a criminal prosecution. That was

17 early on in your stay. There would have been a

18 criminal prosecution. You would still be an inmate.

19 Were you at risk in that situation?

20 MR. CLINTON: From the other inmate?

21 MR. SEXTON: Would somebody have found out
22 about that criminal prosecution?

23 MR. CLINTON: Probably. For instance, in
24 my civil litigation I have four names and CDC
25 numbers of people that were housed in the same way

1 were confidential, they put them CMC West, Unit 2.

2 They knew about it.

3 MR. SEXTON: I am trying to walk my way
4 through the process that you are recommending. Had
5 they followed the procedures they talked to us
6 about, had they done everything and had they done it
7 right, they had filed a criminal charge on this
8 gentlemen that raped you, would you have been in
9 danger to still be in the correction system and
10 charged somebody criminally for the offense against
11 you?

12 MR. CLINTON: I look back and I
13 understand, I think I understand what you are
14 saying. Would I have been safe? I don't think so.
15 For the reason that CDC is -- they are so large and
16 this is an example. I had four people that were
17 moved to inmate CMC Unit 2. Those four people, one
18 of them I trained as a clerk. One of them knew
19 about the rape and assault.

20 MR. SEXTON: Let's walk my way through the
21 process. Had there been a criminal charge filed,
22 how would CDC -- how would you have looked for CDC
23 to protect you for the remainder of your sentence
24 without putting you in ad seg?

25 MR. CLINTON: I don't know. You know,

1 everything I've learned I've learned along the way.

2 I wasn't given the information.

3 MR. SEXTON: Knowing what you know now,
4 how would they protect you and still been able to
5 follow that initial -- on that initial complaint if
6 they had filed a charge that night how could they
7 have protected you for the remainder of your
8 sentence, wherever you were?

9 MR. CLINTON: I think I understand what
10 you're saying now. If they would want -- one thing
11 they should do is they should red flag me. Whenever
12 they put me in an institution, they should look
13 before they transfer people. The red flag should
14 say, okay, he is at this institution. What if the
15 other person that we are transferring from that
16 institution at that institution at the same time
17 this was released, how would that person have that
18 information? That is one of things I noticed they
19 don't do. Because four people were moved to that

20 yard. Two of them I had to pay with packages to be

21 quiet. That is another thing.

22 I think the system is so complex, I don't know

23 really how I would be safe. At the time that I had

24 said that I didn't know who to talk to. I didn't

25 have anyone to talk to. I didn't have anyone like

1 me to talk to. I don't know how I would be safe or
2 even if I would be safe because saying that you will
3 be in the system is hypothetical. If everything in
4 the rules and procedures were followed, there would
5 never been any civil litigation.

6 The truth of the matter, CDC doesn't do that.
7 The biggest problem with the system is they say they
8 train these people, but they don't. What they do,
9 they sign on job training, like when they did the
10 notice directors rules for prison rape elimination.
11 I actually questioned some of the officers about it.
12 The officers couldn't tell me what was on the front
13 page. You need to do a closed book test on that and
14 let them know. If people all know the procedures
15 and have the knowledge, on a closed book not knowing
16 what you are supposed to do if this happens read
17 over, okay, you are done. Here sign. That is
18 on-the-job training sometimes.

19 MR. MCFARLAND: MR. CLINTON, I know that

20 several of us have more questions. I don't want to
21 be inconsiderate of your stamina and feelings. How
22 are you doing? Would you like a break?

23 MR. CLINTON: I'm fine. I've been through
24 hell and back. I can handle it. I laugh about it.
25 I knew when people heard this, this is pretty out

1 there, but when things happen and when you have
2 people that you have to protect, correctional
3 officers will protect each other. Yeah, he is
4 screwed up. He's the one that released this. Okay.
5 You know that guys gets ostracized. That is the way
6 it works.

7 As time went on, I realized that that doesn't
8 make them not responsible for their actions. The
9 same as I paid time, responsible for my actions.

10 MS. ELLIS: You mentioned a journal,
11 274-page journal. Does that document still exist?

12 MR. CLINTON: Yes. I snuck it out to
13 attorneys.

14 MS. ELLIS: It is in someone else's hands?

15 MR. CLINTON: I have it at my mom's. I
16 have supporting documents with it.

17 MR. SEXTON: Is it possible to --

18 MR. CLINTON: Actually, I sent it, Fulner,
19 human rights person. I think she sent it to the

20 Prison Rape Elimination people in Washington. Then
21 it got rerouted to Erika Allen; Erika Allen sent it
22 to my mom. It would be a good idea, what is going
23 in there. It is a journal. Because my litigation,
24 it can't go to CDC, but I think that it may give an
25 idea of the daily things that people done, being

1 denied health when I filed an appeal because these
2 things been a great tool to understand the inside.
3 I think you guys are trying to do a good thing. And
4 I know we can't fix what happened to me. Maybe we
5 can figure out what is missing here is inmates. I
6 see a lot of people here that are willing to change
7 things. I don't see an inmate, and those are the
8 people that know what is really going on. They
9 really do.

10 MS. ELLIS: Let me ask you this: becoming
11 involved with Stop Prison Rape have you interfaced
12 with others who may have similar experiences?

13 MR. CLINTON: I stay in close contact. I
14 was called Mother Hen on the Unit 2 yard and I stay
15 in close contact with my chickadees. And if they
16 need anything, I am there; and they write me, they
17 have people call me. They need anything, if I have
18 to call and do, I am going to do a citizens on you,
19 straighten your act out. They know I am watching.

20 MS. ELLIS: Also referring to people who
21 are now out of prison that have had your kind of
22 experience and you have had a chance to talk with?

23 MR. CLINTON: There is not a group. I
24 have been E-mailing Parsell.

25 MR. MCFARLAND: T.G. Parsell, founder.

1 MR. CLINTON: He sent me a copy of his
2 book. I asked him to donate two books to the
3 library at CMC. I have them waiting to make sure
4 they are going on the shelf. A lot of things get
5 donated and they don't get to the shelf. I am
6 making sure those books are there. We have an
7 appeal, a group appeal with inmates there as far as
8 getting them gay and lesbian magazines. They are
9 not allowed them. They say they don't have money.
10 They carry a women's magazine in the men's library.
11 Figure that out. You're trying to give them
12 self-empowerment. That's very important to the
13 GLBT. Even went to church. I go to church in
14 prison. I am told I am unclean, filthy and an
15 abomination. I have to sit there and take that. I
16 can't get up because of security. I have to sit
17 there and take it.

18 There is not even Metropolitan Community
19 Church which is a gay friendly church which teaches

20 tolerance, talks about healthy, responsible
21 relationships. It is a total breakdown of how
22 they're to be treated because they have no power.
23 They have no self-empowerment. No tools. That is
24 very important that they give them that because then
25 they have respect for their person. When you are

1 not given that and stripped of all that, it's given
2 to heterosexuals. It's given to all races and other
3 religions, but you are not granted that. When you
4 go to church and you're told you're an abomination,
5 that makes a great sermon.

6 MR. SEXTON: Did you make any attempt to
7 get that church into prison?

8 MR. CLINTON: We have an appeal. The
9 appeal people system. Unfortunately, because I am
10 out now, it no longer affects me. So I have the
11 inmates doing an appeal. I am submitting the
12 appeal. Here sign it.

13 MR. SEXTON: Did you make a request while
14 you were in there for that particular church?

15 MR. CLINTON: We did an appeal that was
16 done on the MCC, to carry MCC information. That
17 appeal was lost. A lot of times appeals don't make
18 it.

19 MR. SEXTON: I am somewhat confused.

20 While in the facility, did you make a request for
21 that religious activity that you are talking about?

22 MR. CLINTON: I didn't know about the
23 activity until the fact that I was actually
24 released, able to acquire.

25 MR. SEXTON: While you were in the

1 facility, you did not make that request? I just
2 want to make sure.

3 MR. CLINTON: Let me make this very clear.
4 We did an appeal on the fact that they didn't bring
5 up about sexual orientation, being an abomination.
6 As far a MCC information, we didn't have access to
7 that information because we are incarcerated.

8 MR. MCFARLAND: Your answer is that you
9 didn't ask that the Metropolitan Community Church be
10 allowed to provide services in your facility, but
11 you did ask that other religious groups be censored
12 from what they would teach in the sermon relative to
13 homosexuality?

14 MR. CLINTON: Yes. Because even on CMC
15 west side where there is no transgenders, they are
16 all over on the east where the hormones are given.
17 They refer to them as the shes, which is a
18 derogatory term. The ministers, those ministers
19 donate time. They are regulated by main ministry.

20 When it would be brought up, we would say that's

21 uncalled for.

22 You can talk about having healthy, responsible

23 relationships. You are talking about abstinence in

24 prison, which is great for me. Less pressure on me.

25 I am happy for that. But they insist on bringing up

1 about homosexual are the ones that are tempting you.
2 You are the abomination. You are the ones that are
3 tempting the poor innocent heterosexuals. Just
4 because I walk down the roadway doesn't mean they
5 have any right to treat me that way.

6 MR. MCFARLAND: If the NPAC, National
7 Prison Rape Abomination Commission, were to consider
8 your suggestion, about housing all GLBTs together,
9 and somehow they were able to get around some of the
10 logistical threshold that we were talking about a
11 few minutes ago, what would you say to an individual
12 who would say, hold it, putting all of these folks
13 unless we are going to segregate those who even
14 among them distinguish between those who are
15 sexually active and those who are not, why are we
16 providing this special facility for those who on the
17 basis of their sexual proclivity when there is no
18 such thing as consensual sex? In other words, some
19 decision makers might have a real problem I would

20 think with saying, "Well, generally none of these
21 activities should be going on because it might
22 happen. And because we are trying to stop prison
23 rape, we are going to take all those who have a
24 particular orientation and we are going to let them
25 all be together."

1 Do you have a response? What would you
2 say?

3 MR. CLINTON: Since you are wording it
4 that way, I see a big problem.

5 MR. MCFARLAND: I am not espousing that.
6 I am saying how would you respond to that kind of a
7 -- if a state senator was saying, "We are not going
8 to do that. Why are we giving special housing on
9 the basis of their sexual orientation, including
10 individuals who would find that a very convenient
11 setup?"

12 MR. CLINTON: Yes.

13 MR. MCFARLAND: Heterosexuals are supposed
14 to get a 115 if they even engaged in the activity.

15 MR. CLINTON: New York is covering that
16 right now. Where they used to have them segregated.
17 That actually became more focused for predators. I
18 can see that being a problem.

19 MR. MCFARLAND: Is there an answer?

20 MR. CLINTON: No.

21 MR. SEXTON: Are there --

22 MR. CLINTON: I don't.

23 MR. SEXTON: Are there aggressors amongst

24 the gay. If we were to take that gay population,

25 are you going to find your sexual predators in the

1 gay community?

2 MR. CLINTON: Yeah. I mean it is.

3 MS. HALL-MARTINEZ: If I could just say a
4 little bit about that. We have thought about this a
5 fair amount, both looking at the Riker's Island
6 concept that he was referring to and the K11 unit in
7 L.A. It is a tricky issue. But I think that at
8 least as a threshold potential, sexual predators of
9 whatever sexual orientation have to be looked at
10 carefully and taken out of a general population,
11 whether it includes only gays or not.

12 MR. MCFARLAND: How do they do that? How
13 would you improve classification and assessment,
14 risk assessment? Is there a better tool that CDCR
15 and others should use, that they are not currently
16 using to identify predators?

17 MS. HALL-MARTINEZ: Just to look at their
18 past behaviors. Seems like their convictions or if
19 they have had behavior issues since being

20 incarcerated.

21 MR. MCFARLAND: Anything else?

22 MS. HALL-MARTINEZ: I don't have another

23 suggestion on that, actually.

24 MR. MCFARLAND: Would they self-disclose?

25 This is for both of you. I am trying to think.

1 MR. CLINTON: Not if it is going to be
2 considered punishment. What you may think of being
3 protective could be considered punishment. If I
4 understand what you are saying, in the DOM, in the
5 section that I quoted for L.A. County jail, the
6 DOM.

7 MR. MCFARLAND: What is the DOM?

8 MR. CLINTON: Department Operation Manual.

9 It is a manual that basically, when the rules and
10 regulations are in the Bible, are not passed, then
11 they have that. If that is not covered, that is
12 kind of called a general order which is what a
13 statistician types up and this is our new rule.
14 This is not covered and we need to cover this in
15 this institution. The DOM says that they have to
16 accumulate all the necessary information for proper
17 classification. They can't -- you can't classify a
18 GLBT unless you know the knowledge. That is the
19 reason why they need to get ahold of the jails and

20 say, "Hey, if you got somebody, give us -- before
21 you send -- you send them in 60 days, give us some
22 notice to make sure they're housed in a segregated
23 cell so he would be right next to the office." I
24 was housed up on 212 or 221 where I was cut and
25 stabbed for a skinhead wanted me to service a lifer

1 for cigarets. For \$3 for cigarets. I though it was
2 worth at least six. Of course, he didn't think it
3 was funny. I thought it was funny. I still have
4 the scars to show it. I was leaking blood all the
5 way back to my cell.

6 The officer said, "Clean it up. Somebody must
7 have cut themselves with a razor."

8 That affects my classification, where I'm
9 going to go. I am a snitch. It is a bigger
10 problem. But you know the common sense is the
11 correctional officer up in the bubble, "Gee, there
12 is skinhead on the homosexual doors. Apparently
13 they're rivalries to each other. You should get
14 that guy off the door. He is planning something.
15 To use this person as a predator." If they had me
16 next to the office where I should be, he can yell at
17 the inmate and say get the off the door. You know,
18 putting me with a transgender would be fine because
19 it would be fine together in the same cell. That is

20 what the whites ended up doing later on. They put
21 me with a transgender that came on there, came into
22 that facility.

23 MR. SEXTON: Was he in there at the time
24 you came in?

25 MR. CLINTON: No.

1 MR. SEXTON: Was there anybody that met
2 that criteria when you came in?

3 MR. CLINTON: Not that I know of. When
4 you first go into classification reception, you
5 really don't know. You are still in shock. You
6 are, like, okay, your first term here. I just
7 walked through the gates of hell. You find out that
8 Billy Joe --

9 MR. SEXTON: That is a pretty scary place,
10 isn't it?

11 MR. CLINTON: Very. We have one guy down
12 in the -- three cells down serving 87 years for life
13 for shooting a cop. I am housed in the same
14 facility he is. You say, okay, all I did was sell
15 some drugs to somebody.

16 MR. SEXTON: While we're talking L.A.
17 County, isn't that 23- or 24,000 inmates in that
18 facility?

19 MR. CLINTON: They have their own --

20 Lannin and Bell keep up the 5,400. They are well
21 taken care of. They have capital. They have NA.
22 They have all their accesses to privileges. The
23 problem with CDC is when they segregate you, they
24 put you somewhere. You no longer have those
25 privileges. I would no longer be able to go to

1 camp. Just because I am gay doesn't mean I have to
2 be sexually active. That is just what I am; that is
3 the way I'm designed.

4 MS. ELLIS: Let me ask you something. As
5 a gay man, once you were convicted and sentenced to
6 an institution, what were your expectations and what
7 ideas did you have about what life would be like for
8 you and were you pretty sophisticated and savvy
9 about incarceration when you walked through the
10 door? You said you were going through the gates of
11 hell, but --

12 MR. CLINTON: No. Some of the queens that
13 were in L.A. County sat down with me and said,
14 "Okay. You are going to prison. This is what is
15 going to happen. This is what you need to watch out
16 for." They try to school you a little bit. But
17 there is nothing stopping the jail from developing a
18 course to let them know this is where you are going
19 to go, this is what you don't have to be when you go

20 there. You can be respected if you demand respect.

21 If you want to be a hooker working a corner of the

22 prison, that is not tolerated anymore."

23 But when you go in we are told, "Okay, you are

24 a cocksucker." I hate that word. That is what we

25 are called. If I drunk out of this, you can't drink

1 out of it 'cause I am filthy. You can't eat after
2 me because I am filthy. You can't wear anything I
3 have. You can't be in the same cell unless I am
4 servicing you. That is realities.

5 MR. SEXTON: Have you seen the NIC videos
6 that are being talked about? Do they meet the
7 criteria?

8 MR. CLINTON: I haven't seen those. I
9 notice they talk about the videos, but they say men
10 and women in prisons. But I notice nothing about
11 transgender. When that was being talked about
12 nothing about transgender mentioned. I don't know
13 if it is in there or not. I really don't.

14 MR. MCFARLAND: I want to follow up on
15 Sheriff Sexton's question a while ago. Is there --
16 we want to get a balanced viewpoint.

17 Is there anything that you heard this morning
18 that you would dispute from any of the panelists,
19 call attention to your difference of opinion? I

20 know that is hours of testimony. Something, did you
21 circle it in your notebook, something that really
22 sticks in your craw that you want us to know?

23 MR. CLINTON: I know they are really
24 trying. I think they have good intentions, but I
25 think one of the biggest problems with the system is

1 -- apparently we are dealing with educated people in
2 the room. Most of these people have at least a
3 degree of some sort. But you are given a
4 correctional officer who has a GED, a job, that goes
5 through a few trainings and everything else. He
6 doesn't have a degree, and you are expecting
7 professional conduct, and I don't see it happening.

8 When I was on CMC West, Tier 2, Officer
9 Bryant, great officer, very intelligent, had
10 knowledge, has a degree, and you could talk to him
11 and he used common sense. Then I go to the officers
12 which are just badge wearing thugs. And I think
13 that if CDC really moves its focus towards not
14 trying to fill officers, trying to make these
15 officers professional with a professional salary,
16 that usually a degree takes, start looking towards
17 hiring people that are in a university, that are
18 graduates with social worker's degree dealing with
19 problems with social society and start focusing on,

20 "Hey, you want to become a correctional officer?

21 You can make this much and apply any degree toward

22 helping us." I think it would resolve a lot of

23 problems.

24 But I think that -- I don't know if that is

25 unrealistic. But I notice when you talk to people

1 in the prison system that have a degree, not talking
2 about going through training or whatever they do,
3 actually has a college degree, they dedicate this
4 amount of time developing the degree, I notice a big
5 difference in their attitudes towards us and the way
6 they treat others. That when you got this guy that
7 was a farmer, no offense to farmers, but he comes
8 out, he becomes a correctional officer to take care
9 of his kids, which is not a problem, that when he
10 doesn't even educate himself on a personal level,
11 you decide to read. I went to read about Folsom.
12 Started to be built in 1878, to learn a little bit
13 about the situation where I was going to.

14 MR. SEXTON: What is your educational
15 background?

16 MR. CLINTON: I have almost a bachelor
17 in art, social. It's like I find that that is going
18 to be the biggest loophole, is because they don't
19 read. And being I was disciplinary clerk, they

20 can't even spell. I thought I was a bad speller.
21 They cannot spell. And they are, like,
22 disciplinary, they have to handle riots and
23 everything else. Even riot situations could be
24 avoided. When I see a group of inmates outside,
25 eight or ten of them in little packs, if I can spot

1 it, I need to step aside because in prison when in
2 prison, when a riot happens, women and children over
3 here. I am considered one of the women and
4 children. I don't have to be involved in the riot.
5 That is where they put me. That is prison politic
6 thing. That is a big issue that they need to
7 address.

8 MR. SEXTON: Just have one other question.
9 To me it goes to the crux of the matter. What can
10 we do to prevent -- one way to solve this is to try
11 to reduce our prison population that continues to
12 climb.

13 MR. CLINTON: Yes.

14 MR. SEXTON: Where do you see the main
15 problem getting folks into jail and how do we
16 prevent that?

17 MR. CLINTON: I think there is education.
18 I think that -- we'll use Billy Joe Bob goes over
19 there and he realizes he has a fourth grade

20 education. He can't make the money that a college
21 degree makes. He has to go out there and sell
22 drugs. That is why he was making 250,000 a year
23 transporting to New York or Chico. You can't make
24 that, can you? See what I am saying? So it is,
25 like, a mentality of money.

1 And I think that education is a big factor,
2 knowledge and education develops tolerance and
3 wisdom. That is where that comes from. And I think
4 putting it out there and I think even like they
5 mention about, well, this person has a misdemeanor,
6 we don't want to charge him. We are setting a
7 standard and a point, that the DA prosecutes them,
8 inmates now know rules have changes. Now we are
9 going to be prosecuted even if a misdemeanor. Now
10 if I do a felony, I better think twice about this.
11 Right now I may get a hundred extra days if I am on
12 good behavior. I get that time back for beating
13 somebody up.

14 MR. MCFARLAND: Thank you. Why would you
15 lose points for going to ad seg for protective
16 reason as opposed to disciplinary?

17 MR. CLINTON: That is a good thing you
18 brought up. What happens when I am in camp was I
19 was getting two for one credits.

20 MR. MCFARLAND: That means?

21 MR. CLINTON: Every day I serve I get two
22 days. That is how I managed to serve three years, a
23 little more than that because of the change. But
24 CDC's biggest Achilles heel is a credit issue. That
25 is what is bogging this down. The way they apply

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1 credits, sometimes is not very fair and litigation
2 and everything else, and it is bogging down the
3 system.

4 What you are seeing right now began almost
5 three or four years before the bridging program was
6 implemented. They didn't credit until you got a
7 job. Now they do it for bridging with reception.
8 We start the credits earlier. What you are seeing
9 now, impact was probably three or four years, behind
10 times. Just like politicians pass laws. You don't
11 see the effect until later on.

12 But when I went in segregation because I no
13 longer had a job, credits are, quote, a privilege.
14 I went in for what they call D1 status which is
15 punishment. It is basically I go to 85 percent of
16 my time so I go from 33 to 85. So when I was in --
17 the moment that I quit talking to them was the
18 moment I got what we call legal status summary, my
19 time changed and I gained one year, nine months and

20 five days.

21 MR. MCFARLAND: Gain as?

22 MR. CLINTON: Additional time. My day

23 turned out to be 2009, and this was like, oh, Mother

24 of God, I am not talking to you no more. I severed

25 that bridge like that. And then once I got

1 transferred to CMC, they reduced it to nine months.
2 You know, they said now you are A1, you are put in
3 A1 so we are going to reduce your time a little bit
4 more. You should be happy where you are at and you
5 should be happy with the time you're doing now. You
6 are at CMC. That is their answer for my losing the
7 time rest of my time.

8 MR. MCFARLAND: MS. HALL-MARTINEZ, if you
9 or SPR have any additional, later views or thoughts
10 about anything we talked about, particularly how it
11 would work to implement your suggestions about
12 separate housing, about not having a standard
13 protective custody in ad seg, how to realistically
14 determine who is going to be identified as predators
15 in addition to their criminal record and
16 incarceration record, any of those things, you folks
17 have been thinking about this for years, and I just
18 want to tell you that as far as we are concerned the
19 record remains open for any information from you and

20 MR. CLINTON.

21 I want to thank you for your --

22 MR. CLINTON: Bothering you.

23 MR. MCFARLAND: No. For being willing to

24 share your story, incredibly painful, incredibly

25 disturbing to all of us, and to the extent that you

1 can in hindsight think about how this might work
2 differently, you have the benefit of hindsight and
3 particularly marginalized community. So anything
4 that you can think of that you would like to suggest
5 to the Commission or a line of questioning when we
6 are questioning others, the best or worst practices
7 next year, we are all ears.

8 MR. CLINTON: I am more than willing to
9 help any way I can and develop advocate area, I have
10 no problem with that. As long as everybody kept
11 open minds. I will help CDC any way I can make it
12 better for them.

13 Anyone want my E-mail address or phone number,
14 I would be more than happy to help anyone to stop
15 it.

16 MR. MCFARLAND: What is the status of your
17 lawsuit right now, what stage?

18 MR. CLINTON: I think it is served
19 everyone. They did that. They told you, you got to

20 fix this before we accept this. We got past that.

21 We have too many. We're just going to take these.

22 MR. MCFARLAND: You are represented by

23 counsel?

24 MR. CLINTON: No.

25 MR. MCFARLAND: Pro se?

1 MR. CLINTON: On my own. But I have all
2 the comments. I kept a very closed lip because I
3 found in CDC I think upper echelon knew what was
4 going on in lower levels, they would be livid.

5 MR. MCFARLAND: I thought you said you
6 gave your 274-page diary to your lawyer?

7 MR. CLINTON: I sent it out to a lawyer.
8 You have to send legal mail.

9 MR. MCFARLAND: You did not retain that
10 lawyer?

11 MR. CLINTON: No. I sent it out legal
12 mail so they wouldn't have it, so I would have a
13 journal of everything that happened. If anything. I
14 was hoping to make a book out of it and help other
15 people know or allow other things in the future to
16 develop that other people can use that resource and
17 say, "Gosh, this is what is going on here, going on
18 here."

19 There is times they would refuse to give me

20 paper. We know what you are doing. I would be
21 writing. They wouldn't give me paper. I would have
22 to write on the back of stuff, all sorts of
23 things.

24 MR. MCFARLAND: Thank you both and thank
25 you for coming up and providing this firsthand

1 testimony.

2 MS. HALL-MARTINEZ: Thank you.

3 MR. MCFARLAND: I wish you the best.

4 MR. MCFARLAND: We are in recess till 9:00
5 tomorrow morning.

6 (Panel 4 concluded at 4:00 p.m.)

7 (Hearing adjourned at 4:00 p.m.)

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