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PANEL 4

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MR. MCFARLAND: Panel 4 has come to the

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table, and we will be privileged to hear from Mr.

5

Thomas Clinton as well as Kathy Hall-Martinez who is

6

Co-Chair of the Stop Prison Rape, and Cynthia Totten

7

is also here.

8

MS. TOTTEN: Just as moral support.

9

(Oath administered by MR. MCFARLAND.)

10

MR. MCFARLAND: MR. CLINTON, you are among

11

friends. I would -- I guess not everyone has read

12

this, Tom, or has heard this. We have.

13

MR. CLINTON: I guess I have ideas or

14

concepts that may be able to help you out a lot,

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take a peek inside the looking glass. I would like

16

to share that with you.

17

MR. MCFARLAND: Don't feel any need to

18

read everything in your testimony. As I say you may

19

want to use your time. We are not pressed for time.

20 As much time as you want.

21 MR. CLINTON: Good afternoon. I truly  
22 appreciate the opportunity to appear before the  
23 national Review Panel of Prison Rape today and hope  
24 that by sharing my story with you I can help end the  
25 sexual victimization of prisoners.

1           As a gay male of small stature who was  
2 convicted of a nonviolent offense, I found that I  
3 was targeted for sexual harassment and sexual abuse  
4 throughout my incarceration. Prison officials did  
5 little to provide protection for me, despite the  
6 numerous complaints I made. Even after I was  
7 victimized, I was treated in a punitive manner to  
8 the point where I almost felt it was pointless to  
9 speak out for my rights.

10           On November 23, 2004, I was raped by a newly  
11 arrived inmate at Trinity River Conservation Camp in  
12 Lewiston, California. I had been assigned to clean  
13 the bathrooms, and I was finishing up and the inmate  
14 came into the showers and said he was assigned to  
15 help me. I did not question him or think anything  
16 of it. But he caught me off guard and attacked me.  
17 He pushed my face into the corner, causing a large  
18 cut across my cheek and forced himself inside of me.

19           That evening, still in the state of confusion

20 and shock, I tried to tell one of the correctional  
21 officers about my assault. As I started to tell him  
22 what happened, the officer told me not to say  
23 anything further, but wait until the following  
24 morning and then I can talk to the sergeants. That  
25 night I received no medical attention. I was not

1 interviewed about the assault and no evidence was  
2 collected. It was as if I was expected to go on  
3 with my daily routine, pretending nothing had  
4 happened.

5 I should have been taken to the hospital that  
6 night and the investigation process should have been  
7 started immediately. Instead, I sat in the dorm,  
8 open dorm, afraid of my assailant and worrying about  
9 the injury to my rectum which was bleeding, and the  
10 cut on my cheek was swollen and bruised. I was in  
11 physical pain from the assault and was trying to  
12 contain the confusion, terror and hopelessness I  
13 felt. I was afraid that if other inmates noticed  
14 that something was wrong with me and they would  
15 guess I had been raped and I would continue to be  
16 assaulted. I didn't sleep, but instead sat up the  
17 whole night wondering how this could happen, why the  
18 officers weren't doing anything to help me and what  
19 was going to happen to me.

20           Not really knowing what to do or how to demand  
21 my rights, I waited until the following morning to  
22 make the report of the assault. Unfortunately,  
23 rather than take a report, the sergeant in charge of  
24 investigation pressured me to sign a form stating  
25 that no assault had taken place, that nothing had

1 happened between the other inmate and me and that we  
2 were not enemies.

3 He told me that unless I sign the form he  
4 would have to transfer me and that I would lose all  
5 my good behavior credits since being at the camp.  
6 Out of fear that my release date would be delayed, I  
7 complied with the sergeant, but the sergeant still  
8 transferred me out of the minimum security camp and  
9 sent me to a California Correctional Center in  
10 Susanville, where I knew I would be put in  
11 segregation.

12 The rapist and I were transferred to  
13 Susanville in the same vehicle, and, as we arrived  
14 at the gate of the facility, the correctional  
15 officer stepped out of the SUV leaving the rapist  
16 and I alone and giving the rapist an opportunity to  
17 threaten me. He told me that I better keep my mouth  
18 shut. For trying to make a report of the assault I  
19 was being treated as if I had done something wrong

20 and was in fear for my life because of the  
21 assailant's threat. Although I wasn't aware of it  
22 at the time, I would eventually lose my good  
23 behavior credits solely because of the report of  
24 sexual assault.

25 I thought about not saying anything else about

1 the attack and out of fear that I would only cause  
2 more problems for myself. But when I got to  
3 Susanville, I told the watch commander what  
4 happened. He took down my statement after informing  
5 me that the sergeant at the conservation camp hadn't  
6 mentioned anything about the assault. He then told  
7 me that I had to be placed in protective custody  
8 pending completion of the investigation.

9           When I was taken in for my intake check-up,  
10 the Susanville medical staff processed me while  
11 other inmates were lined up within earshot of --  
12 earshot to receive the medication, which made it  
13 impossible to explain my situation without further  
14 publicizing myself as a rape victim. I also worked  
15 under the assumption that the medical staff had been  
16 made aware of what had happened, and it was not  
17 necessary for me to go out of my way to explain  
18 anything further. I later found out that the  
19 medical staff was never told about the assault and

20 thus did not know that they were supposed to have  
21 done the sexual assault exam. This entire situation  
22 could have been alleviated had I been given access  
23 to a competent medical exam.

24 Most survivors of sexual assault in prison do  
25 not want to publicize that they have been raped in

1 fear of becoming more of a target. I suggest that  
2 procedures be placed and correctional officers be  
3 properly trained to carry them out so the victim of  
4 assault can get the confidential medical attention  
5 they need without further jeopardizing their safety.

6           At this point I was placed in administrative  
7 segregation and lockdown with no programming, but  
8 still I had not been properly examined and no rape  
9 kit had been performed. Several days went by, and  
10 on November 27 of 2004, I received an envelope that  
11 contained a confidential memorandum detailing my  
12 statement of the assault. It was a memo prepared by  
13 the intake officer and was supposed to remain  
14 confidential. In the memo the officer stated that  
15 he believed that I had been a victim of a sexual  
16 assault and that the rapist had a history of violent  
17 and dangerous behavior. I was shocked to find out  
18 that the correctional officers had known that this  
19 was a dangerous predator and yet they had placed him

20 in a housing unit with me, a nonviolent offender.

21 On December 3rd, 2004, I was released into

22 general population. But on December 6, officers

23 realized that the rapist received a copy of the

24 memo, and I was sent back to administrative

25 segregation for my protection. Because a copy of

1 the memo that had been delivered to the perpetrator  
2 was never recovered, officials believed it was  
3 circulated among the inmates in general population,  
4 thus making me a target of further sexual assault.  
5 I did not want to be put back in protective custody  
6 due to my previous experience and that I would be in  
7 lockdown often going days without getting any daily  
8 hour recreation time.

9           While in administrative segregation, inmates  
10 are required to get an hour recreation outside of  
11 their cells every 23 hours, but the correctional  
12 officers would often deny me this right. Thus,  
13 another recommendation that I have is that CDC is  
14 compelling victims of sexual assault be placed in  
15 protective custody is a bad policy. It acts as  
16 punishment and only adds to the sexual assault  
17 victim's trauma.

18           There needs to be a less punishing form of  
19 protective custody for sexual assault victims and

20 automatic placement in administration segregation.  
21 Because the correctional officers knew they were at  
22 fault for releasing the confidential memo in the  
23 general population, their attitude towards me became  
24 more hostile. They began referring to me using  
25 derogatory words such as "fag" and "queer." I was

1 constantly being humiliated by staff, especially in  
2 the presence of inmates. The ordeal went on for  
3 several months, and I felt the correctional officers  
4 were punishing me on a daily basis, despite the fact  
5 that I never had any disciplinary problems.

6           For example, they kept me from acquiring  
7 grievance forms. Every Thursday an officer would  
8 come by with a cart with different forms, but nearly  
9 every time I requested a grievance form I was told  
10 they had run out. Other times they told me they  
11 would tell me they didn't have any more pens. Once  
12 I was finally able to acquire these forms, they  
13 would somehow be lost when I submitted them. Seven  
14 different times I submitted forms, and I never  
15 received the required confirmation of receipt. This  
16 led me to believe that the officers who took the  
17 forms from my hands weren't submitting them to the  
18 appropriate authorities. How could I exhaust my  
19 administrative remedies if I was being denied access

20 to my first step of the grievance process?

21 What I believe was another act of retaliation

22 in this transfer from Trinity River Conservation

23 Camp to the facility at Susanville, all of my

24 personal belongings were lost. Officers told me

25 they had been misplaced, but I later found out that

1 my box of belongings had never been picked up from  
2 the receiving office despite the fact I continuously  
3 asked for it.

4           The retaliation by officers included denial of  
5 medical care as well. The facility was aware of the  
6 chronic pain that I suffered in my legs for several  
7 years now, and they knew that the condition required  
8 me to take pain medication. Still the medical  
9 technician refused to provide the medication,  
10 although I requested it, and there was no legitimate  
11 reason to deny me. I believe that he was going -- I  
12 believe he was doing it in retaliation for my  
13 attempting to file grievance against his fellow  
14 officers.

15           Making the situation worse, it was winter and  
16 I was placed in a cell near the back door of the  
17 unit. Every time the door opened, ventilation would  
18 blow the winter air directly into my cell. Because  
19 of the problems with my legs, I requested a cell

20 transfer. But they didn't want to move me and  
21 instead left me in the cell with a thin foam  
22 mattress and a thin blanket. The cell was so cold I  
23 could put my mouth near the walls of the cell to  
24 keep it chilled and could breathe on the small  
25 window and write the word "cold" with my fingers.

1           I repeatedly requested a thick mattress and  
2 heavier blanket to alleviate the pain I was still  
3 experiencing from the rectum as a result of the  
4 attack, but I would watch the thick mattresses and  
5 extra blankets were being distributed to other  
6 prisoners, and empty cells further from the back  
7 doors would become empty and full again as I was  
8 passed up.

9           During this time I knew my legal mail was  
10 being opened because all my envelopes I received had  
11 been opened using a razor. This was being done  
12 before the letters ever reached me. Although I  
13 asked the correctional officers not to pre-open my  
14 legal mail, they continued to do so. The Susanville  
15 correctional officers also kept all my self-paid  
16 magazines and subscriptions, which kept me in a deep  
17 sense of isolation and with nothing to do in my cell  
18 all day but ponder the senselessness of my  
19 situation.

20           When I was assaulted, I suffered a torn rectum  
21   and had been continuously bleeding, but months went  
22   by before I was able to [verbatim] a proper  
23   examination and a rape kit was performed. After my  
24   initial attempt to get medical help right after the  
25   assault, I gave up. I would have told one of the

1 correctional officers about the need for medical  
2 attention, but segregation cells are all less than  
3 12 inches apart, which had made it very easy for  
4 other inmates in the area to hear what I was saying.

5           In January 2005, while still in physical pain  
6 from the assault, desperation forced me to figure  
7 out how to ask for a confidential medical exam. I  
8 wrote my request on a piece of paper and requested  
9 it and presented it to the sick call doctor. I  
10 wrote that I was raped at a camp, that I had stopped  
11 bleeding, but that I was still in pain. The doctor  
12 looked shocked and immediately informed the medical  
13 technician on duty. While in the presence of other  
14 inmates, the medical tech yelled we have a rape,  
15 loud enough that everyone in the unit could hear. I  
16 was humiliated and frightened to the point that I  
17 put the note I had to the doctor in my mouth and  
18 chewed it up and swallowed it. I wanted to get rid  
19 of the evidence that could put me in further risk.

20 This may sound extreme, but I think people on the  
21 outside cannot comprehend how vulnerable someone --  
22 some of us are to further attacks.

23 At this time I was interviewed, given an exam  
24 and sent to the medical ward. Now, nearly two  
25 months after the assault, the rape kit was performed

1 and concluded there was still some damage to my  
2 rectum. Considering the amount of time that had  
3 elapsed, it was not surprising that no DNA evidence  
4 was collected tying the rapist to the crime. After  
5 the examination I was sent back to administrative  
6 segregation.

7 In February 2005, nearly three months after  
8 the attack I was finally given the opportunity to  
9 speak to my social worker in charge of my case, and  
10 I hoped things might get better. But he was  
11 antagonistic and went as far as to say I had asked  
12 for it and that I got what I deserved for choosing  
13 to be gay. At this time the social worker informed  
14 me that no charges would be filed against the rapist  
15 and that he had been placed back into general  
16 population while I would remain in segregation. Up  
17 until this point I had still assumed that the rapist  
18 would be charged just like I had initially assumed  
19 that I would be given an examination promptly and

20 that my medical needs would be addressed.

21           Indeed -- excuse me. I'd also like to address

22 the issue of housing. At one point I had to get a

23 new cell mate, but I was reprimanded for refusing an

24 inmate that was obviously interested in having sex

25 with me, since during my interview process he had

1    been making several sexual explicit questions.

2    During the time, same round of interviews, I met a

3    57-year-old man with whom I got along with and who

4    obviously was not a threat to me, and I requested

5    that we be placed together and explained my reasons.

6    I told the officer that the first inmate wanted sex

7    with me and I had feared he might attack me.  But

8    the officer filed a disciplinary infraction on me

9    for opposing sexually threatening inmate and as a

10   result of trying to protect myself from further

11   victimization, thirty days were added to my

12   sentence.

13           I believe that the process by which inmates

14   get paired can easily be changed to better protect

15   vulnerable persons by their cellmates without

16   segregating them and denying them access to

17   projecting.  I think that persons who are vulnerable

18   to attack should be celled together so they have --

19   they are not victimized by larger, more violent and

20 more experienced predators. If an inmate knows that  
21 he may be attacked by a particular individual, that  
22 person should not be punished for voicing concerns  
23 about them.

24 All the injustice I was facing was really  
25 starting to add up. I felt isolated and persecuted

1 I reached the point of developing extreme anxiety  
2 and was eating my hair to abate the isolation I  
3 felt. I felt like I was going insane. Writing  
4 became my only vehicle of release, and I kept a  
5 274-page journal of all names, dates, times, places  
6 and incidents of abuse and retaliation.

7           After the sexual assault examination in  
8 January, I had been given a security classification  
9 hearing date. At the classification hearing the  
10 first sergeant's threats that I would lose my good  
11 behavior credits was finally realized. The warden  
12 of the Susanville facility was present and told me  
13 that my release date of April 27th, 2005, would be  
14 delayed. When I confronted her about it, she said  
15 that she didn't care if it was punishment or not. I  
16 served nine extra months, not because of anything I  
17 had done wrong, but because I reported an assault.  
18 The official response for the loss of credits was  
19 because I was being permanently transferred out of

20 the Trinity River training camp, a minimum security  
21 facility, and was no longer eligible for receiving  
22 credits for good behavior, and thus the credits I  
23 had already accumulated was no longer valid.

24 At the hearing it was concluded that I would be  
25 sent to the California Men's Colony in San Luis

1 Obispo. In dorms of CMC general population I was  
2 confronted with a whole new set of problems. There  
3 are approximately 100 inmates in each dorm, and I  
4 was constantly being sexually harassed and pressured  
5 for sex. Inmates would follow me into the showers  
6 and the bathroom and pull my covers at all hours of  
7 the night.

8           Officers are supposed to patrol the dorm at  
9 all times, especially during the night, and somehow  
10 inmates were able to get up, pull my covers on their  
11 way to the bathroom, which was intended for a signal  
12 for me to either follow them or face a possible  
13 physical assault. On the ward inmates were selling  
14 my photo so that everyone would know who the new  
15 girl on the block was. I was referred to as the new  
16 girl as a derogatory reference to my being gay.

17           I was moved from dorm to dorm five different  
18 times as inmates bribed the housing clerk to have me  
19 moved into the dorm thinking I would be or would

20 have sex with them. Eventually I was starting to  
21 use the situation in my favor. I bribed a clerk to  
22 have especially aggressive inmates moved into  
23 different dorms and moved away from me. Still the  
24 harassment was constant and obvious, but officers  
25 seemed to ignore the situation. I couldn't eat or

1 walk in the dining hall without dealing with the  
2 derogatory comments and cat calls. I couldn't eat a  
3 hot dog, burritos, popsicle because other inmates  
4 would make crude comments and holler at me across  
5 the hall.

6 Staff would ignore this or laugh along with  
7 the inmates. Several other inmates and other -- I  
8 once overheard one of the correctional officers say  
9 that if he had his way with homosexuals, he would  
10 have them in separate dorms so they would get their  
11 asses kicked and be forced to roll up and go where  
12 their asses belong.

13 I was so exhausted by the daily harassment  
14 that I had no choice but enter into a relationship  
15 with an inmate in my dorm in order to keep the rest  
16 of them off me, in exchange for his protection from  
17 other inmates. I had to be with him sexually  
18 anytime he demanded it. It was not -- it is was so  
19 humiliating that I often cried silently at night in

20 my bed. This person was a drug user, physically  
21 abusive towards me and generally unstable. But  
22 dealing with one is better than having to deal with  
23 ten or more men demanding sex from you at all given  
24 times.

25 In my view, facilities need to provide

1 orientation handbooks to gay and transgender inmates  
2 that teaches them how to notice the warning signs  
3 prior to sexual attack. In dorms we should be  
4 placed together so we have a sense of support, so we  
5 don't feel completely isolated because predators  
6 know that an isolated prisoner is more vulnerable.  
7 Healthy and responsible relationships with other  
8 inmates and staff should be encouraged so that  
9 people feel encouraged to speak out if an issue does  
10 not come -- does come up. Resource and information  
11 about sexual abuse should be freely offered. County  
12 jails should inform CDC when a gay or transgender  
13 inmate will be transferred to a receiving prison so  
14 they are prepared properly to meet the inmate's  
15 needs. Most of all, responsibility for avoiding a  
16 sexual assault cannot be laid solely on us, the  
17 inmates. Correctional staff must do much more to  
18 prevent and response to sexual violence. Staff  
19 members who are slow to respond and to report sexual

20 assaults or who abuse or harass inmates on the basis  
21 of sexual orientation need to be reprimanded,  
22 terminated or prosecuted, depending on the specifics  
23 of the situation. In general, their needs to be  
24 more focus on the needs of gay and transgender  
25 inmates, and correctional officers should undergo

1 some sensitivity training so they do not bring the  
2 prejudices to work on the prison facility.

3 I have heard from some of the gay inmates that  
4 I met while in prison, and they continue to deal  
5 with homophobia from correctional officials and  
6 general unwillingness to take common sense steps  
7 that will protect them from sexual abuse.

8 Now that I have been released I am working on  
9 a civil lawsuit to address some of the difficulties  
10 that I incurred while incarcerated. I found that my  
11 appearance and sexuality played a major role in some  
12 of the violations that I endured and I sincerely  
13 hope that by sharing my story with you it will in  
14 some way help other gay prisoners.

15 Once again, thank you for allowing me to --  
16 sorry about that -- talk with you about my  
17 experiences at California Department of Corrections  
18 and Rehabilitation.

19 MR. MCFARLAND: Thank you very much, MR.