

20 CLINTON. I imagine that was very difficult, and we  
21 appreciate your sharing this.

22 Ms. Hall-Martinez.

23 MS. HALL-MARTINEZ: I am honored to  
24 address the members of the Department of Justice  
25 Review Panel on Prison Rape at its first hearing

1 here in our home state of California. I am  
2 Kathy-Hall Martinez, Codirector of Stop Prison Rape.  
3 We are a national organization of human rights that  
4 seeks to end sexual violence against men, women in  
5 any forms of detention. There are three parts to  
6 our mission by which we try to achieve this goal.

7 First of all, engendering the quality to  
8 ensure government accountability for prison rape,  
9 trying to change ill-informed and flippant public  
10 attitude towards sexual assault behind bars,  
11 something we touched on this morning. And we also  
12 try to promote access to resources for survivors of  
13 this type of violence.

14 SPR was founded in 1980 by a survivor, and SPR  
15 has tried to be an outspoken voice for ending such  
16 violence. In 2001, the board of SPR hired its first  
17 part-time executive director, and we now employ a  
18 professional staff of seven. This month the  
19 president of our board, T.J. Parsell, is releasing a

20 memoir called Fish about his experiences as a  
21 17-year-old being raped by other prisoners in an  
22 adult facility. SPR, as I said, we try to  
23 prioritize giving a voice to survivors. We hope  
24 this panel and my testimony today will illustrate.

25 When I read T.J. Parsell's memoir recently, I

1 was struck by how similar his sexual assault while  
2 incarcerated between 1978 and 1982, his assault  
3 experiences were similar to those that we receive in  
4 letters today. In fact, somewhat similar to Mr.  
5 Clinton's experience as well. We receive about 15  
6 letters per week from survivors of prison rape  
7 around the country. In some cases the rape just  
8 happened or the individual victim is a victim of  
9 ongoing rape. In many cases survivors were  
10 assaulted weeks or months ago. In a few cases it  
11 has taken them several years to confront what  
12 happened to them. The information we receive  
13 spontaneously from these survivors provides insight  
14 to what is happening in our prisons. We are dealing  
15 with shortfalls in how corrections systems prevent  
16 and respond to sexual assault.

17           Since we began cataloguing letters in 2002,  
18 our database now contains information from more than  
19 650 survivors of sexual assault in prisoners right

20 across the U.S. As part of our outreach, we provide  
21 a resource packet to every survivor who writes to  
22 us. Hope for Healing is something that we just have  
23 begun providing recently and is meant to assist  
24 those who have no or limited access to counseling  
25 where incarcerated.

1           I want to run quickly through some of the  
2 recurring themes that we hear about in the letters  
3 we receive. I won't be able to go through all of  
4 them. Just list them quickly. Of course, many of  
5 these things are things we talked about earlier  
6 today.

7           Improper classification that leaves prisoners  
8 vulnerable to attack; staff complicity in or  
9 awareness of the sexual violence; impunity for  
10 perpetrators, whether staff or prisoners;  
11 inappropriate facility environment that leaves  
12 prisoners vulnerable; inadequate design; isolated  
13 areas; abuses of leering strip searches and  
14 discriminatory language used by correction officers;  
15 negative consequences of reporting; including  
16 placement in punitive segregation.

17           Other barriers to prisoners reporting:  
18 inadequate medical and mental health treatment and  
19 retaliatory treatment. Finally, also general

20 conditions that contribute to sexual assault, such  
21 as overcrowding, understaffing and reinstatement of  
22 abusive staff.

23           As I said, I won't be able to go through all  
24 of these, but I just want to list them briefly. I  
25 now want to zero in on California, the main focus of

1 today's hearing.

2           We are really pleased that the Review Panel  
3 has selected California to begin its work. Not just  
4 because it is our home base, but we really do  
5 believe that the California Department of  
6 Corrections and Rehabilitation has been among the  
7 more proactive states in working to implement the  
8 letter and spirit of the Prison Rape Elimination  
9 Act. The fact that we are based here in California  
10 has enabled us to propose several pilot projects to  
11 CDCR that we eventually hope can be modeled  
12 nationwide and help to contribute to the setting of  
13 standards, et cetera.

14           CDCR has really embraced the opportunity to  
15 collaborate with us, demonstrating a serious  
16 commitment to ending prisoner rape within senior  
17 levels of the department. I want to just quickly  
18 mention -- I want to also mention that I really  
19 think that that process began in earnest during

20 Commissioner Hickman's tenure.

21           The information that we heard about this  
22 morning from CDCR officials already highlighted some  
23 of the things we are aware of that are happening in  
24 the state that we think are quite positive. One  
25 thing that Nancy Hardy mentioned in her testimony is

1 that recently SPR contracted to provide training to  
2 staff and to place placards publicizing SPR and the  
3 local rape crisis centers existence in all the CDCR  
4 facilities by the end of 2007.

5 In addition, CDCR senior staff recently  
6 expressed its intention to us to start a pilot  
7 program of full day training by SPR for senior  
8 correction staff that focuses on international  
9 domestic human rights and other legal standards that  
10 underpin the goal of zero tolerance for prisoner  
11 rape and that that can soon be underway. We really  
12 do believe this is crucial training that ties  
13 together many of the concepts and issues that we  
14 have been highlighting today. Just relating to the  
15 bottom line of ensuring the dignity of all prisoners  
16 and ensuring that they are not dehumanized. Because  
17 we think that, when that is occurring, sexual  
18 violence is more likely to occur.

19 At the same time despite these hopeful signs

20 what we are very excited about, we do still think  
21 there is quite a lot that has to happen before these  
22 initiatives impact the experience of prisoners  
23 themselves, and this is true both in California and  
24 throughout the U.S.

25 PREA's letter and spirit hasn't really yet

1 made much of a difference as we can see for the  
2 majority, for the vast majority of prisoners. But  
3 we do take heart that three years after passage we  
4 may just be at the cusp of it starting to make a  
5 difference. I think what happens in the next year  
6 or two will be pivotal.

7 In the short time I have remaining today I want  
8 to share some of SPR's experience and insights from  
9 our interaction with California and other states to  
10 illustrate two recurring themes we hear about quite  
11 a lot.

12 Prisoners' legitimate fears of reporting due  
13 to punishing procedures and retaliation; and number  
14 two and relatedly, many correction officials and  
15 system's assumption, if not formal presumption, that  
16 prisoners are lying when reporting a sexual assault.

17 With respect to the first issue. Many inmates  
18 do not report prisoner rape for a good reason, as we  
19 have heard about. A serious problem in California

20 and elsewhere is that the official and unofficial  
21 responses to sexual response tend to penalize  
22 victims. A few continuing practices, if not  
23 procedures, tend to exacerbate the negative impacts  
24 on survivors and as yet have to be seriously  
25 addressed.

1           First, we do think lack of confidentiality is  
2 a serious problem. CDCR policy requires all  
3 facility staff, including mental health staff, to  
4 immediately report to a corrections administrator  
5 when anyone reports a crime, including sexual  
6 assault. This tends to leak to other prisoners and  
7 staff, in addition to California Correctional Peace  
8 Officers Association members being informed  
9 immediately of allegations against them.

10 Transparency in this context is, we think, dangerous  
11 and counterproductive. Many prisoners tell us this  
12 is a primary reason they do not report. Basically,  
13 everyone will know, which will endanger them  
14 significantly and cause them to be labeled as  
15 snitches.

16           Second, the still merely reflective procedure  
17 of putting the victim in isolated protective custody  
18 or administrative segregation. This is an  
19 appropriate reaction for an alleged assailant until

20 it is shown that he or she was not responsible. But  
21 treating victims equivalently, we think, is  
22 inappropriate. Corrections officials' response is  
23 to critique about this policy is that if an inmate  
24 really fears for his or her life and/or being raped  
25 again, they will not question being put in 23- or

1 24-hour lockdown indefinitely, without access to  
2 programming and losing good behavior points, et  
3 cetera.

4           Officials try to address institutional  
5 concerns about exposure of an inmate to subsequent  
6 assault. Although we think it is quite surprising  
7 how many times individuals are actually assaulted  
8 again even after they have been put in  
9 administrative segregation. So officials seem to  
10 discount how traumatizing this approach is. In many  
11 cases reporting may mean losing permanently whatever  
12 it is that has made the prisoner's lifer bearable.  
13 A job, a friend, recreation time, et cetera. In  
14 essence, whether it may not be intended this way,  
15 prisoners view this policy as a form of punishment  
16 for reporting in the first place and will do almost  
17 anything to avoid the excruciating isolation of  
18 administrative segregation.

19           I should mention here that automatic

20 assignment of victims to protective custody is not  
21 CDCR policy, as we heard, but we are concerned that  
22 such assignments may still be nearly automatic in  
23 practice.

24 Third, we have observed that at least in some  
25 CDCR facilities in other states as well the person

1 reporting a sexual assault is cited for a  
2 disciplinary infraction. This procedure simply  
3 defies logic. We don't understand how this can  
4 happen to an inmate who reports a crime in which his  
5 or her lack of legal consent is at the very heart of  
6 what he or she is reporting. Unless and until it is  
7 determined that consensual sexual contact occurs,  
8 which is contrary to CDCR and most states' policies,  
9 the victim should not be cited.

10 Fourth, as in the outside world many years  
11 ago, corrections officials tend to blame the victim,  
12 and in far too many instances various forms of  
13 retaliation occur. These include everything from  
14 being verbally harassed by other prisoners and  
15 staff, to losing recreational privilege, to being  
16 raped again by the same or other prisoners or even  
17 killed.

18 The final point I wanted to make about  
19 reporting is an important one. On the one hand CDCR

20 and other state policies on prisoner rape still tend  
21 to focus on reporting as the primary prevention  
22 strategy. Correction officials mandate reporting,  
23 fearing liability and security breaches, but do  
24 little to address the culture that resulted in the  
25 assault in the first place, and they often do not

1 respond appropriately to the reports that do occur.

2           Reporting rates, both in the prison and in the  
3 community, remain so low that a focus on increasing  
4 reports, while important, will not eliminate sexual  
5 violence in prison. The nature of sexual assault  
6 and the resulting rape trauma syndrome, which is a  
7 form of posttraumatic stress disorder, tend to cause  
8 people not to report in any event. Unfortunately,  
9 CDCR and other states' policies and practices simply  
10 lengthen the list of reasons prisoners have in their  
11 own minds for not reporting in the first place.

12           The second major issue we see far too often  
13 both in our conversations with corrections officials  
14 around the country and in letters we receive is that  
15 prisoners who do report are presumed to be lying.  
16 We want to make the point to the Review Panel that  
17 in our experience prisoners seldom lie about being  
18 sexually assaulted. Those who report are labeled as  
19 snitches and are ostracized. They are at risk for

20 further assault and harassment. They are often  
21 segregated and denied privileges, and they have to  
22 suffer as all rape victims do the indignities of the  
23 investigation and the stigma of being a rape victim.

24 We are told about manipulations of the  
25 goodwill of correctional personnel by prisoners who

1 want something: a transfer, to get even with a  
2 rival, et cetera. While this certainly may occur in  
3 a very small number of cases, the risk of falsely  
4 reporting, in addition to what I mentioned above,  
5 include being penalized with loss of good time and  
6 other privileges.

7           Again, in our experience most prisoners will  
8 not take those risks. Too many corrections  
9 officials assume that unsubstantiated cases, meaning  
10 there is insufficient evidence to confirm or reject  
11 a claim, are equivalent to false reports.

12 Unfortunately, investigations that result in  
13 unfounded or even unsubstantiated conclusions seem  
14 to be deemed acceptable and at least seem contribute  
15 to the belief that prisoners lie about rape when  
16 these incidents could be reviewed and used to hone  
17 investigator strategies. This is a reality that has  
18 to be confronted.

19           I want to make two very short other points

20 today. First, all correction systems need to take  
21 on a prison culture that tends to target lesbian,  
22 gay, bisexual and transgender people or those who  
23 are perceived to be any of the above for sexual  
24 violence. While any person can be sexually  
25 assaulted in a corrections facility, and we

1 certainly receive letters from victims of both LGBT  
2 and non LGBT, this issue seems to be a particular  
3 Achilles heel in quite a few states, including  
4 California. Much more needs to be learned about the  
5 incidents and the characteristics of prisoner rape  
6 in California as elsewhere.

7           The letters we receive clearly indicate this  
8 is a problem. And one of the attachments I have  
9 provided to the Review Panel shows some of these  
10 examples. Letters from gay men and transgender  
11 women state corrections officials respond to the  
12 report by accusing them of lying or exaggerating,  
13 saying things to them like it must merely have been  
14 a lovers' quarrel or that the prisoner,  
15 quote-unquote, wanted it. So as is the case on the  
16 outside, this is extraordinarily damaging for the  
17 victim and deters other people from reporting.

18           My final point that I want to make is that we  
19 at SPR want to acknowledge sincerely how challenging

20 the work of all correctional personnel is, and we  
21 greatly appreciate the hard work of most CDCR  
22 employees from staff administrators to line staff to  
23 medical staff. In addition sexual violence in CDCR  
24 facilities, indeed, even in the corrections system,  
25 that have as yet to implement PREA, we recognize

1 many corrections do their best to confront prisoner  
2 rape in their jobs day in and day out. We recognize  
3 a range of issues challenging us not to make light  
4 of the goal of substantially reducing or eliminating  
5 prisoner rape from correctional facilities, from  
6 overcrowding and inadequate staffing to a culture  
7 outside of prison that provides justification for  
8 the assault that occurs inside. The list of  
9 challenges is long.

10           And as I said, we do take on public attitude  
11 as part of our mission, that may be indeed the  
12 toughest part. We are committed to collaborating  
13 with correction staff in California and nationwide.  
14 At the same time we will continue to aggressively  
15 advocate for better prevention and response  
16 initiative.

17           Our senior staff has extensive experience in  
18 human rights advocacy in many contexts, which is why  
19 we are really thrilled that the Review Panel will

20 eventually, as required by PREA itself, exercise and  
21 mandate the uses in changing and praising strategy  
22 based on forthcoming government data on incidence of  
23 sexual assault. Unfortunately, as the voices of  
24 survivors tell us, the existence of moral and legal  
25 standards to combat prisoner rape is not enough.

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