

HOW DOES OUR NATION CONFRONT PRISON RAPE:

THE MORAL AND ETHICAL QUESTIONS

COMMISSIONER FELLNER: Mr. Horowitz, your comments seem to be addressed primarily toward inmate on inmate rate and, of course, the commission's mandate is for staff sexual abuse as well as inmate on inmate rate. And you talked that one of the solutions -- in your remarks you said one of the solutions is isolation and control of predators. So I wondered what you see as solutions for staff sexual abuse, if you see again it's isolation and control. And the other thing is you suggested that the root causes of sexual violence were the predators in prison, if we deal with a smaller number of prisoners that that may dramatically lower the incidents. And I wanted you to explore that a little more.

We've talked earlier -- we've mentioned both California and Texas as places which appear to have higher or are notorious for their rapes of -- prisoner rape. Those are also systems that are notorious for badly run prisons, for a lot of abuse

that's not sexual, but is staff violence in general, for gangs, for everything you can imagine being wrong in the prison. So I wanted you to also address whether the origins of prisoner rape lie more in mismanagement and badly run prisoners than in predators.

MR. HOROWITZ: In response to your first question, what do we do when we find that prison officials are engaged in rape or any form of forced sex with inmates, my answer is one word, imprisonment. Prosecution and imprisonment. We don't do enough of it. We need to send signals out. That's why I disagree with some of the people on the panel here.

And whether or not -- there are enough of the American people who want to build prisons and who are not troubled by rates of incarceration, who think that we have high rates of incarceration in partial response to easing of criminal codes and criminal justice system for decades that require a counter response. That's exactly the sort of debate I urge this commission to stay away from just as if it were toxic.

These are critical issues, but we succeeded with the Prison Rape Elimination Act in getting Jeff Sessions and Ted Kennedy equally passionate because we avoided just that sort of problem. And that's why we made progress here when all manner of prisoner reformers and efforts essentially spun wheels and came to Norton (ph.) and wound up in all kinds of controversy.

On the second issue, the root cause, of course it's prison mismanagement, prison administration mismanagement, which is at the heart of it. Having good prison administration won't be a magic bullet that solves all problems. There are none. But the whole premise of this commission, the whole purpose of this commission, is to create both incentives and procedures which ensure a good prison administration.