

STATEMENT OF DEBORAH LABELLE, ESQ.

CHAIRMAN WALTON: Ms. LaBelle.

MS. LABELLE: Thank you.

I'm going to address my remarks mostly to juveniles who are housed in adult facilities, and there's special vulnerability in that placement.

The last study that a lot of people cite is over -- nearly 15 years old, 1989, a study of youth in prisons and state training schools, and it reported that youth are at greater risk than their peers that are kept in juvenile facilities, who have been placed in an adult facility. In fact, it estimated that sexual assault occurs five times more likely for juveniles who are housed in an adult facility than in a juvenile facility. And I think that given the statistics and the information we've been collecting in some of our midwest prisons, that that is currently a seriously, seriously underestimated number of the special threat to youth who are in adult facilities.

I'm going to talk a little bit about girls first and the sort of daunting tasks that this Commission has with both girls and boys in even getting to the reporting issue. The children who are in adult facilities are especially low to report. In my capacity as either a private practitioner, working as a senior Soros fellow, working for the State Bar of Michigan and for the ACLU, myself and my staff for

the last ten years have been going into prisons and adult facilities, both women's and men's, about two to three times a week.

We get about 12 calls a day from the prisons, a day. And a significant amount of them are -- a growing amount are from juveniles who are held in adult facilities. Those calls break down mostly to sexual-abuse issues and health-care issues. But the only reason we get the calls is that we are a significant presence over a long period of time for these kids. And they do not report readily. They have -- they are in --

The girls, for example, in Michigan, at the age of 14, you can go into the adult prison and you are put in general population. 14-year-olds in -- are represented -- 14, 15, 16 go directly into the adult facility in the women's facilities. They are guarded by male custodial staff. They have an incredible fear of the older male staff. If you take the general recognition that there's an incredible power differential between male staff and female prisoners, based both on socialized gender issues as well as the power of the uniform over the prisoner, and you add to that the age differential, you have an incredibly and very potent differential in power.

Young girls that go in that are supervised by male staff two, three times their age are not going to come forward when they are sexually

approached very readily.

The other thing is that they are children. They are still children. 14- and 15-year-old girls, they lack the cognitive skills and abilities of adults to step forward and say what's going on. And they look around and they see the system that's in place and they have a difficult time stepping out of that and being the one to put themselves front and center.

They have a lack of knowledge of the system when they go into the adult system, which is sometimes very complex in the reporting mechanisms. And they have both a childlike fear of not being believed, as well as the sense that no matter what happens that they're guilty for it.

And I think that most child psychologists who talk about even the simple act of a parental divorce, children feel they're responsible for what adults do and what happens. When you put them in the prison context and they're sexually assaulted -- and based upon our data that we're collecting, we believe that women -- girls that are in a women's prison have 20 times -- have 20 times more risk of being sexually assaulted by custodial than general population. And that is based upon almost ten years of going in and talking to the girls and following them through.

When they report, they often report when they're much older or when they're safe. They don't report during the first couple of years that they're

in the prison. And when they do, it's often with severe consequences. The girls that are coming forward have -- are being placed often in a secure environment when they do report, which is a segregation or a hole. And, in general, the younger girls have much more difficulty serving time in isolation than adult women. They lack the resources. And the fear of going to the hole is almost as strong for a number of the girls that report as the fear of some of the sexual touching. And so they are caught and they have a lack of ability to go to anyone that they trust in that system to report.

In addition to the -- I think the lack of reporting -- the difficulty in reporting, the girls suffer from a lot of the privacy violations in a very different way than the older women do. And that's not to diminish the privacy violations for women that I'll talk about later, but that for young girls especially, their sense of privacy about their bodies is very intense. And so to be viewed in the showers by older male staff, to be viewed while on the toilet is excruciating for these young girls.

They have been taught, they have been socialized that they are entitled to a certain zone of privacy. Men don't come in on you. Older brothers don't come in on you, and certainly strange men don't come in on you in the showers and in the bathrooms and when you're dressing and undressing.

What they see, whether it's supposed to be a professional officer or not, is a sexualized gaze that's so degrading to them that it's very difficult to function in the environment that they're in. And I think that myself and my staff, who have sat in many meetings of young girls coming forward while others are sucking their thumbs in group meetings, if I have one recommendation to this Commission, it is they don't belong in the adult facilities. You cannot safely house young girls in adult female facilities.

I don't think that -- the task of getting them to report is so daunting that I urge this Commission very strongly to take the concept of the recognition that they should not be housed in adult facilities where they are guarded as if they are women and capable of functioning in that way. Because they cannot. And the trauma to them is long-lasting and not being addressed at all.

CHAIRMAN WALTON: And you're saying that should be a categorical position? You don't think that there are some girls who, because of their maturity, can function within an adult facility?

MS. LABELLE: I think that, cognitively, I'm sure that there are differences. You know, though, generally they say that children are not cognitively developed until 18, at least, and there are -- I'm sure there are exceptions also for people who can drive at 14 because they're mature enough, even

though we set these lines. Or vote or do a number of these things.

I don't mean to diminish your question, but I'm sure there's exceptions, but I have not seen the kind of screening process or the ability of any facility to do the kind of deep analysis to determine whether that girl is capable of functioning in that women's facility, or at least to make it cost effective to do it.

I want to talk a little bit about boys as well. I've been working with a group -- and it's a particular group of boys who have been sentenced to life in prison, without the possibility of parole. So they're a little unique, in that they've created either aiding-and-abetting felony offenses or homicide offenses, and they have, again, at the age of 14 up -- and the youngest one we deal with has been 14 -- been placed in adult facilities to serve their time until they're -- you know, for the rest of their life, actually. But they start out in adult facilities.

Working -- and their issue is not with so much custodial staff. In fact, I haven't had a single report. And the group I'm working with is not huge. It's 310. 310 in one state. And then 110 in two other states. So less than 500 boys. But they have been placed directly into adult, again, general-population facilities, often starting at

maximum level. Because of their life sentence, they start in the highest custody because of their sentence, and then they'll work their way down based upon what their behavior is.

And almost 80 percent of them work themselves down to the lowest level by the time they're 21. But 80 percent, 80 percent, of these boys have reported that within the first year they've been sexually assaulted by adult male prisoners. 80 percent. That's an astronomical number.

And so what they talk about is that when they come in that they have all the difficulties of being a very young person in -- sometimes the youngest in their unit and that they are an immediate target. And they have very few alternatives. They can fight, at which they understand that they will go to the hole. And then there's an incredible fear of that isolation.

If they don't fight, they can find a protector. They can try to talk to the officers. But, in general, their concept of being a snitch is as dangerous as being -- giving in to some of the sexual overtures.

And I wanted to read, because I think one of the boys wrote to me and he, just in a paragraph, sort of gave his dilemma of being in an adult facility. And he was in a Michigan facility. And he wrote:

"After a long trial and a four-day wait

for the jury, I was convicted. I tried not to cry as a child would. I stood and held my head up and I took my punishment, nodded understanding. I asked my judge, after I apologized to everyone, what could I do.

"I was sent to the maximum security prison at Muskegon. I walked in totally afraid. I saw men in there. I thought I would go to prison with people my age. That's what my lawyer told me, but that wasn't the case. I just thought, well, this is it.

"I went to the recreation area and sat alone. I felt them all looking at me. I was very pale because I had been in jail for two years and I hadn't really been outside. It seemed like I was the youngest person in a sea of men.

"Many asked me if I needed anything. They started crowding around me. How much time did I get. I tried not to answer. I tried to be left alone.

"The first one month was the hardest. You have a test. Are you a rat? Are you able to be pressed for money, sex or mule work? Was I going to be a person that moves in drugs for other people? Almost all the young ones are asked to do that. Some are

forced. If you are a rat, I believed I would not survive. That means don't tell the officers anything, not even if you're having trouble.

"One day going to the shower -- I had been there two months. I tried not to do it much. It was only my second time to the showers. I was afraid. Two men came in and tried to press me. I started squirting my shampoo in their eyes and swinging hard as I could left and right. I lived. I did live. I wasn't a rat. I lived. I guess I was fortunate."

That was his experience, and it's really indicative. I don't read that as a one in -- the only one I've got like this, but I have hundreds of letters like this.

And, again, there is no reason to put juveniles in adult facilities. I really would urge the Commission to consider that.

There are maximum-security juvenile facilities. And I'm not saying they aren't without problems, but to put kids who have no ability to really deal with what's coming at them and the complexity of it in adult facilities -- if there's one recommendation, that is the one I would make.

Secondly, for those who have been -- gone in as children, I think that the -- and many who are coming out, I think they significantly need

treatment. I think they have been damaged in a way that -- with trauma, and they certainly can't talk on the inside. A young boy cannot admit on the inside that he's been raped. The weakness of being in that position, unless you have nothing else to lose, is incredible. So you do not go out -- go and confess to a counselor and then go out in the general population as someone who has either both snitched and has been raped and has, as many of the boys say, had their manhood taken from them, because otherwise you cannot survive in that environment.

So I think that a mechanism for when they're coming out to get them some treatment so that they function on the outside is a really serious issue for this Commission, because I think in addition to what's happening inside we have to deal with the fact that the majority of people who go in come out. And they come out in ways that make them very difficult to function on the outside.

And I would just like one more point: In the jails we do require that juveniles be separated from adults, and there is much -- you know, specifically for the boys, who are separated from sight and sound from adults, there is very little sexual abuse that is reported based on our interviews. There are difficulties there, as there's long-term isolation, no outside, you know, a lot of mental-health problems, but the separation of sight

and sound from adults in the jails has saved boys from the sexual abuse in the juvenile facility.

For the girls, they haven't been quite so lucky. Because when they separate girls, based on the numbers, they're often the only girl in isolation, again, with no restrictions on guarding from male custodial staff and no one to tell. So the reports of girls in the jails is pretty significant.

And the other thing I would urge this Commission is to recommend some oversights. There's very little tracking of juveniles in jails. There's very little oversight. Trying to get the numbers of who's out there, it's a county-by-county thing. And so the kids that are placed into jails and the ability for them to function and what happens in there I think is a black hole that I don't envy this Commission dealing with, but I urge them to try to grapple with.

Thank you.