

STATEMENT OF JODY MARKSAMER, ESQ.

CHAIRMAN WALTON: Mr. Marksamer.

MR. MARKSAMER: Yes. Good afternoon.

First I would like to begin by thanking the Commission for giving me the opportunity to provide testimony today. Since 2003, I have coordinated the National Center for Lesbian Rights out of Home Youth Project, where I do policy and advocacy work on behalf of lesbian, gay, bisexual, transgender youth -- that's LGBT -- in the child welfare and juvenile justice systems.

In this capacity, I have worked closely with many LGBT youth who have been incarcerated in correctional institutions, almost all of whom have experienced physical abuse as well as sexual harassment, assault or rape at the hands of other wards, as well as correctional staff.

This sexual violence is part of a general institutional culture of disrespect for LGBT youths. Correctional facilities are homophobic places that are emotionally, physically and sexually unsafe for LGBT youth. Staff members and wards are allowed to openly harass and taunt LGBT youth, creating an atmosphere where gay youth are made easy targets for sexual abuse.

Staff members often act on the basis of bias or misinformation about LGBT youth and see them as sexual predators or perverts rather than as youth who

are in need of protection. Sexual violence against LGBT youth is also fostered by discriminatory correctional policies that sexualize and stigmatize these youth.

Many LGBT youth at correctional facilities are inappropriately labeled as sex offenders simply because they are gay, lesbian, bisexual or transgender and the facility has a policy or practice of placing homosexual youth in the sex-offender unit based on the mistaken belief that LGBT has sexual issues that need treatment. The ramifications of this characterization are significant. Aside from being stigmatized, ostracized and required to undergo inappropriate treatment, these youth are especially vulnerable to sexual attacks at the hands of the known sex offenders that they are sent to live with, as well as by other wards outside of their unit who expect sexual submission from wards from this unit.

The experiences of the youth that I have worked with serve to illustrate many of the ways that sexual assault is perpetuated against LGBT youth in correctional facilities.

One young gay man experienced 3 and 1/2 years of sexual and physical abuse while incarcerated. Although he was never accused of or charged with a sex offense, he was placed in a sex-offender unit. In this unit, wards regularly exposed themselves to him, threatened him on the way

to the showers and propositioned him for sex. His abuse was exacerbated by staff who called him homophobic names, made sexualized references towards him in front of the other wards and refused to take steps, any steps, to protect him.

On one occasion the young man was forced to provide oral sex to another youth in his unit in order to avoid being jumped by a gang. When a staff member found out about the assault, he determined that the young man violated a rule of the facility and transferred him to a higher security facility without completing any investigation and despite the fact that the young man said that he was sexually assaulted.

The young man also experienced violence when he refused other wards' sexual demands. One particularly severe assault occurred immediately after he refused the demands of another youth who had just found out that he was part of the sex-offender unit. The youth slashed the young man's face, resulting in a wound that required hundreds of stitches to close and will leave him permanently scarred.

Another youth I have worked with was regularly threatened with rape and violence by ten youth in this facility. When he asked to be put in protective custody for his safety, staff refused. They did nothing to protect him. And on one occasion, after he was left alone in the dorm, all of

the boys came at him at once and he was raped. Over the short time he was in the facility, he was forcibly raped on four occasions.

Sexual assault in juvenile facilities is not limited to gay youth. Lesbian and bisexual youth are also victimized. These young women report sexual harassment from staff members who say things to them like, "All you really need is a real man." Other girls have been sexually assaulted by staff members, including one lesbian who was sexually coerced by guards in exchange for allowing her to visit with her girlfriends.

Transgender girls have unique concerns because despite their feminine gender and appearance, they're almost always placed in boys' facilities. One young transgender girl who was held in a boys detention facility was called homophobic slurs by staff, who mocked her gender and refused to call her by her female name. These male staff were physically inappropriate with her and regularly strip-searched her for no apparent reason.

She was also expected to shower with 13 boys from her unit, which she refused to do because she was afraid of sexual assault. Rather than understanding this real risk, the staff refused to make an accommodation, and she was unable to shower until her lawyer got an order from the court that said she had to be allowed to shower by herself.

These experiences can be prevented if the general institutional culture of disrespect for LGBT youth is challenged. This requires all individuals involved in the provision of care to youth in correctional facilities to treat LGBT youth with equal dignity and respect and to adhere to contemporary professional standards governing the treatment of LGBT youth.

Training on working with LGBT youth and their safety needs is needed, and correctional institutions should adopt written policies prohibiting harassment and discrimination on the basis of actual or perceived sexual orientation or gender identity.

Staff must be prevented from verbally harassing LGBT youth or making homophobic remarks in general, and they must -- staff must also be required to promptly and appropriately intervene when wards become violent or disrespectful towards their LGBT peers.

In addition, inappropriate policies and practices must be changed, including the arbitrary and punitive placement of LGBT youth in sex-offender units. Correctional facilities must also develop policies that address determining safe placements for transgender youth.

Finally, in order to better understand the scope of this problem, research that focuses on the experiences of LGBT in correctional facilities needs

to be completed.

Once again, let me thank you for the opportunity to speak here today. I am pleased that the Commission is concerned about addressing the sexual victimization of LGBT youth. Thank you.

CHAIRMAN WALTON: Thank you for your presentation.