

QUESTIONS FROM THE COMMISSION OF THE
"AT RISK: THE ADULT FEMALE POPULATION" PANEL

CHAIRMAN WALTON: Commissioner Aiken.

COMMISSIONER AIKEN: Yes.

Just one question, and I'll pose it to anyone that cares to answer: In relationship to youth that are in our confinement, as well as adult female population in confinement, do you see acts of sexual violence or aggression being one of -- the prevalence is more random or systematic? Random from the standpoint of an individual looking at a particular opportunity without much panic and forethought of inflicting coercion or violence versus a systematic approach of collectively, more than one, maybe, planning and looking at gaps or deficiencies within security supervision in order to inflict this level of violence upon a victim?

DR. OWEN: Sir, my answer would be not only both, but even additional ones.

I think there's situational violence, both between the inmates and with the staff. I think there's planned. We talked about grooming in the literature. I think there's both short- and long-term processes in which women and girls are groomed, perhaps by other women and girls, but certainly by staff.

And I think your question about the systemic stuff brings up the issue we need to understand how

policy and practice collides with an institutional culture that demeans women and girls.

So the answer to your question is yes.

CHAIRMAN WALTON: Professor Smith.

COMMISSIONER SMITH: First of all, thank all of you for your very rich testimony. I mean I think you can see from there that I'm scribbling notes furiously, so I probably have like 30 questions I could ask, but determined I won't ask them.

I guess the big one that I want to ask is both in the context of adult women and in juvenile girls I've heard both Dr. Owen and Ms. LaBelle talk about the male gaze in a more concrete way, talk about the need to establish this zone of privacy by ending cross-gender supervision and pat searches for both girls and for adult women.

Ms. LaBelle, I know in particular that in the Sixth Circuit you got that result, but as I understand there was a serious challenge on Title 7 grounds, that this was discriminatory to female staff.

So I guess how do we balance the privacy, zone of privacy, for offenders while at the same time addressing the equal employment rights of staff? Because I think that that's going to be a serious issue.

MS. LaBELLE: I think that -- well, actually, the challenge was that it was reverse discrimination to

the male staff and that the women staff members did not challenge it based on discrimination grounds.

But it certainly was a serious issue, and it's been an issue, I think, that has been difficult for a lot of people because, you know, you want to say, well, there is sort of a clean way to at least stop some of this, and that is to move males back out of the housing. And people felt compelled to withhold from that I think because of the concerns.

I think the Sixth Circuit got it exactly right, actually, in terms of looking at where you have a situation where you have a history of this kind of abuse, that -- and where you have these issues with regard to women's bodies and this sexualized socialization that we can't do this. I mean saying -- hoping in the future that we can move towards something different. I think that they were very clear that we're not talking about moving men out of prisons. We're just creating an area where women dress and undress and are in their housing units, that you don't have that particular area staffed by men.

And there's always been the concern, well, won't that flip that for male -- for female guards in male prisons. But the problem -- and there hasn't been that kind of abuse reported in the past in the housing units to warrant that, I think under the Sixth Circuit's analysis, at least.

And, you know, in the past, frankly, most

female officers have stated pretty unequivocally that they actually instinctively give that zone of privacy to men, or at least that sort of -- in many facilities where you -- women staff do not go in the male showers, for other reasons as well. I don't think it's just privacy. They're concerned about their own safety for going into group showers with male prisoners. So they keep that barrier. And that many -- in the work I've done, many women officers -- and this can be enforced if need be -- say that when they go on the rack, they knock and say "towels on," or "woman in the rack" allows men at least to put a towel around themselves.

So I'm not diminishing, and I think that zone of privacy works as well for both sides, in terms of respecting privacy where it doesn't implicate security. And it enhances just sort of humane treatment.

DR. OWEN: And I think the kinds of things Ms. LaBelle suggested can be institutionalized in policy.

I don't want us to forget that there are some cases of female staff behaving inappropriately to female inmates. So while I do believe strongly that these privacy zones are a very important thing to think about, in my view we also need think about proper recruitment, proper selection, proper

training, and, once again, as PREA sets the philosophy of no tolerance, of leadership in the corrections world setting the tone, making the standards. Because I feel strongly that while limiting some of the access of men to female inmates is part of the problem, it won't solve the entire problem.

MS. LEVI: I wanted to build on what Dr. Owen said in sort of saying that also at Justice Now, while we see eliminating cross-gender pat searches and strip searches and extending the zone of privacy in terms of taking male officers out of the housing areas as an important role, again, female officers are just as able to sexually abuse prisoners as male officers. And to not just having training, but we should be talking about actually having a real zone of privacy, where a person is able to take a shower without being constantly viewed from above and from below, whether it's viewed by someone from the same gender or someone from a different gender.

And it's about having properly conducted pat searches and strip searches. So it's about no abusive strip searches or pat searches. No oversearching, I really like that term. We see oversearching and abusive strip searches, regardless of whether it's conducted by someone of their gender or someone of a different gender, and I think that's what we need to focus on, is eliminating those pieces and creating a real zone of privacy.

DR. OWEN: I'd also like to add that the victimology literature talks about worthy victim. And I think one of the potential contributions this Commission can make is defining the prisoner as a worthy victim. The posters outside I think make this point well. We have defined prisoners as less than, and whether it's male or female staff, there -- once you define someone as different than you, less than you, these type of abuses are possible.

CHAIRMAN WALTON: Professor.

COMMISSIONER STRUCKMAN-JOHNSON: Ms. LaBelle, thank you all. This has been extremely educational, and I've been taking lots of notes. This is an area that will require more meeting and given me terms to think about. Grouping certain -- the juvenile literature is, I think, scant or at least not as well known, as we're just beginning to understand that. And thank you all for the ideas for the adult female populations.

It just seems like common sense should be allowed to rule here. And even though I'm all for equal rights -- I'm now a member of Equativeness -- certainly a safety/privacy zone, just a simple common-sense idea, these are the sorts of things that we are looking for and hoping to recommend.

Just a few comments: In my own research, I have focused -- not focused, but certainly one of my fact findings is that the predatory female is out

there. Just because she's a woman doesn't mean she's not going to do something naughty or evil. And we are not -- we are like men in many ways. We will do things if we can get away with it, and we should not be viewed as somehow a category apart, that we are predators. And so female predators need to be brought in. They are certainly the minority, but they do their damage and should not be left out of the research or possible solutions. So I appreciate the comments that go along with that.

Just a question to -- this isn't really a question, but a clarification: You've been saying many times that prior victimization through child sexual abuse is common among female prisoners and it sets them up for a response to victimization in prison.

And would you -- I think I know what you mean, but I'm a research psychologist, not a clinical psychologist, but just to clarify, would you say you -- that once you are abused in a childhood environment you are therefore somewhat -- what would be the term -- not receptive to it, possibly expect it more? When it happens, you're more compliant to it and perhaps less -- I don't know. Is that the relationship? If you can just clarify how you think the prior abuse sets up the prison abuse.

DR. OWEN: Data collected by the Bureau of Justice Statistics, I believe the reference is Harlow -- talks about the fact that women are more

likely to be abused than men, and while it's -- Cathy Widom's -- Spatz Widom's work also talks about this. But I think your question is this: That we know with girls and women that -- as well as boys and young men, that sexual violence at a young age has profound effects developmentally. The gender difference, however, is as boys, young men grow older, they're able to resist abuse. For women this abuse appears to occur more often over their life course.

So does it make them more vulnerable to repeated victimization? My answer would be yes.

COMMISSIONER STRUCKMAN-JOHNSON: Thank you.

MS. LABELLE: I would just add one thought on that, and that is in addition to what their vulnerability is, I think there's a different experiential component. So that some women would say when they got cross-gender pat-down, they'd say, okay, well, it didn't really bother me that much, but the women who were -- had prior sexual abuse, it felt really like a violation to them. They had all sorts of, you know, flashes going on with it, and it meant something very different. And so I think they have a lot harder time separating out what is ostensibly a professional job being done from their own perceptions of what's happening to them because of their past history.

DR. OWEN: And that brings up the notion of retraumatization. And there's quite a bit of

literature on how the pressural environment retraumatizes women, and I think we saw that very clearly in the testimony of one of the first witnesses this morning in talking about her sexual relationships as -- after she got out of prison were profoundly affected. She mentioned she would see the face of her abuser when her husband would approach her, and I think those are the kinds of flashbacks, the retraumatization that makes perhaps, as Deborah pointed out, even a proper search look different.

And, again, to use the word "complexities," these are complex issues and they require very careful thought and analysis to understand the full range of the effect of trauma over the life course.

MS. LABELLE: One other thing now we're seeing is women who, especially among drug offenses, where there's sexual abuse and then self-medication with drugs and then go to prison, and they -- that there's more abuse and then they're released. A lot of the women we're assimilating are coming back in, they're trauma'd. Their last trauma was at the hands of a correctional officer, and so one instance, you know, trying to figure out then how you then deal with those women who are coming back in who went through the system that was abusive. And, you know, we've some incidents in which they've tried to put the woman in segregation, but one woman was raped in segregation so she had a psychotic break, so you also now have this layered-on history of people who have

prior incarcerations. They have to look at --

CHAIRMAN WALTON: It sounds like you may have created a mission for us that we probably can't achieve, and that's the resocialization of men and how we view women.

Commissioner Nolan.

COMMISSIONER NOLAN: Several things. I agree with you, Judge, but I would say it's a resocialization of people and how we view each other. Because one of the complaints I hear from modest male officers is they have great difficulty overseeing women in -- showering in private, that zone of privacy. And when they express discomfort at that within the corrections culture, they're derided, viewed as less than real officers. And, you know, just the usual modesty that I think many people -- males are different, but, you know, many of us are taught to be modest. So there's that factor.

I'm so glad that you-all brought up that -- because I've had a lot of complaints from female inmates of the oversearching. I'd never heard that term. That's just absolutely right on point. The aggressive pat searches.

And really one of the problems is -- and it's really one of the intent -- the gaze you say -- I would say the leer. And it can be a leer by a male or a female guard. And there's no way to define it, but you know it when you see it. And then the

victim, whoever is gazed upon with that leer, knows it.

And the help you have had with us trying -- if there is a way to get at that, it's the intent of the person as they gaze. And it's easily communicated with no words. But anybody that's experienced it knows. Then that leads to the comment you said about the culture, Dr. Owen, and I really think that's what it gets down to. And I would toss out to you collectively as a panel --

And I have to say to the other commissioners that this panel is rich in content for us. I think -- I'm going to be unpacking this a long time.

But, Ms. LaBelle, you said that the training in reporting zero tolerance has been ineffective -- maybe not completely, but it hasn't worked. Is there a way that it can be in changing the culture -- I really do think it gets down to human dignity. Does the person in authority view the other as a human being that they're an authority over but worthy of respect as a human being or as other?

Then I have one more question, and not only do I want to hear from you, Ms. LaBelle, but others: How do we get at that culture of how the custodial officer views the incarcerated person?

MS. LABELLE: I don't mean to diminish the needs for training. I certainly think that you have to have it. But I think that what has happened is that the training is given in this vacuum, and that male

officers go into a system in which there's complete disconnect. And I think that there has not been -- we talk a lot about prisoner reporting, but I get a lot of anonymous guard reporting or officer reporting. There's not a safety zone for officers to report either, and there certainly are some decent folk out there who -- neither is there -- there's not even a stopgap for them.

Often, if they could say -- even if you had an excuse, like if I don't report it it will be my job. But that's not true. Very few officers who are complicit ever get disciplined for turning the other way. Even if you had that sort of excuse to your fellow officers, sorry, but, you know, I really have to do this -- but there's not neither an encouragement nor a punishment for not doing it. So the reporting not just of the prisoners, but the mechanism to allow staff to step forward and not feel like they're not a real officer, I think, is very important.

Because they have the training, and then they step into an environment that has no connection with that training whatsoever, in terms of really the implementation. And so I think that, you know, there has to be, as in anything, a really serious follow-through -- and part of these are components, walking into a place where there's respect, walking into a place where there's the same or similar things

to the outside. It doesn't completely stop problems on the outside, but in order to get at it, that there's an understanding that this is not a dysfunctional household, which is what a lot of people have described. Some of the prisons were out of control.

So it is an odd place. I mean, you know, you're there 24/7. I mean you're there a lot with people, and it's an odd dynamic, as many psychologists have noted. So you have to work -- there's a lot of labor to understand what's going on in there and to try to intervene at appropriate times.

I don't think there's much intervention for officers who are starting to flounder. You know, once you start to treat a woman prisoner with humanity, you know, then you're there every night. If you're in the housing unit, it starts to look like the girl next door, you know, and then all sorts of things, barriers start to fall that are not necessarily evilly intended barriers, but has a lot of consequences. And I don't think there is much intervention to help those officers who are starting to fall into what is going to turn out to be a pretty ugly situation.

COMMISSIONER NOLAN: I just -- one quick thing that I had from the previous panel, Dr. Owen, I asked you outside, and you said repeat it here. You mentioned that the protective pairing is different

for male -- or females than males. I'm interested in that, what you meant by that.

DR. OWEN: It's been reported in the male-prisoner literature that many men, typically young men, but not always young men, come into the prison and are approached by an older or more sophisticated offender and that older person, more sophisticated person, says these are the bad things that are going to happen to you, let me protect you, but ultimately there's a price, and it's very often a sexual price.

My observation would be that there are types of dyadic relationships in the women's prisons community, where two people hook up. There's family relationships in the prison community, which are documented in several publications, and that we need, again, to look at the subtle differences between this coercive protective pairing and maybe some of the more emotionally supportive pairing that occurs in the women's prisons.

Again, by using a gendered lens, not defining what we see among the women in the same way we define it with the men is the answer to that.

CHAIRMAN WALTON: We're 15 minutes off.

Okay. Thank you very much. Very helpful. Thank you.