

STATEMENT OF CHRISTOPHER DALEY, ESQ.

CHAIRMAN WALTON: Mr. Daley.

MR. DALEY: Good afternoon, your Honor and Commissioners. Thank you so much for convening this hearing in my adopted home town, for bringing so many knowledgeable people together to talk about ending rape.

My name is Christopher Daley. I'm the director of the Transgender Law Center, and it's my understanding the Commission already has my written testimony, so I promise not to be as wordy there in this -- as I was there today, in the hopes that, as a panel, we'll be able to answer some of the questions you might have.

As you know, I've been asked to speak about sexual violence that's committed against transgender prisoners. And in the context of transgender prisoners, I think it's important to understand sexual violence to include rape, coercion, unnecessary strip searches and other forms of forced nudity and harassment.

Transgender prisoners, for reasons that are more clear in my written statement, are particularly at risk for sexual violence, even in settings, as Dr. Long pointed out, that are thought to be more secure, such as administrative segregation.

You all know that Ad Seg is supposed to be used for a inmate or a prisoner who has a proven

record of being a danger to themselves, other prisoners or staff. However, far too often we find transgender prisoners housed in Ad Seg, and I believe that this is an abdication by a sheriff or a warden of that responsibility that Commissioner Aiken pointed out earlier today and that Dr. Long just spoke about of creating a safe environment within an institution of incarceration.

However, even within those settings of administrative segregation, we find that transgender women in particular aren't safe. I'd like to take a moment and tell you the story of a woman that I worked with who was in Ad Seg in Sacramento. But before I tell you what happened to her, I want to tell you why she was in Sacramento County Jail. It wasn't because she was awaiting trial, and it wasn't because she had been convicted of a misdemeanor. It's because a federal attorney was holding her there to decide whether or not to appeal a judge's grant of her asylum. And she and dozens of other transgender women just like her, I would expect, are housed in county jails throughout the state every single day.

As -- while she was awaiting this attorney making a decision about whether to appeal her case, she was put into administrative segregation in Sacramento County Jail. However, one night on the way to make a phone call, she was pulled into another inmate's cell. There she was forcibly raped, so

forcibly that a local attorney who visited her three days later was still able to see the imprints of this other prisoner's teeth above her breasts.

Thankfully, this woman was able to be released once this federal attorney dropped the right to appeal, and a week later she was granted asylum and was able to leave the county jail as an asylee here in the country.

Unfortunately, she and thousands of other transgender women have stories just like this in prisons all across the U.S. We would estimate that there are tens of thousands of stories like this.

And, unfortunately also, sexual violence committed against transgender prisoners isn't just committed against transgender women in men's facilities. It's also committed against transgender men who are housed in women's facilities. There's very little data on what goes on in women's facilities for transgender men. However, an organization here in the Bay Area, the Transgender, Gender Variant, Intersex Justice Project is for the first time collecting some of that data. And one of the things that they're finding for us is that a number of people who are housed in women's facilities who fit under a larger definition of transgender but may not even use that term to define themselves are because of, as Dr. Long spoke about, their gender nonconformity, subject to harassment and abuse.

And I can certainly tell you from my own

experience of working with two transgender men who were here in San Francisco County Jail, that even these men who are housed in women's facilities and who are openly identified as transgender are targeted. One of the things that we've seen most common, as was talked about earlier, is unnecessary strip searches.

So I was contacted by two men who, over the last several years, were housed in San Francisco County Jail. And both of them had almost identical stories about the number of times in which they were forced to strip in front of both sheriff's deputies and medical personnel. In fact, one of these men, in a three-day period, underwent three strip searches, none of which seemed to have any relationship to the institution's policies or needs, all of which seemed to be to answer the curiosity of the person or people who were doing that strip search.

For many transgender people, and especially for these two men in particular, controlling who sees your body, in what context and how is incredibly important. Regular and unchecked abuses of powers by deputies, officers, guards, medical personnel completely strips away this control. And these are regular and unchecked abuses of power. The result is humiliating, and it's unnecessary. And too many times these strip searches themselves are precursors to aggressive forms of sexual violence.

So based on these experiences and those of other witnesses, I'd just like to respectfully highlight three of the recommendations that I offered in my written testimony. The first is that the Commission identify and create model training curriculum for deputies, guards, officers and medical professionals. Many of the issues raised in our testimony today could be addressed through comprehensive and ongoing training, and I think that the last panel emphasized how that training has to be ongoing. Having you, as commissioners, issue or approve model curriculum would greatly facilitate the use of that curriculum in in-service trainings.

The second recommendation I'd like to highlight is that you support the promulgation of model policies for transgender prisoners. Identifying a set of model policies that could be implemented by jails and prisons around the country that comprehensively deal with the issues raised in the testimony today would go a long way towards educating criminal-justice professionals about the needs of transgender prisoners and the interconnected nature of the issues that we're going to be presenting for you.

As a part of this process, I know that you're going to be holding more hearings, and I would strongly encourage you to ask representatives from Departments of Corrections around the State -- from state Department of Corrections around the nation and

from the Federal Bureau of Prisons to present to you their existing written policies. I would expect that if policies currently exist, you're going to find them wholly lacking.

Finally, I would urge you to issue a statement on overincarceration. Recognizing that your primary duty is to eliminate prison rape, it's indisputable that overcrowding in our jails and prisons facilitates sexual violence. A statement from the U.S. commissioners urging local, state and federal jurisdictions to find ways to reduce jail and prison populations by focusing on incarcerating violent criminals and finding alternative programs for offenders would go a long way toward highlighting the connection between sexual violence and overincarceration.

I also believe that reducing overincarceration is the only sustainable way to free up the financial resources that are needed to fulfill the goals mentioned earlier by Senator Romero and Secretary Hickman.

Your Honor, Commissioners, thank you so much for serving on this Commission, for propelling forward this dialogue that's so urgent and for working so hard to eliminate rape in our prisons and jails.

CHAIRMAN WALTON: Thank you, Mr. Daley.