

QUESTIONS FROM THE COMMISSION
OF SENATOR ROMERO AND SECRETARY HICKMAN

CHAIRMAN WALTON: Secretary, thank you very much for your presence, and we admire your commitment to implementing on this date the PREA requirements.

To my left, Commissioner Aiken.

COMMISSIONER AIKEN: Yes. Good morning.

SECRETARY HICKMAN: Good morning.

COMMISSIONER AIKEN: Mr. Secretary, this question is pertaining to you and the operational aspect of the correctional system.

What are the systems, just generally speaking, that are in place to detect, prevent and to manage not only prison rape, but the impact of prison rape within a correctional environment, the intimidation aspect of it, the sexual-aggression aspect of it, the -- to break it down in common language, the persons that enter the prison system that are informed of the terrible acts of violence that have occurred to other people and that can occur to you if you don't play with the game? What are the systems that you have in place at this particular time that would prevent, detect, manage those type of incidents?

SECRETARY HICKMAN: I'll respond this way, Mr. Commissioner: I think that the systems that we have in place are not adequate to accurately reflect a response to your question.

I will give you an example of systems that are under improvement, improvement in the system. One system that we are working very diligently to improve upon is the classification system. And the classification system in adult corrections in California has been studied and has been identified to be very, very successful in placing inmates within the housing capacities of the prisons or wherever they're located from a housing standpoint.

One of the things in our strategic plan that we're looking at is we don't have an adequate risk-needs element of that. And it doesn't have a continuum throughout the stay that an offender has in the system. So as that person comes in and gets through the reception process, they're assessed for mental illness, they're assessed for mental/physical health, they're assessed for custodial housing issues, but they aren't really assessed from a risk-and-needs perspective in a manner that allows us to both intervene and provide programs for them for success upon their return to the community, nor assessed adequately to deal with some of the issues of vulnerability. We can improve upon that immensely.

I think a system -- not necessarily a system that can report, but a system from a cultural standpoint that needs to be implemented and improved upon is a system of both communication and delivery

of educational information to both offenders and staff. As we look at going forward to improving our prisons and facilities in California, a huge deficiency that we have is in the education environment, the education both of offenders and staff, and the ability for us to identify those specific interventions that need to be provided to staff and go forward and get the adequate funding that is necessary for us to be able to identify them.

The Senator referred to the reporting that came from California. I can be very frank and say that the IT system in California is completely inadequate. We can't -- I mean I've been telling people for many, many years that we are flying in the dark without instruments, quite frankly, in the system in California in regards to our ability to identify issues as this, what's gone on in regards to the detection, what's gone on in regards to the investigation and prosecution, what's gone on in the housing in a way that gives us management information that you can make good, solid correctional decisions from. We have a very, very deficient IT system that's going to require significant investment.

And I will venture to say that, quite frankly, many of my peers across this country are not in a much better place. Some of them are in better places than others, but I think, quite frankly, when you look at the investment to prisons in this country and you look at the investment into systems that

allow for management to make good quality correctional decisions, they're not adequately funded and they're not adequately invested in on an ongoing basis.

So I see those as three examples of things that can be implemented within the systems and continually improved.

And the one last thing I think that is of the utmost importance that we've really worked on in California and are trying to implement more and more is the use of evidence in collaboration with other folks to help you. And when I look at that, that collaboration of -- the Senator refers to shining the light on prisons in California, whether it's through the media or whether it's through relationships with other people that are there to assist you and providing services and providing support and providing supervision for offenders, there has to be a better way that we all take responsibility for what goes on in the prisons of this country.

Prisons do not exist in rural areas of the country to house people from urban areas of the country for them to go back to urban areas of the country and for them to have no interface with those areas while they're away. So I think that from a broad perspective, the system of collaboration and the development of a collaborative effort in our reorganization, we created a vision -- just a

division of our reorganization that's called the division of community partnerships. Because communities of this country have to be attached to the prisons of this country in order for us to eliminate all of the issues and particularly in the area of sexual assault and return and redemption for those people when they return to our communities.

COMMISSIONER AIKEN: Thank you very much. I wish you well.

Oftentimes we find in a correctional environment that administrators are making decisions in the same manner as going down a highway 60 miles an hour and deciding where to go by looking in the rearview mirror, and as a result you end up hitting things. So I applaud you on that.

In relationship to your what I call diminished populations, will there be special emphasis on that, with individuals with certain demographic backgrounds that -- or physical features that would facilitate sexual aggression as well as mental capacity, as well as sexual orientation? Will this be incorporated in this new systemic approach in the reduction and elimination of violence, especially sexual aggression and violence?

SECRETARY HICKMAN: I think it will be -- I can't tell you how that implementation or what that instrument will look like, but it certainly is a factor that you have to use as we go forward.

One of the things we're in the process of

doing -- I think it's got multiple approaches. Not only do you have to go from the particular at-risk populations, whether they be the mentally ill, whether they be the sexually vulnerable, whether they be the Asian -- there are many subsets of vulnerable populations, but in particular to this, I think it's something that you have to have an ability to evaluate in order for you to make an appropriate decision for both program opportunities for the offender and for the housing opportunities that you have to have.

I think also what you have to be able to do, and what we're in the process of doing in California now, is that that analogy of driving down the road looking in the rearview mirror, if you look at how prisons and operations of prisons have evolved from their design to their operational -- day-to-day operational issues, you have a mismatch of time between what offenders are in what prisons, what beds are available for you to put those offenders in, what programs are in what prisons for what particular population. And we're in the process of doing an analysis, even though it's not a high-tech analysis, in California -- it's with flip charts and paper on walls -- of making sure that we are identifying the right prison bed for the right prisoner and then overlaying what that service provision needs to be at that prison, which is taking -- having us take a

complete step back and saying, well, maybe this prison, even if it's designed this way, is not the right place for our population.

So as we sort through that, this -- the PREA implementation will be a part of that analysis and subsequent implementation and roll-out as we start to reconfigure both the population, the prisons and the programs.

COMMISSIONER AIKEN: Very good, sir.

Senator Romero, and my last comment, I do welcome and thank you for your comment in relationship to giving correctional administrators the opportunity, without blame, to correct deficiencies and to improve environments so that it will be conducted. And I will hasten to add that the probability of better operation and a more effective -- cost-effective operation can be the result. So thank you for your comment.

CHAIRMAN WALTON: It sounds like -- I mean I don't believe in throwing money in every problem, but it sounds like the Commissioner -- I mean the Secretary is saying that they need more money. And I'm sure a lot of heads of correctional facilities throughout the systems, throughout the nation, say the same thing.

Senator, are legislators, are taxpayers, considering the amount of money that's already being spent on corrections, willing to expend more money?

SENATOR ROMERO: We spend right now over

\$7.2 billion. We just approved a deficiency request after quite a bit of stormy debate on the floor of the California State Senate. California is facing a severe budget deficit, but yet we have continued to, of course, fund -- there have been cutbacks across the board, undoubtedly.

I'm one, of course, who does believe, yeah, money matters, but it's not a total solution. There are issues. There are bureaucracies, there are -- there's discipline, there's classification, education, et cetera, you name it. But I certainly think that in terms of looking at the budget -- and that will be a larger debate with my colleagues as well and with the electorate. You know, we cannot just stand up and say let's be law and order, let's be tough on crime. Being tough costs money. And sometimes being tough, we've got to figure out do we start with education, where there can hopefully be prevention so we don't have to build prisons and have to incarcerate, et cetera, et cetera.

So do we need more money? Absolutely yes. Just like we need more moneys for the aged, blind, and disabled in California, hospitals, home hospices, you name it. But I certainly think that we have played a very supportive role in recognizing the reforms that are underway with this new administration, and I think it's been a collaborative process.

Mr. Secretary hasn't gotten everything he's wanted, but then neither have I.

CHAIRMAN WALTON: Professor Smith.

COMMISSIONER SMITH: Again, thank you. And I very much appreciate it, what both of you had to say in terms of the dialogue.

As far as I can see, it sounds to me as you're looking at this as an opportunity. I think that's one of the things that you stated, Senator Romero.

One of the things I always do at these events is talk about the fact that the Prison Rape Elimination Act actually doesn't create new obligations. These are obligations that you had prior to the Act, and PREA creates an incentive in terms of data collection and, in some ways, shining a light on the problem.

One of the areas that I want to talk about or at least get some feedback from both the Secretary and the Senator about is the issue of investigation, prosecution and sanctioning for staff and inmates who are found to have raped other folks in custody.

I know that one of the very clear findings of the Bureau of Justice Statistics report was that if you were an offender, you were more likely to receive an additional sanction than if you were a staff member, and that primarily if you were a staff member, what would happen is you would resign or be terminated without criminal prosecution. And so I'd

be interested in terms of what information you have about where the State of California stands on those issues.

SECRETARY HICKMAN: From a policy standpoint or philosophical standpoint, from the leadership of California Corrections, I'll say it this way: One of the things that I think has been very difficult in most places -- and I can particularly speak to the California prison system -- is the adequacy of investigative resources and the -- also the fervor and aggressiveness of those -- those small resources to go about doing thorough investigations in a way that allows for prosecutions to take place.

In regards to discipline, I think that we've made many strides in California regarding the discipline of staff and what we can do regarding prosecution of staff for sexual misconduct and rape in the prisons. I don't know that we are as aggressive as we should be as we go forward, but I think, from a philosophical standpoint, our ability to organize our investigative resources, whether they be for the investigation of staff misconduct or investigative resources for the investigation of allegations of sexual misconduct, in other words rape, we're going to make improvement.

In our reorganization we took all of the investigative resources that existed in the California Department of Corrections formerly and in

the Youth Authority and consolidated them under one umbrella of the Assistant Secretary of Correctional Safety. So any of the criminal investigations that are going on that are coming out of the prisons of California are now centralized and are now directly focused by a central place in California Corrections that reports to me myself and the undersecretary, as opposed to them all before all being dispersed and reporting to the individual wardens in the prisons.

So now we'll have the ability to manage the investigative process more directly than we did in the past. We'll also have the ability to move investigative resources to places that might not have been funded for them in the past to get those investigations done. So I think we're going to see some improvement in that area as a result of that.

The other thing that we've done is we've consolidated our internal affairs in a way that they will all be reporting to one chief of internal affairs at the agency level, and those internal affairs investigators are regionalized and report directly to the assistant secretary of internal affairs, which allows us to take away those resources once again that were dispersed amongst the facilities and have a central focus. And we can do it from a policy standpoint and from a directions standpoint to make sure that there's continuity and consistency, so that some things that are investigated in some prisons and are not investigated in others will stop.

So I think those things are initial improvements that we can make in that area that are going to bear some fruit.

CHAIRMAN WALTON: I know there are other questions. We have Congresswoman Lee here. She's on a tight schedule, and we need to hear from her if we want to maintain a positive working relationship with our Congressional partners.

I know there may be some additional questions, and I hope that we will -- if we submit written requests for additional information, you will be willing to provide that to us.

SECRETARY HICKMAN: Certainly.

CHAIRMAN WALTON: I'm sure we'll find our way back to California just because of your sheer size. But we enjoy California also.

SECRETARY HICKMAN: And we are also glad -- any assistance that we can receive. That comes in many different ways. And I think we're in a place where we want to have opportunities to improve.

COMMISSIONER STRUCKMAN-JOHNSON: I have one other question. I've learned that a bill like PREA is going through the California assembly, and I want to hear what your official position is on that bill.

SECRETARY HICKMAN: I have a meeting next week with the sponsor. I haven't had a chance to really research the bill and see exactly what it is and what it's requiring, so I don't have a position as of yet.

SENATOR ROMERO: It's a good bill, and it will pass the California State Senate. We will send it up to the Governor. So we look forward to hearing your position as well.

SECRETARY HICKMAN: I have a meeting next Wednesday with the sponsor. So I haven't had a chance to delve into it yet.

CHAIRMAN WALTON: Thank both of you for appearing. I think what you've said was very enlightening and will be very helpful.

COMMISSIONER KANE: Just very brief, I'd like just to say I feel and I think the whole Commission feels California leads the United States in so many ways. Obviously, it's the largest population. But it's such an influence on our American behavior and values. Sometimes you don't understand how important that is. I'm from Boston.

This Commission is counting on you to help move the whole United States. I know you can't do it yourselves, and we can't do it ourselves, but we will want to be talking to you frequently.

SECRETARY HICKMAN: I welcome that.

SENATOR ROMERO: I look forward to that. Thank you.

CHAIRMAN WALTON: Thank you very much.