

Testimony of
Mr. Mark Earley

July 31, 2002

Mr. Chairman and Members,

Thank you Mr. Chairman and Members of the Committee for inviting me today to speak in support of the Prison Rape Reduction Act of 2002. I want to particularly thank Senators Kennedy and Sessions as well as Congressman Frank Wolf and Bobby Scott for their leadership introducing this important legislation.;

My name is Mark Earley and I am the President and CEO of Prison Fellowship Ministries. Prior to my joining this ministry, I served as the Attorney General of Virginia from 1998-2001.

My words today are markedly influenced by Prison Fellowship's 26 years of ministry to prisoners, ex-prisoners, victims, and their families. Founded in 1976 by Charles W. Colson, Prison Fellowship is the largest prison outreach and criminal justice reform organization in the world. Its programs reach prisoners, ex-prisoners, families of prisoners, and victims of crime in all 50 states and in 95 countries worldwide.

Based on the premise that at the heart of every criminal act is a destructive decision, Prison Fellowship volunteers and staff equip churches and communities to help prisoners, ex-prisoners, and youth at risk, reject crime and become contributing members of their families and communities. Each month we produce 400,000 copies of our publication for inmates, Inside Journal, which is distributed to state and federal prisons across the country. Our Angel Tree program provided Christmas gifts to 612,000 children of inmates last year. This fall Interchange Freedom Initiative, faith-based 24-7 program will open our fourth prison in Minnesota. And in the last year alone, Operation Starting Line, our evangelistic outreach in prisons with teaching about Biblical standards of justice, hope, and love brought its program to 174 different prison facilities in eight different states, reaching an estimated 85,467 inmates.

When writing about prison rape earlier this year, Chuck Colson recounted, "I have been in prison myself, have visited over 600 prisons during the last 25 years, and have seen firsthand the utter devastation created by rape in prison."

This close contact with prisoners and their families makes the reality of prison rape inescapable for me, for Chuck Colson, and for our 295 employees and thousands of volunteers nation-wide.

The Problems about Prison Rape

Consequences of prison rape affect everyone. Ninety-five percent of prisoners are released into society. The experiences of an inmate behind bars directly affect society upon his or her release.

The rate of HIV in prisons today is 10 times higher than the population at large . While this statistic alone does not indicate a high incidence of rape spreading HIV behind prison walls, it means that every rape potentially has life threatening consequences for the victim, and his ability to successfully re-enter society.

Other physical and psychological consequences of prison rape include vaginal or rectal bleedings, soreness and bruising, insomnia, shock, withdrawal, anger, shame, guilt, humiliation, with long term consequences ranging from post traumatic stress disorder to rape trauma syndrome, to self-hatred, depression, and even suicide .

There are more than 2 million Americans in prison today, and recent reports state that anywhere from 250,000 to 600,000 of them are victimized every year.

A 1996 survey of prisoners in Nebraska state prisons found that 22 percent of inmates said they were forced to have sexual contact while incarcerated. A survey in one Southern state conducted under condition of anonymity asked about the frequency of sexual coercion in prison. There, prisoners estimated that 1 in 3 inmates were coerced, prison guards said 1 in 5, and prison officials estimated 1 in 8 . Even the lowest estimate pinpoints an astonishing 250,000 prisoners as rape victims. In December 2000, the Prison Journal published a study based on a survey of inmates in seven men's prisons in four states. The results showed that 21 percent of the inmates had experienced at least one episode of pressured or forced sexual contact since being incarcerated . If you are curious why there are no definitive numbers, the answer is that there is not a single government entity that collects data on how often rape occurs in prison, add to that the victims' reluctance to report prison rape out of shame or fear of reprise.

Though there are very few studies regarding female prisoners, we do know that for women rape is also a serious threat. One study found that 27% of the female prisoners in a particular facility reported that they had been pressured or forced into a sexual encounter .

In 1996, the Human Rights Watch began a more in-depth examination of the nature of how and why rape occurs, collecting and investigating reports of prisoner rape from 200 inmates in 37 different states. These shocking accounts detail specific encounters of rape as well as the general nature and attitude toward rape in prisons by both inmates and prison officials - and that attitude unfortunately is clearly either one of indifference or acceptance of the status quo.

Jack Cowley, a retired warden from the Oklahoma correctional system for over 20 years and now working as Prison Fellowship's Director of Operations for the Interchange program shared with me that

"Prison rape to a large degree is made more serious by the deliberate indifference of most prison officials. Oftentimes these officials will purposefully turn their back on unspeakable acts in order to maintain "peace" - allowing aggressive predators to have their way. Additionally, many prison rapes involve intimidation of the weaker inmate to the point where he reluctantly gives consent

in order to survive - rape none-the-less. Thus managing a 1,000-man prison designed for 500 becomes much easier. Survival of both staff and inmates is best insured."

However, prisons can be managed in a way that preserves human dignity.

Being tough on crime does NOT mean that rape conditions in the prisons should be tolerated for even one minute. Those behind bars are indeed incarcerated for real crimes. But even the most devastating of crimes never warrants or excuses a prison sentence filled with fear, sexual intimidation, and rape.

The Proposed Legislation

The Prison Rape Reduction Act of 2002 has drawn support from a broad bipartisan coalition spanning the range from Focus on the Family, the Christian Coalition, The Southern Baptist Convention and National Association of Evangelicals to the National Association for the Advancement of Colored People, National Council for La Raza and the Religious Action Center of Reformed Judaism. The goal is very straightforward - to effectively and comprehensively eliminate prison rape while respecting the role of States and local governments in the administration of correctional institutions. The Act would establish three programs at the Justice Department to:

- 1) Collect statistics and establish an annual public review of prison performance in the reduction of rape
- 2) Ensure that there is a confidential way for inmates to report incidences of rape.
- 3) Issue grants to state and local governments to enhance education and reward the prevention and punishment of rape.

The Act will also create a commission to examine the problem of prison rape in America, and recommend standards. The U.S. Attorney General is to review the Commission's report and recommendations and to issue, within one year, national standards to reduce prison rape in federal prisons, as well as to gather annual statistics on prison rape.

Lastly, the legislation requires prison accreditation organizations to incorporate prison rape prevention practices into their accreditation reviews.

All of these programs are in dire need. I would like to direct the bulk of my comments to the importance of statistic gathering. Society only measures things it cares about, and as a nation, we need to begin caring about prison rape. The fact that it is acceptable to joke about this violation of human rights should be shocking to Americans. I need only cite the recent 7-Up commercial, targeted to the prime soft-drink market of 12-24 year olds no less, where a man in prison is warned not to bend over and pick up his can of soda, and I quote The Washington Post description of the ad:

"The spokesman hands out 7-Up in a prison. He drops a can and says, 'I'm not picking that up,' referencing the old 'don't drop the soap' joke. Later, he sits in a cell, hugged by an inmate. 'When you bring the 7-Up, everyone is your friend,' the spokesman says. Then, he appears nervous: 'Okay, that's enough being friends.' The cell door slams."

Another shocking and disappointing comment was made by a state attorney general, that he would love "to personally escort [Enron Corp. Chairman Kenneth] Lay to an 8-by-10 cell that he could share with a tattooed dude who says, 'Hi, my name is Spike, honey,'" to remind the committee of our society's general attitude of irreverence in this area. The magnitude of our indifference will only be reduced with hard numbers from a federal agency.

This program will provide a way for prisoners to report incidences of sexual assault and rape confidentially and with the assurance that someone is listening. Providing prisoners with an effective and consistent way to report rape is essential to curbing the current state of hopelessness prevalent in victims today. Prison rape is largely underreported by inmates because of their substantiated fear that being a "snitch" will lead to further acts of violence from other prisoners, and because there are few convictions for reported rapes.

Closer monitoring of individual incidences of rape and of particularly notorious prison systems will help discourage prison officials from using rape as a form of prison control, where rape is overlooked and even encouraged according to some reports. The Los Angeles Times reported the case of Eddie Dillard, a 23-year old gang member from Los Angeles, is a frightening example. Dillard was serving time for assault with a deadly weapon when he kicked a female guard. He was transferred to the cell of Wayne Robertson, known within prison walls as the "Booty Bandit." Robertson was an enforcer for the guards, helping them rein in troublesome newcomers while officials looked the other way. When Dillard protested the transfer, he was told that "since you like hitting women, we've got somebody for you." Robertson beat, raped, and tortured Dillard for days. The guards were later criminally charged and while they were ultimately acquitted, there was no dispute as to the basic facts of the case, merely whether or not liability extended to prison officials.

The statistics program's potential to identify prisons with particularly high numbers of rape provides a strong incentive for prison officials to stop ignoring and especially to stop encouraging rape, and the act's prevention and prosecution program will train and assist federal, state, and local officers in detecting, preventing, reducing, and punishing rape.

Establishing a national standard for the occurrence of prison rape will make it possible to identify individual prison systems with rates of incidence that require investigation, and the grant program helps reward prisons who are showing progress.

As Attorney General, my responsibility was to defend the Commonwealth of Virginia, and I took that obligation seriously. The right of the states to operate free from federal interference save in very limited circumstances is an important principle to me. This piece of legislation strikes a balance, carefully crafted to respect sovereignty of states while giving guidance and incentives to meet the constitutionally mandated obligation to protect prisoners from the consequences of rape discussed today.

Conclusion

Knowledge of prison rape is well spread, both inside prisons and out. The very fact that a website exists with a "prison dictionary" of commonly used terms across the nation is sobering. Included in these terms are different words for predator, being raped, etc. Terms like "turn out," "rustler" and "tree jumper" are repeated in hundreds of letters from every state, illustrating that reports of rape are not anomalies.

What remains shocking is the attitude to which we cling. When asked about prison rape, Massachusetts Department of Correction spokesman Anthony Carnevale's explained, "Well, that's prison...I don't know what to tell you. " For the 5 percent of the American population who will spend time in prison some day, this acceptance is worse than opposition. I can express this truth no more clearly than through the words of a prisoner who was severely beaten for refusing to submit to demands for sex by another inmate, "The opposite of compassion is not hatred, it's indifference. "

Prison rape cannot be considered just another aspect of the punishment. Speaking to this, Charles Colson has said, "We may be tempted, in the privacy of our hearts, to whisper, 'They deserve it.' But no matter what crime somebody has committed, no part of his sentence should include being sexually assaulted, exposed to sexually transmitted diseases, such as AIDS and hepatitis C, or degraded. "

Imprisonment is a loss of control. Inmates cannot adequately protect themselves, they cannot choose their "neighbors" or their cellmates. Because the states, because the federal government, because the prison officials have the control, it is our responsibility to protect them. Winston Churchill said, "The mood and temper of the public in regard to the treatment of crime and criminals is one of the most unfailing tests of the civilisation of any country. "

For the sake of the men and women behind bars, for the sake of justice, and for the sake of our civilization, I urge you to pass the Prison Rape Reduction Act.