

Testimony of
Mr. Robert W. Dumond

July 31, 2002

Good afternoon Mr. Chairman, honorable members of the Judiciary Committee.

I would like to thank the Senate Judiciary Committee for this opportunity to provide testimony here today and also thank Senators Kennedy and Sessions, and Congressmen Wolf and Scott, for sponsoring this historic piece of legislation. Prison rape has often been accepted as an inevitable consequence of incarceration. We cannot allow this to occur, and your leadership will help alleviate the agony of hundreds of thousands, if not millions, who have suffered in silence.

My name is Robert W. Dumond, and I am a licensed clinical mental health counselor who has for over 30 years provided services to crime victims and offenders, (juvenile & adult) in a number of settings, most notably within the Office of the Essex County District Attorney and the Massachusetts Department of Correction. I also serve on the faculty of Franklin Pierce College and as a member of the Board of Advisors of the human rights organization Stop Prisoner Rape. Having extensively researched, written and lectured about prison sexual assault, I am here to provide a scientific context within which to understand the devastating personal, health, social and security costs associated with this scandal.

The scourge of prisoner sexual assault was recognized early in the history of U.S. corrections when the Rev. Louis Dwight of the Boston Discipline Society condemned this "dreadful degradation" in 1826 (Katz, 1976: 27). While most Americans know it is a problem, no national database exists, and the actual extent of prison sexual assault is not precisely known (Dumond, 1992; 2000). In 35 years, there have been less than 16 published studies conducted to accurately assess its epidemiology (Bartollas & Sieveides, 1983; Carroll, 1977; Davis, 1968; Fuller & Orsagh, 1977; Hensley, 2000; Jones, 1976; Lockwood, 1980; Moss, Hosford & Anderson, 1979; Nacci, 1978; Nacci & Kane, 1983, 1984; Saum, Surratt, Inciardi & Bennett, 1995; Struckman-Johnson, Struckman-Johnson, Rucker, Bumby & Donaldson, 1996; Struckman-Johnson & Struckman-Johnson, 2000; Tewksbury, 1989; Wooden & Parker, 1982), only three of which have included data about women prisoners (Alarid, 2000, Struckman-Johnson et al., 1996, Struckman-Johnson & Struckman-Johnson, 1999). We do, however, have a reliable baseline of incidence data from two large-scale studies of Midwestern prison systems recently conducted by Cindy Struckman-Johnson and her colleagues (Struckman-Johnson et al., 1996; Struckman-Johnson & Struckman-Johnson, 2000). She found that:

? 22 to 25% of prisoners are the victims of sexual pressuring, attempted sexual assault, or completed rapes;

? 1 in 10 (10%) prisoners is the victim of a completed rape at least one time during the course of his or her incarceration.

? 2/3 of those reporting sexual victimization have been victimized repeatedly -- an average of nine times during their incarceration -- with some male prisoners experiencing up to 100 incidents of sexual assault per year.

Using this data, it is reasonable to assume that in states with larger, heterogeneous urban populations, the rates of sexual assault are even higher. This assumption is supported by the study of one California medium security prison which found that 1 in 7 inmates (14%) reported being sexually victimized (Wooden & Parker, 1982). In fact, many scholars agree with the admonishment of Drs. Cotton and Groth "that available statistics must be regarded as very conservative at best, since discovery and documentation of this behavior are compromised by the nature of prison conditions, inmate codes and subculture and staff attitudes" (Cotton & Groth, 1982, p. 48). One of the goals of the Prison Rape Reduction Act is to scientifically collect and validate the actual incidence of prisoner sexual assault in all correctional facilities nationwide.

While no inmate is immune from sexual victimization, empirical evidence demonstrates that there are certain categories of male prisoners who are especially vulnerable: (a) the young and inexperienced; (b) the physically weak and small; (c) inmates suffering from mental illness or developmental disabilities; (d) inmates who are not "tough" or "street-wise"; (e) inmates who are not gang-affiliated; (f) homosexual, transgendered, or overtly effeminate inmates; (g) inmates who have violated the "code of silence"; (h) those who are disliked by staff or other inmates; and (i) inmates who have been previously sexually assaulted (Davis, 1968; Cotton & Groth, 1982, 1984; Donaldson, 1993; Dumond, 1992, 2000; Lockwood, 1978, 1980; Scacco, 1975, 1982). Race has also been identified as a factor contributing to prison rape in settings with high racial tension (Lockwood, 1980, 1994; Knowles, 1999; Wooden & Parker, 1982). It has further been shown that targets of sexual aggression may act out violently themselves, making the transition from victim to aggressor in an effort to avoid further victimization (Lockwood, 1978, 1980).

For female prisoners, it is not clear which particular characteristics play a role in determining who will be targeted for sexual abuse, but first-time offenders, young women, and mentally disabled women appear to be particularly vulnerable. Custodial sexual assault has received considerable attention (Amnesty International, 1999, 2000; Baro, 1997; Burton et al., 1999; Human Rights Watch, 1996, 1998; LIS, Inc., 1996a, 1996b; Phelps, 1999; Smith, 1998; Widney-Brown, 1998), as it should, and many important steps have been initiated to rectify the problem. It should be recognized, however, that in the only two empirically based studies which have been done (Struckman-Johnson et al., 1996; Struckman-Johnson & Struckman-Johnson, 1999), about half of the incidents were committed by other female inmates, and the remaining were committed by male and female custodial staff. Clearly, further study of female victimization, which this bill will provide, is warranted.

The crisis of being a sexual assault survivor is pervasive, devastating, and global - with profound physical, emotional, social, and spiritual components (Cotton & Groth, 1982, 1984; Dumond, 1992, 2000, Dumond & Dumond, 2002a; Fagan, Wennerstrom & Miller, 1996; Kupers, 1997). The effects of such victimization in prisons and jails have been shown to be even more debilitating, due to the unique structure of incarceration that increases the impact upon victims (Dumond, 2000; Dumond & Dumond, 2002a). Incarcerated victims are more often physically

assaulted during attacks (Struckman-Johnson et al. 1996; Struckman-Johnson & Struckman-Johnson, 2000), and routinely experience a systematic, repetitive infliction of psychological trauma, fear, helplessness, and terror as the physical/sexual abuse continues (Dumond, 1992, 2000, Dumond & Dumond, 2000a; Herman, 1992; Mariner, 2001; Toch, 1992). Male victims may be marked as "punks" and forced to endure years of sexual slavery (Donaldson, 1993; Wooden & Parker, 1982). Whatever an inmate victim chooses to do regarding the sexual assault (reporting the crime, seeking protective custody, engaging in protective pairing) has a profound impact upon his or her future while incarcerated (Donaldson, 1993; Dumond, 1992; Dumond & Dumond, 2002a; Kupers, 1997).

The mental health consequences are catastrophic. Male and female victims often experience post-traumatic stress disorder (PTSD), anxiety, depression, and exacerbation of preexisting psychiatric disorders, and most victims are at risk of committing suicide as a means of avoiding the ongoing trauma (Cotton & Groth, 1982, 1984; Dumond, 1992, 2000; Dumond & Dumond, 2002a; Fagan et al., 1996; Kupers & Toch, 1999; Lockwood, 1978, 1980; Scacco, 1975, 1982). The problem is even more acute when one recognizes that America's jails and prisons currently house more mentally ill than the nation's psychiatric hospitals collectively (Chelala, 1999; Harrington, 1999; Torrey, 1997). Unfortunately, most correctional facilities are ill-prepared to provide adequate, comprehensive services to victims, who often even fail to disclose their victimization out of fear and humiliation (Freund, 1001; Dumond, 1992, 2000; Dumond & Dumond, 2000a).

The public health consequences are equally overwhelming. In addition to the devastating physical consequences of the assaults themselves, victims may contract HIV/AIDS, other sexually transmitted diseases, other communicable diseases (such as tuberculosis and hepatitis B and C, which are rampant in U.S. correctional institutions) (AIDS Weekly, 1999; Degroot, 2001; Degroot, Hammett & Scheib, 1996; DeNoon, 1999; MacIntyre; Kendig & Kumer, 1999; Reindollar, 1999). These diseases can be spread to others in both the prison population and the general community. In addition to the possibility of disease exposure, female inmates have been impregnated as a result of staff sexual misconduct. Some of these women have further been subjected to inappropriate segregation and denied adequate health care services.

The mission of America's correctional institutions is to provide for the "care, custody and control" of those individuals committed to their supervision. Prisoner sexual assault destabilizes the safety and security of America's jails and prisons. For over 25 years it has been recognized as a contributing factor in prison homicides, violence against inmates/staff, and institutional insurrections and riots (Nacci, 1978; Nacci & Kane, 1983, 1984a, 1984b; Sylvester, Reed & Nelson, 1977). Administrative and programmatic solutions, focusing on prevention, intervention and prosecution, have long been recommended by authorities, yet not implemented by the responsible officials (Cotton & Groth, 1982, 1984; Dumond, 1992, 2000). Strategies such as increasing surveillance of critical areas in the institution, improved classification procedures to identify potential victims and aggressors, adequate medical/mental health treatment for victims, and isolation and prosecution of offenders, have been proposed for over 20 years (Davis, 1968; Cotton & Groth, 1982, 1984; Dumond, 1992, 2000; Nacci & Kane, 1983, 1984). Despite this, too many U.S. correctional officials have manifested either ignorance, misunderstanding, or, most

alarmingly, deliberate indifference about this crisis (Dumond & Dumond, 2002b; Mariner, 2001).

In effect, prison administrators have been largely unaccountable for the prison sexual assaults committed under their watch. Some analysts (Bowker, 1980; Davis, 1968; Donaldson, 1993; Gilligan, 1997; Weiss & Friar, 1974; Wooden & Parker, 1982) have even suggested that prison sexual assaults have been used as a management tool to maintain order -- a perverse and unacceptable practice.

Joanne Mariner's 2001 survey of all 50 state departments of correction and the Federal Bureau of Prisons confirmed that most correctional authorities deny that the problem exists. Effective management can only be implemented using accurate data, yet only 23 out of 46 corrections departments reported that they maintain distinct statistical information on inmate sexual assault, and no state reported data consistent with the large sample surveys of Midwestern prisons. Even though there has been universal consensus that correctional staff training is vital to addressing prison rape, only six state correctional departments (Arkansas, Illinois, Massachusetts, New Hampshire, North Carolina, Virginia) and the federal Bureau of Prisons currently provide staff with such training. Criminal prosecution is virtually non-existent in cases of prisoner sexual assault. Corrections in America have considerably improved with professionalization; nevertheless, the largest correctional accreditation agency, the American Correctional Association, has no current standard regarding inmate sexual assault.

The Prison Rape Reduction Act provides a tangible, comprehensive strategy to address the complex challenges posed by prisoner sexual assault. With accurate incidence data, correctional administrators can make rational decisions about staff deployment, inmate placement, and resource allocation, thereby improving the safety and security of America's confinement institutions. Importantly, this is a crisis which can be resolved without significant monetary expenditures. The bill's emphasis on visibility and accountability will be highly effective as it mandates that accurate information be collected and maintained by correctional institutions, and provides for careful scrutiny of each facility's prison rape abatement practices. Prison officials with poor responses will be held accountable for their inaction and indifference. The National Prison Rape Reduction Commission will also play a key role by developing reasonable standards in areas such as staff training, recordkeeping, and protection for "whistleblowers." Correctional staff will operate pursuant to the highest ethical and professional standards, and comprehensive treatment for inmate victims will begin to heal the devastating impact of sexual assault.

The human rights organization Stop Prisoner Rape has endorsed this legislation as a critical step toward curbing one of the most pervasive and devastating abuses that has been allowed to continue in our country. Stop Prisoner Rape and I urge you to support this legislation designed to address an abuse that destroys human dignity, contributes to the spread of disease, and perpetuates violence both inside and outside of prison walls. The time to address this travesty has come.

I would like to thank the committee for allowing me to share with you the facts regarding a crisis which has been ignored for too long. Hundreds of thousands of prisoners, many of whom are the most vulnerable, have silently endured these crimes. We have the technology and means to

address this issue, but we have lacked the political will to implement a remedy. Please do not allow this scandal continue. My heartfelt thanks for your time and cooperation in this matter.

Respectfully,

Robert W. Dumond, LCMHC, CCMHC, Dip. CFC
27 Baker Street
Hudson, NH 03051-3606
Phone: (603) 595-8320
E-Mail: RWDumond@aol.com

REFERENCES

AIDS Weekly Plus. (1999). High AIDS rates, other infectious diseases reported in U.S. prisons. AIDS Weekly Plus, September 13, 1999.

Alarid, L.F. (2000). Sexual assault and coercion among incarcerated women prisons: Excerpts in prison letters. The Prison Journal, 80(4): 391-406.

Baro, A.L. (1997). Spheres of consent: An analysis of the sexual abuse and sexual exploitation of women incarcerated in the state of Hawaii. Women and Criminal Justice, 8(3): 61-84.

Bartollas, C. & Sieveides, C.M. (1983). The sexual victim in a coeducational juvenile correctional institution. The Prison Journal, 58(1): 80-90.

Bowker, L.E. (1980). Prison victimization.. New York: Elsevier North Holland.

Carroll, L. (1977). Humanitarian reform and biracial sexual assault in a maximum security prison. Urban Life, 5(4): 417-437.

Chelala, C. (1999). More mentally ill people reported in US prisons. British Medical Journal, 319(7204): 210.

Cotton, D.J. & Groth, A.N. (1982). Inmate rape: prevention and intervention. Journal of Prison and Jail Health, 2 (1), 47 - 57

Cotton, D.J. & Groth, A.N. (1984). Sexual assault in correctional institutions: prevention and intervention. In I.R. Stuart, Ed. (1984). Victims of sexual aggression: Treatment of children, women and men. New York: Van Nostrand Reinhold.

Davis, A.J. (1968). Sexual assaults in the Philadelphia prison system and sheriff's vans. *Trans-Action*, 6 (2): 8-16.

DeGroot, A.S. (2001). HIV among incarcerated women: An epidemic behind the walls. *Corrections Today*, 63(1): 77-81, to 97.

DeGroot, A.S., Hammett, T., & Scheib, R.G. (1996). Access to HIV services in prison and jails: A public health concern. *AIDS Reader*, May-June 1996.

DeNoon, D.J. (1999). Prevention opportunities missed in jails, prisons. *Tuberculosis & Airborne Disease Weekly*, September 20, 1999

Donaldson, S. (1993). Prisoner rape education program: Overview for administrators and staff. Brandon: VT: The Safer Society Press.

Dumond, R.W. (1992). The sexual assault of male inmates in incarcerated settings. *International Journal of the Sociology of Law*, 20(2): 135 - 157.

Dumond, R.W. (2000). Inmate sexual assault: The plague which persists. *The Prison Journal*, 80(4): 407-414.

Dumond, R.W. & Dumond, D.A. (2002a). The treatment of sexual assault victims. In C. Hensley (Ed.), *Prison sex: Practice and policy*. Boulder, CO: Lynne Rienner Publishers, Chapter 5, pp. 67-88

Dumond, R.W. & Dumond, D.A. (2002b). Training staff on inmate sexual assault. In C. Hensley (Ed.), *Prison sex: Practice and policy*. Boulder, CO: Lynne Rienner Publishers, Chapter 6, pp. 89-100.

Fagan, T.J., Wennerstrom, D. & Miller, J. (1996). Sexual assault of male inmates: Prevention, identification, and intervention. *Journal of Correctional Health Care*, 3(1): 49-66.

Forst, M., Fagan, J.V. & Vivona, T.S. (1989). Youth in prisons and training schools: Perceptions and consequences in treatment - custody dichotomy. *Juvenile and Family Court Journal*, 40(1): 1-14.

Fruend, K. (1991). Caring for the victim of sexual assault (Editorial). *American Journal of Preventative Medicine*, 7(6): 459 - 460.

Fuller, D.A. & Orsagh, T. (1977). Violence and victimization with a state prison system. *Criminal Justice Review*, 2(2): 35-55.

Gilligan, J. (1997). *Violence: Reflections on a national epidemic*. New York: Vintage Books.

- Harrington, S.P.M. (1999) New Bedlam: Jails - not psychiatric hospitals - now care for the indigent mentally ill. *Jail Suicide/Mental Health Update*, 9(2): 12-17.
- Hensley, C. (2000). Consensual and forced sex in male Oklahoma prisons. Paper presented at the annual meeting of the Academy of Criminal Justice Sciences, New Orleans, LA, March 22, 2000.
- Herman, J.L. (1992). Complex PTSD: A syndrome in survivors of prolonged and repeated trauma. *Journal of Traumatic Stress*, 5(3): 377-389.
- Jones, D.A. (1976). *The health risks of imprisonment*. Lexington, MA: D.C. Heath.
- Katz, J. (Ed.). (1976). *Gay American history*. New York: Thomas Cromwell.
- Knowles, G.J. (1999). Male prison rape: A search for causation and prevention. *The Howard Journal*, 38(3) 267-282.
- Kupers, T.A. & Toch, H. (1999). *Prison madness: The mental health crisis behind bars and what we must Do About It*. San Francisco: CA: Jossey-Bass.
- Lockwood, D. (1978). *Sexual Aggression Among Male Prisoners*. Ann Arbor, MI: University Microfilms International.
- Lockwood, D. (1980). *Prison Sexual Violence*. New York: Elsevia/Thomond Books.
- Lockwood, D. (1994). Issues in prison sexual violence. In M.C. Braswell, R.H. Montgomery, Jr. & L.X. Lombardo (Eds.) *Prison Violence in America*, 2nd Edition. Cincinnati: Henderson.
- MacIntyre, C.R. et al. (1999). Unrecognized transmission of Tuberculosis in prisons. *European Journal of Epidemiology*, 15(8): 705-709.
- Mariner, J. (2001). *No Escape: Male Rape in U.S. Prisons*. New York: Human Rights Watch.
- Moss, C.S., Hosford, R.E. & Anderson, W. (1979). Sexual assault in prison. *Psychological Reports*, 44(3): 823-828.
- Nacci, P.L. (1978). Sexual assault in prisons. *American Journal of Corrections*, 40(1): 30-31.
- Nacci, P.L. & Kane, T.R. (1983). The incidence of sex and sexual aggression in Federal prisons. *Federal Probation*, 47(4): 31-36.
- Nacci, P.L. & Kane, T.R. (1984a). Sex and sexual aggression in Federal prisons: inmate involvement and employee impact. *Federal Probation*, 48(1): 46-53.
- Nacci, P.L. & Kane, T.R. (1984b). Inmate sexual aggression: Some evolving propositions, empirical findings, and mitigating counter-forces. *Journal of Offender Counseling, Services and Rehabilitation*. 9(1-2): 1-20.
- Reindollar, R.W. (1999). Hepatitis C and the correctional population (Emerging and reemerging

issues in infectious disease - Hepatitis C: A meeting ground for the generalist and specialist.)
American Journal of Medicine, December 27, 1999: 1005.

Saum, C., Surratt, H., Inciardi, J., & Bennett, R. (1995). Sex in prison: Exploring the myths and realities. *The Prison Journal*, 75(4): 413-430.

Scacco, A.M. (1975). *Rape in Prison*. Springfield, IL: Charles C. Thomas.

Scacco, A.M. (Ed.). (1982). *Male Rape: a Casebook of Sexual Aggression*. New York: AMS Press, Inc.

Struckman-Johnson, C.J., Struckman-Johnson, D.L., Rucker, L., Bumby, K., & Donaldson, S. (1996) Sexual coercion reported by men and women in prison. *The Journal of Sex Research*, 33(1): 67-76.

Struckman-Johnson, C.J. & Struckman-Johnson, D.L. (1999, November). Pressured and forced sexual contact reported by women in three Midwestern prisons. Paper presented at the joint annual meeting of the Society for the Study of Sexuality and the American Association of Sex Educators, Counselors, and Therapists, St. Louis, MO.

Struckman-Johnson, C.J., Struckman-Johnson, D.L. (2000). Sexual coercion rates in seven Midwestern prison facilities for men. *The Prison Journal*, 80(4): 379-390.

Tewksbury, R. (1989). Measures of sexual behavior in an Ohio prison. *Sociology and Social Research*, 74(1): 34-39.

Toch, H. (1977). *Living in prison: The ecology of survival*. New York: Free Press.

Toch, H. (1992). *Mosaic of despair: Human breakdowns in prison*. (Revised Edition). Washington, D.C. : American Psychological Association.

Torrey, E.F. (1999). How did so many mentally ill persons get into America's jails and prisons? *American Jails*, 13(5): 9-13.

Weiss, C. & Friar, D.J. (1974). *Terror in the prisons: Homosexual rape and why society condones it*. Indianapolis: Bobbs-Merrill.

Wooden, WS & Parker, J. (1982). *Men behind bars: Sexual exploitation in prison*. New York: Plenum Press.

Case Cited

Farmer v. Brennan, 511 U.S. 825 (1994)

Brief Biography

Robert W. Dumond is a licensed and certified clinical mental health counselor who has served in a number of criminal justice venues since 1970, most notably as Director - Victim/Witness Assistance with the Essex County (MA) District Attorney's Office [1979-1987] and as Psychologist III/Director of Mental Health within the Massachusetts Department of Correction [1987-1995]. He has held a faculty appointment with Franklin Pierce College, Division of Continuing Education and Professional and Graduate Studies since 1984. He has researched, written and presented extensively on the issue of prison sexual assault and developed the first curriculum for Rape Awareness Training for the Massachusetts Department of Correction. He has also provided expert testimony in a number of jurisdictions of the U.S. District Court and in several state courts. He currently serves as a Governor's Appointee to the New Hampshire Department of Corrections Citizen's Advisory Board Executive Committee and as a member of the Board of Advisors for Stop Prisoner Rape.