

National Prison Rape Elimination Commission

HONORABLE REGGIE B. WALTON,

Chairman

JAMES E. AIKEN

JAMIE FELLNER

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JOHN A. KANEB

PAT NOLAN

GUSTAVUS A. PURYEAR IV

BRENDA V. SMITH

CINDY STRUCKMAN-JOHNSON

Commissioners

July 21, 2006

The Honorable F. James Sensenbrenner, Jr.
Chairman, Committee on the Judiciary
U.S. House of Representatives
2138 Rayburn House Office Building
Washington, DC 20515

The Honorable John Conyers, Jr.
Ranking Democrat, Committee on the Judiciary
U.S. House of Representatives
B-351 Rayburn House Office Building
Washington, DC 20515

Senator Arlen Specter
Chairman, Committee on the Judiciary
United States Senate
224 Dirksen Senate Office Building
Washington, D.C. 20510

Senator Patrick J. Leahy
Ranking Minority, Committee on the Judiciary
United States Senate
224 Dirksen Senate Office Building
Washington, D.C. 20510

Dear Messrs. Sensenbrenner, Conyers, Specter and Leahy:

As you are aware, the National Prison Rape Elimination Commission (the Commission) was created pursuant to federal law *P.L. 108-79, the Prison Rape Elimination Act*. The Commission has the duty to study Federal, State, and local government policies and practices with respect to the prevention, detection and punishment of prison sexual assaults. In this regard, the Commission is carrying out a comprehensive legal and factual study of the penological, physical, mental, medical, social, and economic impacts of prison sexual assaults on Federal, State, and local governments in the United States and on communities and social institutions generally. The Commission's scope includes both adult and juvenile correctional facilities. It is currently anticipated that the Commission's final report will be submitted to the Congress in July 2007.

The Commission is aware that the Congress is currently deliberating the important issue of street gang criminal activity. We also understand that one of the legislative responses being considered is the prosecution of alleged juvenile gang members in federal court. We, of course, take no position on the proposed legislation. We would like to bring to your attention, however, the problem of placing both convicted juveniles and those detained pretrial with adult detainees, if this issue is not specifically addressed. It is our view that housing juveniles—whether convicted or detained pretrial—with adult inmates significantly increases the likelihood that they will be subjected to sexual abuse.

A panel of leaders of the major juvenile correctional associations addressed this precise issue in testifying, at our hearing on juveniles this past June in Boston, to the danger of placing juveniles in adult facilities. The Commission heard from a total of nineteen witnesses, including two juvenile survivors of sexual violence, representatives from advocacy groups; juvenile correctional services agencies; prosecutors; judges; and elected public officials. All these leaders and experts on juvenile corrections emphasized to us that youths should not be placed in adult facilities.

Based on this sworn testimony and our review of the available literature, the Commission finds that juveniles are a highly vulnerable population when in custody and consequently at higher risk of sexual violence, exploitation and abuse. As Congress previously found in enacting the Prison Rape Elimination Act of 2003, “[j]uveniles are 5 times more likely to be sexually assaulted in adult rather than juvenile facilities – often within the first 48 hours of incarceration.”¹

We understand Congress’s concern to reduce the serious harm caused by gangs and thus recommend that if juveniles are to be tried as adults, Congress should consider requiring that no person under 18 years of age should be housed in adult correctional facilities, and that every precaution is taken to ensure the safety of all juveniles in detention.

Additional research indicates that incarcerating youthful offenders along with adults puts these juveniles at an intolerably high risk for victimization. Juvenile offenders housed in adult facilities are 30 percent more likely to be assaulted with a weapon, and twice as likely to be beaten by staff.² Suicide rates among juveniles in adult correctional facilities are five times the rate in the general population and eight times higher than the rate for juveniles in juvenile detention facilities.³

While the Commission reiterates our concern with the serious and growing problem of street gang violence and other criminal activity in our nation and our support for Congressional efforts to deal with these serious challenges, we recommend that Congress refrain from inadvertently putting youth at serious risk of sexual abuse by placing them in adult facilities. Instead, the Commission encourages Congress to consider appropriate custody facilities for juveniles.

The Commission appreciates your attention to our concerns and we urge the Congress to consider the need for appropriate facilities for juveniles tried as adults.

¹ Forst, Martin, Jeffrey Fagan, and T. Scott Vivona. 1989. “Youth in Prisons and Training Schools: Perceptions and Consequences of the Treatment-Custody Dichotomy.” *Juvenile and Family Court Journal* 39:1 (“[s]exual assault was five times more likely among youth in prison than in training schools”).

² Forst, Martin, Jeffrey Fagan, and T. Scott Vivona. 1989. “Youth in Prisons and Training Schools: Perceptions and Consequences of the Treatment-Custody Dichotomy.” *Juvenile and Family Court Journal* 39:1.

³ Austin, James, Kelly Dedel Johnson, and Maria Gregoriou. 2000. *Juveniles in Adult Prisons and Jails: A National Assessment*. Washington, D.C.: Bureau of Justice Assistance.

Sincerely,

A handwritten signature in blue ink, appearing to read "Reggie B. Walton", with a long horizontal flourish extending to the right.

REGGIE B. WALTON

Chairman, National Prison Rape Elimination Commission

Cc: J. Denis Hastert, Speaker, U.S. House of Representatives
Nancy Pelosi, Democratic Leader U.S. House of Representatives
Bill Frist, Senate Majority Leader, U.S. Senate
Harry Reid, Minority Leader, U.S. Senate