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Prisoners' Rights:

The ACLU's National Prison Project is the only national litigation program on behalf of prisoners. Since 1972, the NPP has represented more than 100,000 men, women and children. The NPP continues to fight unconstitutional conditions and the "lock 'em up" mentality that prevails in the legislatures. Learn more about our project and take action to protect the rights guaranteed to all Americans.

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ACLU Says Faulty Investigation by Texas Corrections Department Led to Grand Jury's Failure to Indict Rape Suspects (2/26/2004)

FOR IMMEDIATE RELEASE

AUSTIN, TX-Citing evidence that a gay prisoner had repeatedly pleaded with corrections officials to help him escape rapes by prison gang members, the American Civil Liberties Union today released documents refuting a flawed internal investigation by the Texas Department of Criminal Justice that claimed the victim consented to sex with his attackers.

"The claim that Roderick Johnson was engaging in consensual relationships with the violent predators who were coercing him is ludicrous and is contradicted by the evidence showing his repeated appeals to prison officials and staff," said Margaret Winter, Associate Director of the ACLU's National Prison Project and Johnson's attorney. "Gangs control life in the Allred Unit. As a gay man, Mr. Johnson's only hope of surviving his incarceration was to submit to sexual slavery."

For 18 months Roderick Keith Johnson was housed at the James A. Allred Unit in Iowa Park, Texas where prison gangs bought and sold him as a sexual slave, raping, abusing, and degrading him nearly every day. Johnson filed numerous grievances, letters, and complaints with prison officials and appeared before the unit's classification committee seven separate times asking to be transferred to safe-keeping, protective custody, or another prison, but each time they refused. Not until April 2002, after the ACLU's National Prison Project intervened on Johnson's behalf, was he moved out of the Allred Unit and into a wing designated for vulnerable prisoners.

Now paroled and living in Austin, Johnson has been diagnosed with post-traumatic stress disorder and continues to be plagued by nightmares because of the horrors he endured while incarcerated. "In prison, gay men are at the bottom of a cruelly constructed pecking order among inmates - avoiding sexual exploitation is nearly impossible," said Johnson.

From the first day he entered the Allred Unit, Johnson alerted staff that he was gay and in need of protection from predatory prisoners. Despite their

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awareness of the institutional tradition that gay prisoners are victimized and the obvious risks to Johnson, officials chose to send him to general population where he was raped.

Indeed, just 10 months prior to Johnson's prison admission, a federal district court order chastised TDCJ for its continued failure to protect vulnerable prisoners from sexual assaults. "Prison officials deliberately resist providing reasonable safety to inmates," the court said. "The result is that individual prisoners who seek protection from their attackers are either not believed, disregarded, or told that there is a lack of evidence to support action by the prison system. . . . Prison officials at all levels play a game of willing disbelief, one that appears adequate on paper and fails dismally in practice."

Evidence presented today by the ACLU documents Johnson's year-and-a-half-long paper trail of complaints to prison officials. Administration responses to the complaints follow a strikingly familiar tone. "You were . . . denied transfer, safe keeping, and protective custody due to insufficient evidence. You have not provided any new information. If you feel your life is being threatened, you should immediately notify security staff and provide the substantiating evidence."

Officials' refusal even to interview the alleged attackers, and their insistence that Johnson must provide documented proof that he was being sexually coerced, left him in despair. To provide the evidence they demanded, he created a letter ostensibly from one of his attackers, reflecting the oral threats he had received.

Earlier this month, TDCJ widely publicized the fact that a grand jury in Wichita Falls, Texas chose not to indict a single prisoner for any of the attacks on Johnson. Johnson was never told of the grand jury investigation and was not asked to testify.

Even though grand jury investigations are supposed to be secret, TDCJ released a statement asserting that an internal investigation, consisting primarily of statements by suspects denying that anyone had sexually coerced Johnson, led jury members to their decision.

Winter called the report a whitewash intended as a cover-up for TDCJ's refusal to investigate for the previous 18 months. At the time Johnson reported the rapes and sexual coercion, TDCJ refused to interview a single suspect, and most of the interviews cited in the internal report were not conducted until long after Johnson was transferred from Allred.

TDCJ's internal investigation also contained numerous examples of misinformation. For example, investigators falsely claimed that Johnson had named a witness to the coercion - who was also a rape victim- as one of the perpetrators. TDCJ further claimed that another witness said that Johnson had invented his accounts of repeated rapes - yet this witness notified the ACLU that TDCJ had falsely attributed this statement to him.

According to a recent report produced for Texas's Safe Prisons Program, Allred is one of the worst facilities for prison rape within TDCJ. In 2001, Human Rights Watch identified Texas as the worst state in the nation for

prison rape in their report, *No Escape: Male Rape in U.S. Prisons*.

Roderick Keith Johnson is represented in his lawsuit, *Johnson v. Johnson*, by Winter and Craig Cowie of the ACLU's National Prison Project and Austin attorney Edward Tuddenham. TDCJ's pretrial appeal of the trial court's refusal to dismiss the case is currently pending before the 5th Circuit Court of Appeals.

For examples of complaints filed by Johnson go to </prison/gen/14651lgl20040226.html>

Johnson's TDCJ Offender Protection Investigation Forms are available at </prison/gen/14650lgl20040226.html>

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