

U.S. DEPARTMENT OF JUSTICE
OFFICE OF JUSTICE PROGRAMS

REVIEW PANEL ON PRISON RAPE

HEARINGS ON RAPE AND SEXUAL
MISCONDUCT IN U.S. JAILS

Friday, September 16, 2011

8:30 a.m. - 10:48 a.m.

AMENDED COPY

United States Department of Justice
Office of Justice Programs
810 Seventh Street, N.W.
Video-Conference Room, Third Floor
Washington, D.C.

Diversified Reporting Services, Inc.
(202) 467-9200

PARTICIPANTS:

COMMISSIONERS:

DR. REGINALD WILKINSON
President & Chief Executive Officer
Ohio College Action Network

DR. GARY CHRISTENSEN
President
Corrections Partners, Inc.

PARTICIPANTS:

MITCH LUCAS
Chief Deputy, Charleston County

RUSSELL ROBINSON
Professor, University of California Berkeley Law
School

DAVID L. MOSS CRIMINAL JUSTICE CENTER:

STANLEY GLANZ
Sheriff

MICHELLE ROBINETTE
Chief Deputy

JEREMY YERTON
Investigator

HINDS COUNTY WORK CENTER:

MALCOLM McMILLIN
Sheriff

STEVEN PICKETT
Chief Deputy

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1 P R O C E E D I N G S

2 DR. WILKINSON: Today is the hearing, the PREA
3 Panel hearing on the low incidence of sexual misconduct
4 hearing that is different than the hearing from
5 yesterday, which was the high prevalence of
6 institutions facilities. So we will convene the
7 hearing on low prevalence facilities for the PREA
8 Review Panel on prison rape.

9 We will begin this morning's hearing with
10 testimony from Mitch Lucas, who is the Chief Deputy of
11 Charleston County, South Carolina jail facility. But
12 he's here on behalf of the American Jail Association,
13 he's the third vice president. I don't know what that
14 means, I think it means that three years from now
15 you'll be president, maybe, or something like that.

16 But Chief, we appreciate you being here. We
17 appreciate you representing AJA and I must acknowledge
18 the AJA president, Gwen Smith, here as well. So we
19 have about twenty minutes for your testimony, and after
20 I swear you in, you may proceed.

21 //

22 //

1 Whereupon,

2 CHIEF DEPUTY MITCH LUCAS

3 appeared as a witness herein and, having been
4 first duly sworn to tell the truth, was examined and
5 testified as follows:

6 DR. WILKINSON: Thank you, sir, and you may
7 proceed with your testimony.

8 TESTIMONY OF DEPUTY CHIEF MITCH LUCAS

9 CHIEF DEPUTY LUCAS: Thank you for allowing me
10 to represent the American Jail Association to
11 participate in the work of the Panel. I believe I
12 speak for all jail professionals when I say that every
13 effort should be made to combat sexual assault and
14 victimization in the jails of this country. While we
15 all recognize the importance of protecting inmates --

16 DR. WILKINSON: She's always the boss.

17 CHIEF DEPUTY LUCAS: Okay. Can y'all hear me?

18 DR. WILKINSON: We can hear -- it could be a
19 little louder.

20 CHIEF DEPUTY LUCAS: We're down to fifteen
21 minutes now right?

22 DR. WILKINSON: No, we're good.

1 CHIEF DEPUTY LUCAS: Is that better?

2 DR. WILKINSON: We're good.

3 CHIEF DEPUTY LUCAS: Okay.

4 While we all recognize the importance of
5 protecting inmates from such abuse, we also understand
6 that, given the number of jails, the complexities of
7 individual jail cultures and insufficient funding
8 realities, it will be difficult for many jails to
9 achieve positive results.

10 Having said that, the work of this Panel over
11 the past few years has shown that, while some jails are
12 struggling in their efforts, others are doing
13 substantially better. Implementing measures, programs
14 and policies and procedures that have reduced the
15 number of sexual assaults on inmates in their
16 facilities.

17 What causes such a vast disparity of success
18 in this regard? In the simplest discussion of the
19 issues, there are three obstacles that the jails face
20 when attempting to make changes in their operations to
21 reduce the sexual victimization of inmates. These are
22 funding, attitude, and culture. Unfortunately, each

1 can compound the effects of the other.

2 Even before the current economic crisis, jails
3 have struggled with being under-funded by local
4 government. Typically, the cost of running a jail is
5 one of the largest expenditures of local government.
6 The jail provides services to a population that has
7 little political power, evokes little sympathy from the
8 public, and carries a stigma which causes groups that
9 do have political influence to shun them for fear of
10 being associated with criminals.

11 The majority of inmates in American jails are
12 pre-trial and have not been convicted of the charges
13 they face. However, most people believe that anyone
14 who gets arrested deserves the punishment of
15 incarceration, and any bad things that happen to them
16 while incarcerated are justified by the inmates'
17 alleged criminal behavior.

18 Unfortunately, it is not uncommon to find this
19 thinking among members of legislative bodies that fund
20 local jails. In the current fiscal environment, most
21 jails are facing funding cuts, even to the point of
22 closing facilities and laying off detention staff.

1 Obviously there is little available funding for
2 improving the institutional environment of inmates,
3 even for something as important as protecting inmates
4 from sexual abuse.

5 A jail administrator who has a strong desire
6 to address the problem may find his efforts frustrated
7 by the authority to which he reports. Those of us who
8 are jail administrators rarely work for people who have
9 first-hand knowledge of jail administrations. Like
10 many in my position, I was a law enforcement officer
11 before I became a jail administrator.

12 After twenty-three years of law enforcement
13 experience, I thought I had a basic understanding of
14 jail operations. However, after being promoted to jail
15 administrator, I quickly discovered I was very much
16 mistaken. Such is the case of many elected sheriffs.
17 Most come from a law enforcement background, in many
18 cases focused the majority of their energy on the law
19 enforcement responsibilities of the office.

20 Greater emphasis is placed on services
21 provided directly to the public rather than the more
22 latent responsibilities associated with jail

1 operations. When funding is scarce, law enforcement
2 services provided to the public are usually considered
3 more critical than jail services provided to the
4 inmates.

5 Sheriffs and local law enforcement figures are
6 not alone in this mentality. Typically, public safety
7 grants made available by state and federal sources tend
8 to focus on police services while almost none are
9 distributed for jail purposes. In jails operated by
10 county and municipal governments instead of an elected
11 sheriff, basic jail operations may be even less
12 understood. The jail administrator in those cases
13 works for people who usually have no experience in law
14 enforcement or jail operations.

15 The jail administrator has to convince the
16 local government administrators for the need -- of the
17 need for funding, and in most cases then plead his case
18 before the legislative body responsible for funding
19 government activities. The same legislative body is
20 also trying to decide how much money to allocate the
21 other county or local government services. In essence,
22 they must decide to spend money on maintaining the

1 quality of citizens' lives over the welfare of inmates.

2 In all my years of public service, and the
3 countless meetings with city, county, and state
4 legislative bodies I have attended, I have never
5 witnessed a citizen speak on behalf of inmate welfare
6 or to ask that the jail condition be improved. What
7 does this mean for local jail managers trying to make
8 their jail facilities safer for inmates? It means, for
9 the most part, we're going to have to manage the
10 problem with existing funding, existing facilities, and
11 existing manpower.

12 In many cases, jail staff are working in
13 facilities that needed to be replaced decades ago, that
14 were not properly maintained, and that are vastly
15 overcrowded, making an already hazardous work
16 environment even more dangerous. This is another
17 example of a jail being a very low priority to some
18 local governments and ignoring the fact that such
19 conditions can be directly linked to inmate sexual
20 assault and abuse.

21 Outdated physical plants are notorious for
22 offering concealment, poor lighting, and security

1 systems that focus on perimeter integrity rather than
2 activities occurring within the facility. This
3 environment creates conditions that can be exploited by
4 staff members who are intent on sexually abusing
5 inmates, and inmates who want to leverage their
6 willingness to provide sexual favors for preferential
7 treatment.

8 Overcrowding provides predatory inmates
9 increased opportunities to victimize others. In an
10 overcrowded jail, it is not uncommon to find cells in
11 the booking area housing a greater number of inmates
12 than the cells were designed to hold. Typically, the
13 inmates in these cells were not properly classified;
14 therefore, the predators are held with the prey who, if
15 properly classified, would be kept separate.

16 Additionally, because of the overcrowded
17 conditions, direct observation by detention staff is
18 limited. Predatory inmates may also find other inmates
19 who are willing to help conceal the sexual assault and
20 even participate as a reward for their assistance.
21 Similar situations are found in overcrowded housing
22 units that do not utilize direct supervision.

1 Who protects inmates in these conditions? In
2 most cases, it is the detention officer who is paid
3 less than the law enforcement officer in the same
4 community, and in many cases in the same agency. It is
5 not uncommon to find the minimum qualification for
6 employment less stringent for detention officers than
7 their law enforcement counterparts. Even in agencies
8 where the hiring requirements are similar, the state's
9 basic certification requirements for detention officers
10 are less rigorous than those for law enforcement
11 officers.

12 In my own state of South Carolina, the state
13 academy class for basic law enforcement certification
14 is twelve weeks long, whereas for detention officers it
15 is just three weeks. In spite of that, I consider
16 jails in South Carolina to be fortunate. We have
17 state-mandated minimum standards for local jails with a
18 fairly robust jail -- state jail inspection department.

19 Seventeen states have no minimum standards for jails,
20 and in some states that do have standards, the jail
21 inspection process is either weak or non-existent.

22 I'm not suggesting that the quality of

1 detention officers in this country is such that
2 preventing sexual abuse of inmates is beyond their
3 capabilities. To the contrary. A common attribute
4 among detention officers is the ability to perform
5 important functions that are critical to the safety of
6 the public. And they're made to, like, with little in
7 their favor except pride, camaraderie, a personal
8 commitment to serving the public, and hopefully a
9 professional jail management team that follows modern
10 detention practices.

11 As has been proven, some jails have a strong
12 leadership, dedicated staff, and the resources
13 necessarily to effectively be responsive to the
14 problems of inappropriate and illegal sexual abuse of
15 inmates. Others simply cannot develop a plan of action
16 because they are unable to juggle their budgets to pay
17 for the training and enhance recruiting processes and
18 improve inmate classification, as well as how to make
19 better use of their surveillance equipment or separate
20 potential victims from possible perpetrators because of
21 poor facility design.

22 The critical component for all successful

1 programs to protect inmates from sexual abuse is an
2 administrator or director committed to a zero-tolerance
3 policy with a command staff of the same mindset, thus
4 imposing that philosophy on the entire facility.
5 Whether the facility is large or small, the leadership
6 must provide the example and enforce the zero-tolerance
7 policy in a fair and even-handed manner.

8 It may sound as though I'm trying to persuade
9 the Panel that most jails cannot take the steps
10 necessary to prevent inmate rape and abuse. I can
11 assure that is not the case. I know there are a number
12 of jails in the United States who are successfully
13 preventing sexual assaults and victimization, and who
14 were successfully protecting inmates before this panel
15 was convened, although I'm sure the recent focus on the
16 issue has enhanced their efforts.

17 I'm convinced that while jail professionals
18 want to protect those who are in their custody from
19 sexual abuse at the hands of either staff or predatory
20 inmates, many times their efforts fall short. So the
21 question remains, what causes these alarming
22 disparities.

1 In 2008, the Panel put out a publication,
2 "Report on Rape in Jails," and they published the best
3 practices. And I'm just going to paraphrase a few
4 thoughts on what these best practices are.

5 Citing training for inmates and staff,
6 training is one of the key elements of an appropriately
7 run jail, but training is also one of the things that
8 first falls during poor budget times. And in states
9 that don't have any training standards, there many
10 times you'll find there's no training offered in the
11 jail or training program of any type. So it makes it
12 difficult to even bring in a new training aspect.

13 In addition to that, all of the training that
14 takes place in-service is, for the most part, going to
15 be on overtime. And that again is going to be another
16 aspect of implementing new training that people are
17 just finding cost prohibitive. Educating inmates on
18 zero tolerance, I think that it's doable in most jails
19 if we use something like posters or maybe
20 professionally produced videos. Not that the jail
21 produces, because typically they're terrible, and small
22 jails, especially, don't have the resources to create

1 those kind of posters and video tapes.

2 Classification -- moderate inmate behavior
3 management is rooted in the objective inmate
4 classification system. That being said, a lot of
5 jails -- maybe the majority of them -- don't use any
6 type of classification system and they separate people
7 by charges. I heard yesterday in the hearing that they
8 were separating people and one of the components of the
9 classification system was the amount of bond. And for
10 the life of me, I can't figure out how that would fit
11 into a classification system. So those that use the
12 objective classification system can meet all of the
13 suggestions that the Justice Department promulgated in
14 this.

15 The surveillance aspects of this is probably
16 one of the more problematic for older jails. If you
17 use direct supervision, the word complete direct
18 supervision jail, direct observation is probably your
19 best surveillance technique for protecting inmates and
20 for solely security. Unfortunately, a lot of the jails
21 that are in existence today were built before direct
22 supervision came into vogue, and they're -- it's just

1 too expensive to try to modify, remodel these jails,
2 and there's just simply not enough money in local
3 budgets to build additional jail space.

4 If they're using video technology in the
5 jails, it's a tremendous asset. I was in one of the
6 largest jails in the United States two years ago with
7 probably 8,000 inmates in this one facility. They had
8 twelve cameras. So it's not just small jails that are
9 having trouble with video technology. Large jails do
10 as well. My jail is a half million square feet, I have
11 635 cameras. We're discovering blind spots even when
12 we have that much technology applied to it.

13 If they're designed properly, video can
14 prevent strip search rooms from becoming probable
15 locations for sexual abuse from staff. A strip search
16 can occur behind a curtained partition with the camera
17 focused on the officers who are standing in plain view
18 and conducting the strip search rather than behind the
19 curtain. Adding audio recording capabilities increases
20 the cost, but it's invaluable in determining if
21 inappropriate comments were made while the inmate was
22 undressed.

1 We instituted this particular aspect of video
2 surveillance about a year ago, and it has really helped
3 us -- rather than turning the camera towards the wall
4 so that's all you get is the audio recording of people
5 screaming and hollering, you get a better feel for
6 what's actually going on in the strip search room. And
7 you hear exactly what the officers are saying to the
8 inmates, and the inmates are saying to the officers.

9 And I like to read this particular part about
10 reporting. "No part of a jail's efforts to prevent
11 sexual abuse of inmates is more effective by individual
12 jail culture than the reporting component. Jail
13 culture can adversely affect every level of reporting
14 sexual abuse. Some examples of the role culture plays
15 in reporting might be the inmate who is either victim
16 or witness must decide how their life will change in
17 the jail if he or she reports an officer for sexual
18 misconduct. Even though technically an inmate cannot
19 consent, a victim who agrees to have sex with a staff
20 member may feel they have more control of their
21 condition of incarceration if they provide sexual
22 favors. An officer who suspects a coworker of having

1 an inappropriate relationship may be hesitant to report
2 suspicions because of friendship, the possibility of
3 the coworker losing his or her job, or even the fear of
4 becoming a pariah within the jail workforce.

5 "The supervisor who learns an officer is
6 having sex with an inmate, but has known the officer
7 for years and understands the consequences of making an
8 official report decides to handle the issue himself.

9 "Finally, the administrator of a small jail
10 does not want to ruin an otherwise good employee and
11 watch the officer's personal life and reputation be
12 destroyed within the community. One cannot discount
13 that many of the human factors listed above or those
14 not mentioned. Most jails are in smaller communities,
15 and the impact of a staff member being terminated or
16 arrested for sexual involvement with an inmate carries
17 enormous social implications within those communities.

18 "Once again, whether in a small town or a
19 large metropolitan area, the remedy for all this is
20 strong leadership and zero tolerance for sexual
21 misconduct in the jail. Proper reporting will not
22 occur if strong leadership and enforcement laws do not

1 exist."

2 Under investigations, this is one of the most
3 perplexing parts of PREA for me. First and foremost,
4 sexual abuse of an inmate is a crime. And if you had a
5 sexual assault in the parking lot, you wouldn't send
6 detention officers to investigate it. You'd call law
7 enforcement to investigate it. And that should be the
8 first step in any case where sexual assault or abuse is
9 suspected. Bring law enforcement in; treat it as any
10 other sexual assault, with the same investigation, the
11 same protocols; the same resources should be applied to
12 it as are applied for any other sexual assault in the
13 area or in the United States for that matter.

14 Many times, I'm afraid the jail staff, because
15 they don't understand advanced investigative techniques
16 and crime scene processing may do something that
17 damages the case, even to the degree that you can't
18 prosecute the case. And prosecutors, when PREA first
19 came about, I couldn't understand what the issue was.
20 We prosecute anyone who commits a violation in our
21 jail, whether it's staff or inmates, either one.

22 But a lot of my counterparts tell me that

1 prosecutors will not -- simply not bring cases against
2 inmates, especially for inmate-on-inmate sexual
3 assault. They have this -- it's almost like the jail
4 is separated -- is a separate society and works within
5 its own set of guidelines and rules, and everything
6 that happens within the jail stays within the jail.

7 And I'm not sure what the answer to this is; I
8 brought this up with the Attorney General's Office and
9 they tell me that there's nothing that can be done to
10 make prosecutors bring cases before court. I honestly
11 think that's one of the weakest points in our efforts
12 to prevent rape and sexual assault in jail.

13 Policies and practices, we've talked about,
14 you know, a lot of jails don't have written policies.
15 But policies that are in existence, I think any sexual
16 assault should be reported and treated as a crime. But
17 additionally, sexual harassment, sexual crime and
18 sexual activity between staff and inmates will not be
19 tolerated. Zero tolerance policy.

20 If staff were aware of another staff member
21 being involved in sexual activities or relationship
22 must report them to a supervisor. Any instance that

1 may be criminal in nature must be reported to law
2 enforcement. And the step before you get to
3 inappropriate sexual relations with -- between staff
4 and inmates are the inappropriate relations
5 between -- relationships between staff and inmates.
6 And Dr. Wilkinson and I have talked about this a couple
7 of years ago.

8 In my six years as jail administrator in
9 Charleston County, I have fired fourteen females,
10 officers, for inappropriate relationships with inmates
11 and four male officers for inappropriate actions or
12 relationships with inmates. That's -- PREA's almost
13 like it's a step behind, because you have to address
14 those relationships to try to keep them from developing
15 into a sexual activity when it might just start out as
16 an inappropriate relationship.

17 And for closing remarks, jail professionals in
18 this country provide -- prove every day that they are
19 advocates for the safety and well being of the inmates
20 in their charge. Some risks in inmates are easier to
21 identify and mitigate than others, and certainly the
22 protection of inmates from sexual abuse is one of the

1 highest priorities.

2 Although the goal of the professional jail
3 system is to improve our capability to protect the
4 inmates from sexual abuse, the resources to do so are
5 not available to do so in most jails. The federal
6 government is taking a very positive step in
7 contracting the Moss Group to develop the PREA tool kit
8 and offer technical assistance to local jails. The
9 Moss Group has partnered with key organizations like
10 the Center for Innovative Public Policies, the National
11 Institute of Corrections, the National Sheriffs
12 Association, The American Jail Association, and the
13 American Correctional Association, and other
14 stakeholders who are fully vested in the effort to
15 provide a safer environment for inmates. The proposed
16 PREA resource center web site will be another tool that
17 helps to strengthen their efforts to protect inmates
18 from sexual abuse or assault in any form.

19 Thank you for allowing me to testify today.
20 It's been a privilege, both personally and
21 professionally, and I look forward to the American Jail
22 Association remaining involved in the important work of

1 this Panel.

2 DR. WILKINSON: Thank you, Chief. You've
3 summed up quite a bit in a short period of time that is
4 very, very relevant, and especially related to
5 classification. That's one that kind of -- you know, I
6 think is extremely important, as it relates to sexual
7 assault. Not just in detention facilities but adult
8 correctional facilities and juvenile facilities as
9 well.

10 You said you couldn't understand how, for the
11 life of you, how a bond could enter into a
12 classification system. How do you think it's used? We
13 didn't make it up, and the witnesses who talked about
14 that, you know, acknowledged that that's what they do.
15 So how does it work? How could it work?

16 CHIEF DEPUTY LUCAS: How could what work, sir?

17 DR. WILKINSON: Using bond as the
18 classification process.

19 CHIEF DEPUTY LUCAS: I don't know why -- if
20 you have someone that is from the other part of the
21 country and is charged with a misdemeanor, there's a
22 great likelihood they're going to have a substantial

1 cash bond to make sure that they either stay, or they
2 have a reason to come to jail to get their bond back.

3 But someone who was charged with a serious
4 felony that has a long history in the community of
5 employment, family in the area, all the other things
6 that pre-trial intervention type of factors come into
7 play may get a very low bond, or out on their own
8 recognizance. So I'm not sure what bond would have to
9 do --

10 DR. WILKINSON: Sometimes you don't even get
11 bond until you've been there for -- I don't know how
12 long it takes to be eligible for bond or have a
13 hearing, a bond hearing.

14 CHIEF DEPUTY LUCAS: It depends. In our
15 state, you have to have a bond hearing within twenty-
16 four hours of arrest. So -- and every state is
17 different.

18 DR. WILKINSON: Yeah.

19 CHIEF DEPUTY LUCAS: But once the bond is set,
20 classification is for institutional security reasons.
21 For managing the inmate behavior management. And I'm
22 not sure what bond has to do with that, any more than

1 which agency arrested them or what the plea bargain is
2 going to come out because of the case. Bond just does
3 not seem to be a factor, to me, in classification.

4 DR. WILKINSON: Yeah. You said you fired
5 fourteen female officers and four male officers. Were
6 those all for sexual misconduct? I don't recall
7 exactly what you said.

8 CHIEF DEPUTY LUCAS: Two of them were, and
9 then I had a nurse working for a vendor -- I've had
10 three cases in six years where an arrest was made for
11 sexual misconduct. And in South Carolina, we have a
12 separate statute for -- that actually puts inmates,
13 patients in mental health hospitals and hospitals, and
14 offenders that are on probation all in the same
15 category. And I've had two of those -- I had -- my
16 first sexual misconduct case was a female officer,
17 between a female officer and a murder suspect, the
18 first three months I was jail administrator.

19 This year, the last two have come about. The
20 one was a nurse, the other one was a male officer.
21 Both -- we arrested in all cases -- and that's our
22 policy. If you raise it to criminal violation, we're

1 going to arrest you.

2 DR. WILKINSON: Were any of those folks
3 convicted or prosecuted or --

4 CHIEF DEPUTY LUCAS: The first one was
5 convicted. And actually, we've had two officers before
6 I got there that were convicted and went to prison.
7 She went to prison. From what I understand, the nurse
8 has worked out a pre-trial process that the solicitor
9 is going to allow her to participate in. The officer,
10 we're not going to -- we're going to hold for jail
11 time. We want him to go to prison.

12 DR. WILKINSON: Okay.

13 DR. CHRISTENSEN: Thank you, Mr. Lucas.
14 You -- in the beginning of your talk, you mentioned
15 three major issues; funding, attitude and culture.

16 CHIEF DEPUTY LUCAS: Yes, sir.

17 DR. CHRISTENSEN: And I couldn't agree more,
18 especially as it relates to the latter two, attitude
19 and culture.

20 In your estimation, both as a commander at
21 your facility and the third vice president of the
22 American Jail Association, what do you think is most

1 important that we do to combat that attitude and
2 culture, and change it toward a culture that doesn't
3 permit this type of behavior?

4 CHIEF DEPUTY LUCAS: Tim Ryan yesterday made,
5 I think, a very astute observation in that, in the
6 American culture, sexual activity in the jail is not
7 only realized, it's almost expected by the public. And
8 it's made great humor for comedians and TV shows and
9 everything else.

10 So off the bat, we're starting at below zero
11 with someone who we hire, who's been brought up in this
12 country, and does not understand the significance of
13 sexual assault in jails and prisons. I think the only
14 thing we can do -- and this is one of the reasons that
15 many of us are involved in like the American Jail
16 Association -- is trying to bring a professionalism to
17 the industry that is lacking in some areas.

18 And local jails struggle so much with just
19 having people recognize their worth and value, the
20 people that work there, and having those people
21 understand that they're jail professionals, that their
22 job is -- no matter what the media image of corrections

1 and detention officers is, which is absolutely
2 horrible. We're professionals and we have a real
3 responsibility to come to work every day with that
4 thought in mind, to be professional and act
5 professional.

6 And understand that we're there to make sure
7 that we're going to manage inmate behavior, but the
8 most important element besides keeping the security of
9 the facility as a whole, is the protection of inmates,
10 no matter what the harm might be. Whether it's from
11 suicide or some type of medical emergency, but
12 notwithstanding the sexual assault of inmates by other
13 inmates. And making sure that if we realize we've got
14 a bad apple in our core, that we do something about it.
15 We report them, we arrest them, we prosecute them to
16 the fullest extent of the law.

17 DR. CHRISTENSEN: Thank you.

18 DR. WILKINSON: Thank you, Chief. I thank the
19 American Jail Association as well for continuing to
20 support this effort. And at some point, you know,
21 we're looking at developing a project that we want
22 jails to be a part of. So you know, we'll be in touch

1 with probably AJA and NSA about some of those
2 possibilities.

3 So thank you very much for your testimony
4 and --

5 CHIEF DEPUTY LUCAS: If I can offer one more
6 comment.

7 DR. WILKINSON: Yes, please do.

8 CHIEF DEPUTY LUCAS: And this troubles me on a
9 couple of levels. The grant funding that local
10 governments just absolutely rely on completely now,
11 there is no grant money to help jails improve
12 conditions for inmates or improve their operations.
13 And if this panel can offer any assistance in that
14 regard, with any effects on the Department of Justice
15 as far as classification systems, if there was funding
16 available so that you could -- a jail could apply for
17 grants to bring in an objective classification system,
18 or even assistance with video surveillance, any of the
19 things that this panel has identified as a specific
20 tool that can be used to help jails achieve the results
21 that PREA intends to bring about, I think would go a
22 long ways.

1 Thank you.

2 DR. WILKINSON: Your comments and sentiments
3 are now on the record. So thank you very much.

4 CHIEF DEPUTY LUCAS: Thank you.

5 DR. CHRISTENSEN: Thank you.

6 DR. WILKINSON: I'd like to now invite
7 Professor Russell Robinson from the University of
8 Berkeley Law School to join us.

9 Thank you, Professor, for being here and
10 joining us in offering testimony. I do need to swear
11 you in, if you would raise your right hand.

12 Whereupon,

13 PROFESSOR RUSSELL ROBINSON

14 appeared as a witness herein and, having been
15 first duly sworn to tell the truth, was examined and
16 testified as follows:

17 DR. WILKINSON: You may proceed with your
18 testimony.

19 TESTIMONY OF PROFESSIONAL RUSSELL ROBINSON

20 PROFESSOR ROBINSON: Thank you.

21 So good morning, thank you for hearing my
22 testimony today. I'm a professor of law at the

1 University of California Berkeley, and before that I
2 was a professor at UCLA School of Law for seven years.

3 My scholarship builds on a theory called
4 intersectionality, which was developed by Kimberle
5 Crenshaw. Intersectionality examines how multiple
6 identities overlap to produce distinct forms of
7 oppression. Whereas Crenshaw focused on Black women,
8 my scholarship focuses on non-heterosexual men of
9 color, that is gay and bisexual men, and men who have
10 sex with men but reject conventional sexual labels.
11 Insights of inquiry for my analysis have included the
12 Gay Rights Movement, HIV Aids and governmental policies
13 that classify on the basis of sexual orientation, which
14 I will talk about today.

15 So my testimony is based on research that I
16 conducted over four years in preparing an article
17 entitled, *Masculinity as Prison: Sexual Identity, Race*
18 *and Incarceration* which will be published by the
19 Berkeley, California, Law Review in October. I've
20 submitted the final draft of the article along with the
21 written version of this testimony to the Department.

22 The article investigates a special unit of the

1 L.A. County men's jail, the K-6-G unit, which is set
2 aside for gay male and transgender inmates. I
3 interviewed numerous formerly incarcerated people,
4 including people that were incarcerated in the K-6-G
5 unit, law enforcement officers, government officials,
6 lawyers and advocates to illuminate how the jail
7 identifies gay and trans inmates. And the extent to
8 which the identification process is accurate and
9 potentially is shaped by stereotypes of gay, bisexual,
10 and transgender identities.

11 Although the article's primary focus is the
12 L.A. jail, I interviewed officials associated with the
13 San Francisco and New York jails in order to understand
14 the policy alternatives to the choices that were made
15 by L.A. And also to sort of get some feedback in terms
16 of other people that were administering jails, and what
17 they thought about the L.A. policy. So I want to make
18 three main points in my testimony today.

19 First of all, policies that rely on sexual-
20 orientation-based segregation to keep inmates safe are
21 difficult to implement and create special dangers of
22 their own. So all three of the jurisdictions that I

1 studied, Los Angeles, San Francisco, and New York used
2 to have "queens tanks" as they were called, special
3 units set aside for transgender and gay inmates.

4 My investigation suggests that policies that
5 rely on sexual-orientation-based segregation are very
6 difficult to implement and often harmful to sexual
7 minorities, especially people of color. These policies
8 also tend to be vastly under-inclusive. It's very
9 difficult to identify gay men, for instance. In short,
10 they fail to protect many vulnerable inmates, including
11 sexual minorities who do not conform to stereotypes,
12 and inmates who are heterosexual but vulnerable as
13 well.

14 I think it's important at the outset, in
15 approaching a segregation-based policy to not forget
16 the government long used segregation to suppress
17 African Americans until the Supreme Court began to
18 dismantle Jim Crow and *Brown v. Board of Education*.

19 During the same period and well afterward,
20 however, state and local governments segregated sexual
21 minorities based on homophobia and transphobia. One
22 key source on this is George Chauncey's book *Gay New*

1 York which found that, as early as 1910, New York had a
2 segregated unit for effeminate homosexuals which it
3 called the "fag index." And again, this sort of shows
4 the homophobia undergirding these policies.

5 Some prison and jail officials believe that
6 LGBT people pose a threat to institutional order and
7 security, as Regina Kunzul documents in her article
8 *Lessons in Being Gay: Queer Encounters and Gay and*
9 *Lesbian Prison Activism*. There's also a Third Circuit
10 case from 1984 where a federal court upheld a prison
11 regulation preventing male prisoners from wearing long
12 hair because it, quote, "assists in controlling
13 homosexuality within the correctional institution."

14 Homophobic prison administrators worry that
15 putting the men in close confinement and denying them
16 access to women would make prisons, quote, "faggot
17 factories." Sadly, overtly homophobic segregation is
18 not a thing of the past. In 2009, media reports
19 surfaced of officials in a Virginia women's facility
20 who created a special wing to keep butch women from
21 their feminine partners. Therefore, segregation in
22 incarceration is has typically reflected homophobic

1 attitudes and assumptions, and it's important not to
2 forget that.

3 Even when that's not the case, when there
4 isn't evidence of homophobia animating such policies,
5 segregation has major downsides for LGBT inmates and
6 for others. So NYU law professor Gabriel Argos has
7 documented how a key problem with segregation is
8 isolation from general support and connection to other
9 people. Also in terms of connection to services that
10 are available to people in the general population
11 that's usually denied to people that are in
12 administrative segregation.

13 Some facilities have responded to the
14 vulnerability of gay and transgender persons by
15 automatically and involuntarily segregating them. In
16 other facilities, segregation is reactive and it arises
17 when an inmate complains about harassment or violence
18 and then the response is to assign the victim to
19 administrative segregation, often to assign the
20 perpetrator to punitive segregation. However, despite
21 these different labels, in practice, the conditions of
22 punitive and administrative segregation are often quite

1 similar. The victim is often isolated and denied
2 access to services such as recreation.

3 Los Angeles is the only one of the three
4 cities in my study to continue to segregate the inmates
5 today, claims to have cured these problems with
6 segregation and have sort of refined it. However, L.A.
7 also engaged in the early practice of homophobic
8 segregation. As L.A. Deputy Sheriff Bart Lanny
9 admitted in his testimony before the National Prison
10 Rape Elimination Commission, L.A. used to mark gay
11 inmates with "faggot pins."

12 Historian Regina Kunzul's research found that
13 during the 1960s and 1970s, butch lesbians were held in
14 Los Angeles in a "daddy tank" under harsh and maximum
15 security conditions regardless of the charged offense.

16 In light of this history, the federal government ought
17 not blindly trust Los Angeles's claim that its policy
18 efficiently advances LGBT inmate safety.

19 My research suggests that the L.A. policy
20 causes additional serious problems, including the
21 requirement that inmates come out publicly as gay in
22 the intake facility in order to obtain protection, and

1 then confirm their gay identity by reciting mainstream
2 gay culture. While it claims to offer housing in K-6-G
3 to all gay and transgender people, the L.A. screening
4 process leaves out many vulnerable people, especially
5 Blacks and Latinos.

6 With respect to gay men, the L.A. jail
7 requires inmates to come out as gay to staff during
8 intake. After a person is arrested, he or she is
9 typically taken to an inmate reception center for
10 processing. A custody assistant, sitting behind a
11 panel of glass, calls each inmate to a window, directs
12 the inmate to pick up a telephone and collects various
13 pieces of personal information, including asking the
14 inmate, are you homosexual. There's no context for
15 this question. The jail administrator assumes that the
16 inmate will volunteer this freely.

17 Now if you happen to say yes to that question,
18 then the jail seeks to verify your gay identity, and
19 this is through an interviewing process where these two
20 deputies that are in charge of identifying gay inmates
21 ask questions that are largely associated with white
22 affluent gay men's culture, and require that in order

1 to have access to K-6-G for gay men.

2 The deputies ask about culture in West
3 Hollywood, which is a wealthy neighborhood on the west
4 side of Los Angeles. They, for example, might ask
5 about the date of the annual gay pride parade, which
6 takes place in West Hollywood. They'll ask inmates to
7 recite the cover charge, and describe the signs at
8 various West Hollywood bars. The deputies expect the
9 men to know slang terms that they associate with the
10 gay lifestyle. For example, "glory hole" and "Prince
11 Albert." These are terms that I didn't know what a
12 "Prince Albert" was until I started doing this
13 research, and I can tell you, I am gay.

14 This cultural focus disadvantages men of color
15 and others who simply do not affiliate with the gay
16 mainstream. Black men in particular are likely to have
17 a tangential relationship with the mainstream,
18 relatively affluent and white gay community. A key
19 article here is Thomas Mills' article, *Health Related*
20 *Characteristics of Men who have Sex with Men: A*
21 *Comparison of Those Living in Gay Ghettos with Those*
22 *Living Elsewhere*, which found that men residing in gay

1 enclaves are more likely to be White, less likely to
2 identify as bisexual, and to have higher incomes than
3 those who live elsewhere.

4 In L.A. County, many of the incoming inmates
5 are Black, Latino, and economically disadvantaged, yet
6 prison officials expect them vocally to identify as gay
7 in a public space that affords no privacy protections,
8 and often includes homophobic epithets. For example,
9 one informant told me that, when the inmate says, "Yes,
10 I am gay," the jail staff will respond, "Well get over
11 here, you faggot."

12 Another inmate who expressed a need for HIV
13 medication was met with the response, "Oh, another one
14 of them faggots is sick." This identification is
15 especially risky because some inmates who identify as
16 gay are later deemed by the jail not to be gay, because
17 they flunk the "Gay Culture Test" and sent to the
18 general population newly stigmatized because, again,
19 they have claimed to be gay to get protection.

20 The K-6-G screening process favors Whites
21 because Black and Latino men who have sex with men, or
22 MSM, are less likely to identify as gay and less likely

1 to disclose their orientation in a hostile law
2 enforcement environment. Public health studies have
3 consistently shown that men of color who have sex with
4 men are less likely to feel the label "gay" represents
5 them.

6 Moreover, the L.A. policy explicitly bars
7 bisexuals, so it's very interesting that, despite BJS
8 studies showing a high rate of victimization for
9 bisexuals as well as gays, the jail forbids bisexuals
10 from being in K-6-G. However, that has a racially
11 disparate impact as well, so there are studies that
12 show that men of color are more likely to report having
13 had sex with women in the last five years; these are
14 sort of MSM, men who have had sex with men, but they
15 also report having had sex with women in the last five
16 years, in contrast to white men.

17 For this reason, most HIV-related research in
18 public health interventions avoid using the term "gay"
19 because it will repel MSM who need HIV-related
20 services, but don't identify as gay. The L.A. jail
21 doesn't understand this, and sort of expects that gay
22 identification will be automatic.

1 The jail's assumption that there is a singular
2 gay lifestyle, irrespective of race and class
3 differences, ignores life experiences of many MSM.
4 These hurdles likely produce a racially disparate
5 impact, making the segregated gay unit whiter than it
6 otherwise would be. Moreover, because only gay and
7 transgender inmates can qualify for access to the K-6-G
8 unit, the jail reinforces the stereotype that gay and
9 transgender inmates are inherently weak and
10 heterosexual and bisexual men are stronger.

11 No matter how vulnerable a heterosexual man
12 may be, because of disability or youth for example, he
13 is categorically barred from access to K-6-G because of
14 his sexual orientation. The jail also requires all
15 K-6-G inmates to wear powder blue uniforms, a pointed
16 contrast to the dark blue worn by inmates in the
17 general population, the heterosexual inmates.

18 The second point, main point that I want to
19 make is that facilities should consider every inmate's
20 potential vulnerabilities and protect all vulnerable
21 inmates. The proposed PREA regulations recognize that
22 many traits correlate with vulnerability to sexual

1 violence, including mental or physical disability,
2 young age, slight build, and past victimization.

3 The San Francisco and New York policies
4 reflect the spirit of the proposed rule better than
5 L.A.'s policy in that they require an individualized
6 assessment of each inmate and allow the inmate to raise
7 any trait that he or she thinks may produce a
8 vulnerability. By contrast, L.A. focuses only on
9 sexual orientation and gender identity, rendering the
10 many other vulnerability traits largely irrelevant.

11 The L.A. model is troubling in part because
12 the jail gives inmates no opportunity to discuss the
13 extent to which they feel vulnerable and want to be
14 segregated. Intake officers ask inmates, are you
15 homosexual, yet they fail to explain why they are
16 asking that question. Although sophisticated inmates
17 know why the officer asks the question, and they may
18 answer yes or no based on their decision whether or not
19 to opt into K-6-G; many first-time offenders don't
20 understand this.

21 Further, if an inmate says "yes, I am
22 homosexual," he's channeled to the segregated unit

1 without any discussion of the pros and cons of being
2 segregated and whether it is in his best interest.

3 By contrast, officials in San Francisco and
4 New York give all inmates an opportunity to discuss
5 safety concerns, and do not limit the conversation to a
6 yes/no response to a question about gay identity. This
7 open-ended conversation benefits not just heterosexuals
8 but also MSM. And MSM who is anxious about coming out
9 as gay in jail may choose to emphasize other traits
10 that make him vulnerable such as being a first-time
11 offender or having enemies in the general population.

12 The L.A. procedure for transgender inmates
13 also denies autonomy. Jail officials single out
14 inmates who look transgender to them and automatically
15 assign them to the segregated unit. This often
16 translates into having visible breast development,
17 breast implants and that sort of a requirement, to get
18 into K-6-G. Again the jail denies transgender an
19 opportunity to decide whether segregation is in their
20 best interest. They're sort of spotted and channeled
21 into K-6-G without any discussion or conversation.

22 And the jail also doesn't give inmates who

1 consider themselves to be transgender, but do not
2 happen to look transgender to a particular officer at
3 the time that they are arrested, an opportunity to
4 disclose their identity and discuss safety concerns
5 with a jail official.

6 Segregation should not be understood as a
7 cure-all for sexual violence. My research indicates
8 that inmates who know the possibility of segregation
9 weigh carefully the costs and benefits of segregation.

10 They don't see it as automatic that they should be
11 segregated. They consider, for example, the
12 disadvantages of coming out, not just in the jail but
13 also coming out in the broader community, once they are
14 released, because they're being incarcerated typically
15 with people from their neighborhoods, and wearing
16 powder blue is a mark that follows you to your
17 neighborhood.

18 In some cases that I heard, gay and trans
19 inmates cover their identities in order to avoid
20 segregation. In other cases, gay and trans inmates
21 coach heterosexual and bisexual inmates in how to
22 appear gay so they can fool the officers and get into

1 K-6-G.

2 The third main point is that a facility should
3 strengthen oversight systems designed to protect
4 vulnerable inmates by including people whose racial,
5 sexual and class identities are similar to those of
6 vulnerable populations. For over twenty-five years,
7 the L.A. jail has employed a classification scheme that
8 systematically disadvantages men of color and
9 bisexuals.

10 Despite this bias, the gay press has
11 celebrated the K-6-G Unit, and the two officers who
12 oversee the classification of gay inmates. These
13 officers, Deputies Randy Bell and Bart Lanny have even
14 served as grand marshals of the West Hollywood Gay
15 Pride parade and have been featured in the leading gay
16 publication, *The Advocate* Magazine. Although Deputies
17 Bell and Lanny have relied heavily on white gay men
18 from time to time to derive their test of gay identity,
19 L.A. has not sufficiently engaged communities of color,
20 especially the poor communities from which most of its
21 inmates come.

22 In general, auditors should make special

1 efforts to include groups that have often been
2 excluded, such as people of color, bisexual and
3 transgender people. Such people are better situated to
4 assess whether the facility's policies are meeting the
5 specific needs of the communities from which they come.

6 Thank you.

7 DR. WILKINSON: Thank you, Professor, for your
8 testimony. We heard a lot of compelling testimony
9 yesterday that was pretty interesting about the
10 gay-lesbian-bi-transgender community that was, in some
11 cases, pretty disturbing in terms of how that
12 population is treated differently in different jail
13 facilities. And obviously your research demonstrates
14 that as well. I know through your literature review,
15 you went back to the '60s.

16 But how would you characterize how that
17 population is being treated or mistreated today as
18 opposed to twenty years ago?

19 PROFESSOR ROBINSON: Sir, I think it's
20 difficult to say the extent to which there has been
21 progress, because I think twenty years, you know, it's
22 before PREA, there wasn't a lot of transparency in

1 terms of what was happening in incarceration.

2 I think it's fair to say it has consistently
3 been a very bad experience for many transgender, and
4 gay and bisexual people, that the -- there are factors,
5 however, that complicate the extent to which one faces
6 exposure to violence, right? So one of the factors is
7 the extent to which someone is perceived as LGBT,
8 right?

9 And so there were -- are a number of people
10 that are incarcerated and are able to sort of pass as
11 straight and are not targeted for violence. But for
12 people, especially for example, effeminate gay men,
13 visibly transgender women, the study suggests that
14 there is a substantial risk of sexual violence and that
15 they are among the main victims of sexual violence in
16 jails.

17 DR. CHRISTENSEN: And thank you very much for
18 your testimony. Do you then advocate, given the fact
19 that -- given the fact that we can prove that they are
20 much more likely to be victims of this type of
21 behavior, do you advocate for some degree of
22 classification? And again, when I say classification,

1 I'm not talking about any type of punitive or
2 administrative segregation that denies any service
3 available.

4 So what I'm saying is, so long as they have
5 the same level of service as the rest of the
6 population, do you advocate for something like that,
7 given the fact that, from Dr. Beck's study?

8 PROFESSOR ROBINSON: So I think that the
9 proposed rule has it right in terms of identifying, I
10 think, about ten or eleven factors, including sexual
11 orientation, but also including age and, you know,
12 stature, and disability, right?

13 DR. CHRISTENSEN: Sure.

14 PROFESSOR ROBINSON: So I think that all of
15 those things should be taken into account, and that the
16 rule is correct.

17 However, I think that segregation that is
18 based only on sexual orientation and gender identity is
19 problematic. And that if you're going to have
20 segregation at all, it should be all vulnerable
21 inmates, not that you're sort of singling out sexual
22 orientation and gender minorities and putting them in a

1 special unit, and then marking them with a powder blue
2 uniform, as opposed to the rest of the general
3 population.

4 DR. CHRISTENSEN: And it's interesting,
5 because working in jails, that's probably one of the
6 most vulnerable populations to be victimized sexually
7 and/or violently, are sexual offenders themselves.

8 PROFESSOR ROBINSON: That's right.

9 DR. CHRISTENSEN: So there's a real
10 difficulty, as a corrections administrator, figuring
11 exactly what to do with whom where you actually are
12 charged with protecting sexual offenders, and
13 segregating -- and you know, depending on the size of
14 the jail facility, inmates -- this is what Mr. Lucas
15 and I were talking about yesterday. It makes it very,
16 very difficult to determine exactly what you do with
17 different populations.

18 So it is a difficult population. But your
19 testimony certainly helps to kind of tease key elements
20 apart and figure out exactly what to do and how -- both
21 how to react to the experience within a jail facility
22 as well as what we know with the research and from the

1 research --

2 PROFESSOR ROBINSON: Great.

3 DR. CHRISTENSEN: -- in terms of victimization
4 and the likelihood to be victimized.

5 PROFESSOR ROBINSON: I would just add one
6 more thing. I think that there hasn't been enough
7 attention paid to an alternative, so sort of instead of
8 segregating victims, another approach would be sort of
9 focusing on identifying people that are likely to be
10 predators, right?

11 DR. CHRISTENSEN: Sure.

12 PROFESSOR ROBINSON: So there's been more
13 focus on like identifying the people that are
14 vulnerable, instead of saying well, maybe we should
15 focus more on people that are actually perpetrating
16 these problems, and that they should be subject to
17 segregation. And that instead that might be a
18 preferable approach.

19 I think there's some acknowledgement of this
20 in the proposed rule, but I would sort of encourage
21 more thinking on that regard.

22 DR. CHRISTENSEN: And of course, the -- sure,

1 until the actual behavior presents itself, I'm sure
2 groups like the ACLU would have something to say about
3 that, that you can't necessarily do that, even though
4 you know that there's a propensity to do certain things
5 based upon their crime. But until they actually behave
6 that way in a correctional facility, we have to -- it's
7 a difficult thing to -- even though we know that
8 there's a possibility, it's a difficult thing to do.

9 PROFESSOR ROBINSON: So I don't know what the
10 ACLU's position would be, but I can say for myself that
11 I think it is relevant to take into account prior acts
12 of violence, right?

13 DR. CHRISTENSEN: Oh, absolutely.

14 PROFESSOR ROBINSON: So that you -- I don't
15 think you should have to wait until it emerges as a
16 problem in incarceration. If there's a history of
17 violence, that is a relevant factor to take into
18 account in deciding whether or not to segregate
19 somebody.

20 DR. WILKINSON: It's always the correctional
21 administrator's challenge to have a classification
22 process that will identify predators, that will

1 identify, you know, persons who might be vulnerable,
2 whether it's LGBT community or those persons who are
3 medically frail, slight of build, child molesters. I
4 mean, it -- there are -- it's a vast area to
5 contemplate along the way. And sometimes these people
6 come in with violent offenses, so then what do you do?

7 You know, because they may be vulnerable in prison,
8 but they committed serious offenses on the street.

9 So it's a tough process. That's why, again
10 appreciating Chief Lucas's testimony about
11 classification, if you have an objective
12 classification, it should, you know, theoretically
13 identify these populations.

14 But the bigger piece, to me, in addition to
15 that, is you know, the culture of the facilities. You
16 know, we're still name-calling, and it's not just the
17 LGBT communities, you know, name-calling exists with
18 persons with mental illness and -- you name the issue,
19 it's there. And so unfortunately, we are still dealing
20 with, you know, those types of cultural mishaps in this
21 business.

22 Do we have a copy of your testimony for

1 the -- for the record?

2 PROFESSOR ROBINSON: Yes.

3 DR. WILKINSON: Okay. Well, we appreciate,
4 Professor, you coming out and sharing your testimony
5 with us today. And once your paper is published, we'd
6 like to have a copy of it as well.

7 PROFESSOR ROBINSON: So I have the final
8 version of it in the record as well.

9 DR. WILKINSON: Great. Thank you, sir.

10 DR. CHRISTENSEN: Thank you.

11 DR. WILKINSON: Appreciate it.

12 I'd now like to invite Sheriff Glanz and his
13 team from Tulsa -- from the Tulsa County Sheriff's
14 office to join us.

15 Whereupon,

16 SHERIFF STANLEY GLANZ

17 CHIEF DEPUTY MICHELLE ROBINETTE

18 and

19 INVESTIGATOR JEREMY YERTON

20 appeared as witnesses herein and, having been
21 first duly sworn to tell the truth, were examined and
22 testified as follows:

1 DR. WILKINSON: Sheriff, if you could keep
2 your hand up, I need to swear you in regarding the
3 documentation that you provided.

4 To the best of your knowledge, can you attest
5 to the accuracy and truthfulness of the written
6 response of the Tulsa County Sheriff's to the written
7 data request of the Review Panel on Prison Rape sent to
8 your agency in preparation for today's hearing, as well
9 as to the accuracy and truthfulness of other
10 documentation that your agency gave to the Panel in the
11 interim?

12 SHERIFF GLANZ: I do, yes, sir.

13 DR. WILKINSON: Thank you.

14 Sheriff, we appreciate you being here today.
15 I know Sheriff Glanz, we as well served together on
16 DNIC Advisory Board, and appreciate his good counsel
17 from time to time. I also get mailings from the
18 Sheriff about some of their activities, so they're not
19 shy about talking about some of the good practices that
20 they have in Tulsa County Oklahoma.

21 So with that, Sheriff, you may provide your
22 opening testimony.

1 TESTIMONY OF SHERIFF STANLEY GLANZ

2 SHERIFF GLANZ: Okay, thank you, sir.

3 And I haven't prepared any formal remarks,
4 just some brief comments about jails in general and
5 what's happened through my career.

6 I started in law enforcement back in the early
7 '60s, and saw really an evolution in law enforcement,
8 with *Escobedo* and then the *Miranda* decision and how the
9 federal government actually looked at law enforcement
10 and how to improve it.

11 Then in -- a few years later, we had an
12 incident in Attica, New York, that created -- brought a
13 lot of attention to corrections, and that's when NIC, I
14 believe, was developed and -- the National Institute of
15 Corrections. And then we started to see a
16 professionalization of corrections, with ACA and NCCHC
17 and American Jail Association, I think we've made great
18 strides.

19 What I've seen over the years, however, is at
20 the local level, the jails have been almost forgotten
21 in the process. And as I struggled with the jail when
22 I first took office, we had a dilapidated jail on the

1 eighth and ninth floor of our courthouse. We had cell
2 blocks, we had bosses, cell block bosses, so it was
3 really a terrible place to be.

4 Fortunately in the early '90s, we were able to
5 pass the sales tax; we tried two bond issues; both
6 failed; so I went to the legislature and got permission
7 to actually ask for a sales tax to build a jail. That
8 was successful, we were able to build a 1,700-bed
9 facility, direct supervision, and I passed out a
10 pamphlet that describes the facility. We have twenty-
11 two pods; we have good, objective classification; it's
12 a direct supervision jail.

13 And that philosophy has been enforced by the
14 Jails Division, National Institute of Corrections, and
15 I still think a lot of sheriffs haven't accepted that.

16 I personally talked to a lot of jail administrators
17 about how they run their facility. And then when you
18 talk about direct supervision, a lot of people don't
19 understand it. It's really new to the corrections
20 field, it's about twenty years old, and we're still
21 working with that.

22 This past week we've had in our facility from

1 the Homeland Security, a group from the Civil Rights
2 Division, looking at some complaints on immigrants that
3 we have in our facility. And they, too, don't even
4 understand the philosophy of direct supervision. So
5 I'm not sure how we, as a country, get that philosophy
6 adopted in our prison and jail communities, but I think
7 we need to try and find some way to do that.

8 And with that, I have with me Chief Michelle
9 Robinette, who is the jail administrator. She's been
10 there for about three years. She was part of the
11 original design team for the facility back in the early
12 '90s -- or in '95, so she's very familiar with the
13 facility.

14 I also have with me Jeremy Yerton who is the
15 investigator for any sexual assaults that occur in the
16 jail, and so we're here to provide you with any
17 information you would like to ask.

18 DR. WILKINSON: Thank you all for being here
19 again.

20 You heard the testimony from Chief Lucas about
21 classification and some of the challenges, especially
22 as it relates to -- and Sheriff, you have both law

1 enforcement and the jail -- you do have law
2 enforcement?

3 SHERIFF GLANZ: Yes, sir, we do.

4 DR. WILKINSON: Okay. So I know it's the case
5 in some cases that law enforcement seems to get, you
6 know, more funds to do different things from time and
7 time. And I suppose if you're the sheriff, you can
8 kind of direct those funds for --

9 SHERIFF GLANZ: Well, what we do is, our jail
10 is actually financed with the sales tax, and the law
11 enforcement side is financed through the ad valorem
12 taxes in the county general budget.

13 DR. WILKINSON: Okay.

14 SHERIFF GLANZ: What we do is we stress that
15 the jail is as important, or more important, than the
16 law enforcement function. We think our jail is really
17 a showplace for the state and the nation, and it's
18 really a pleasure or a privilege to work in that
19 facility.

20 And as opposed to the old jail that we had, it
21 really was a tough place to work. Our jail today is a
22 pleasant place to work. People are friendly; we have

1 total control of the facility. One of the inspectors
2 we had from the Civil Rights Division asked us about
3 assaults in our jail.

4 I've had three assaults on detention officers
5 in the last six years. Our sexual assaults, when we
6 have them, we rapidly reply to them. We do an in-depth
7 investigation, and they are few and far between.

8 And we also educate the inmates when they come
9 into the facility operation. We explain the philosophy
10 of direct supervision and that they'll be treated
11 according to their behavior, not necessarily for the
12 crime that they committed. That has to be part of your
13 classification system. But everything is behavior
14 based when you're in our facility.

15 DR. WILKINSON: So Sheriff, do you get
16 criticism for having too nice of a jail?

17 SHERIFF GLANZ: No, sir, I get criticized for
18 having a nice jail, but I tell people a jail isn't a
19 bad place, it's the inmates that are there with you
20 that makes it bad.

21 DR. WILKINSON: I mean, we used to hear it all
22 the time about the Holiday Inn, or Club Feds and all

1 those kind of things that -- and people want to see, in
2 many cases, inmates suffer. And I applaud your efforts
3 to kind of say what we're really doing is, it's up to
4 the courts to punish those persons who come to us.
5 It's up to us to return those persons back to society
6 better than the way that we've received them.

7 SHERIFF GLANZ: Yes, sir.

8 DR. WILKINSON: So can you all tell us a
9 little bit about some of, maybe, the programming that
10 you have in your jail that --

11 SHERIFF GLANZ: I'll let Michelle talk about
12 that.

13 CHIEF DEPUTY ROBINETTE: Am I on now?

14 SHERIFF GLANZ: Yeah.

15 CHIEF DEPUTY ROBINETTE: The -- we range in
16 all types of different programs from, of course, the
17 NA, the AA. We do several re-entry programs, we have
18 programs for inmates -- mothers specifically, and we
19 just started with the fathers, they can sit down with a
20 book and a video recorder, and they read stories to
21 their children. And the children receive the tapes,
22 the book and a teddy bear or stuffed animal of some

1 sort.

2 DR. WILKINSON: Now you said a tape?

3 CHIEF DEPUTY ROBINETTE: A cassette tape.

4 DR. WILKINSON: Do people still have cassette
5 players?

6 CHIEF DEPUTY ROBINETTE: We accommodate. We
7 have DVDs, cassette tapes, and we accommodate with
8 whatever they -- whatever they need.

9 DR. WILKINSON: Podcasts?

10 CHIEF DEPUTY ROBINETTE: Yes. And I know that
11 our chaplain has actually bought a little video or a
12 audio cassette player for the child.

13 We have extensive programs. We have -- we
14 just recently brought in a financial piece for the
15 inmates, and we're giving that to them as well, to help
16 them accomplish something on the inside so that when
17 they get out they have something to feel proud of and
18 maybe not return.

19 We've recently started with our Airmark
20 provide, the culinary program and the baking programs
21 to give them some task, something to do that they
22 can -- they can use to work with on the outside, and to

1 try and curtail their recidivism. And it's a good
2 program.

3 We do a lot of times hear comments as to
4 treating our inmates nice, and why do that. And it's
5 an education that we have to give that states it's not
6 so much for the inmates as it is for my officers. We
7 built the facility for my officers, not the inmates, to
8 make their day better, to give them what they need so
9 that their stress level and their attitudes and
10 behaviors are calmer, makes my officers' days better.
11 And that's what it's all about. It helps the inmates
12 as well, but it was built and directed towards safety
13 and security for the officers, too.

14 DR. WILKINSON: It looks like you have a
15 pretty big menu of programs and services.

16 What do you do for pre-trial folks who are not
17 there that long, or coming in and out? I mean, are
18 there different services for them as well?

19 CHIEF DEPUTY ROBINETTE: They have access to
20 every service that we offer. Their stay does not
21 depend on what's made available to them. If we have a
22 program coming into their pod that night and they want

1 to participate, they can sign up and participate.
2 Their stay is not dependent -- or the programs that are
3 offered is not dependent on their stay.

4 SHERIFF GLANZ: And one of the things we try
5 to do is find programs that they can start while
6 they're in the facility and continue when they're
7 released. We're working with Vo-Tech to try and start
8 Vo-Tech classes, so when you get out of the facility,
9 you can go into that.

10 One of the things we do in classification is
11 we ask the inmates what are you going to do when you
12 get out of jail? And instead of talking about, you
13 know, here you are in jail, and you're stuck or you're
14 going to prison, what do you plan to do when you get
15 out of this facility, or even out of the prison? How
16 are you going to improve your lives, and how can we
17 help you do that?

18 DR. WILKINSON: That's great. And what do
19 they say?

20 SHERIFF GLANZ: It varies. A lot of them
21 haven't thought that far down the road, that's why
22 they're in the jail to start with.

1 DR. WILKINSON: So are there then re-entry
2 programs or services --

3 SHERIFF GLANZ: Yes, we have re-entry programs
4 as well as the programs while they're in the facility.

5 And we have resources, we work with the Mental Health
6 Association and several other associations there in
7 Tulsa to try and prevent them from returning to our
8 facility. That's one of our goals.

9 So far as incidents of sexual assault, we have
10 very few of them. We educate all of our new employees
11 about the Prison Rape Elimination Act, and it's a
12 violation to have sexual relations with an inmate. But
13 we still -- we still continue to have a few of those.

14 One of the problems we've discovered is when
15 we have especially a female staff member has a
16 relationship with an inmate, and we discover it, and in
17 a direct-supervision jail it's pretty easy to find.
18 Then we take it to the prosecutor. And he's been very
19 reluctant to file charges on females with male inmates.

20 If I have a male staff member and a male inmate, he'll
21 file that. But he just doesn't want to do the other.

22 DR. WILKINSON: Why do you think that is?

1 SHERIFF GLANZ: I guess it's the norms he grew
2 up with, I'm not sure.

3 DR. WILKINSON: I'm just recalling the
4 testimony of the professor here a little bit ago with,
5 you know, males having sex with males as being kind of
6 a taboo more-so than what might be perceived as
7 traditional or --

8 SHERIFF GLANZ: Right. And I think that's
9 what he sees it at, and -- but when you have male on
10 male inmate assault, we file on those as well, and he's
11 been reluctant to file those, too. So we -- and that's
12 just not the only problem we have with our district
13 attorney filing charges. But we've been to the -- I
14 had one female that assaulted an inmate, or they had a
15 relationship. And when he refused to file it, we took
16 it to the federal agencies. And they looked at it and
17 did an investigation, and they, too, declined to file
18 for violation of civil rights.

19 So I think it's not just local authorities,
20 it's some of the federal authorities as well.

21 DR. WILKINSON: So Mr. Yerton, you're in
22 charge of investigations. What do you find? What's

1 been the worst thing you've seen in the last couple of
2 years?

3 INVESTIGATOR YERTON: As far as investigating
4 these type of crimes and incarceration?

5 DR. WILKINSON: Well, sexual misconduct, you
6 know, serious assaults.

7 INVESTIGATOR YERTON: Probably one that's
8 noted in your report would be the sexual assault on an
9 inmate in his cell by several gang members.

10 DR. WILKINSON: So you've had a gang rape?

11 INVESTIGATOR YERTON: Yes, sir.

12 DR. WILKINSON: The -- we had testimony
13 yesterday from the sheriff who said that it's not very
14 probable that they could have gang rape in their
15 facility. I recall testimonies from other people
16 saying, my jail is escape-proof, and then they had an
17 escape. I believe when you have bad people, you can't
18 really predict from time to time what might happen.

19 Do you work closely with local law enforcement
20 or are the sheriffs law enforcement deputies the ones
21 who do the investigations and such?

22 INVESTIGATOR YERTON: I'm actually a deputy

1 with the Sheriff's Office. I've been there for
2 eighteen years. I started working in the detention,
3 actually in what we called Tent City, that's where we
4 had inmates -- overflow inmates in tents out in the
5 recreation yard. I worked all the prior three
6 facilities. I'm now assigned to the detective
7 division, so we do the criminal investigations that
8 occur for any violations at the jail.

9 I also work general assignment throughout the
10 county, but I specialize in all these sex crime cases
11 within the county. So we're not housed -- I'm not
12 housed in the jail, we're housed at our main office.
13 But we do respond over there as we would any other
14 crime scene in the county.

15 SHERIFF GLANZ: And we even make sure that, if
16 we're collecting physical evidence, we take the victim
17 to the hospital and they're seen by a SANE
18 nurse -- which is sexual assault --

19 INVESTIGATOR YERTON: Nurse examiner.

20 SHERIFF GLANZ: -- nurse examiner. So we have
21 a good program to do that. And then we do follow up
22 with the victim as well.

1 DR. WILKINSON: Are your officers in the jail
2 sworn or are they correction officers?

3 SHERIFF GLANZ: We have both. We have some
4 sworn officers and the other are detention officers.
5 And they too are, we call them -- they have a higher
6 level of requiring than just having a job, you know.
7 We swear them in as well. So they -- we call them a
8 sworn officer as well. But they're not, quote, a sworn
9 law enforcement officer.

10 DR. WILKINSON: Okay. So Mr. Yerton, are you
11 responsible for training, you know, the staff inside
12 the jail as first responders to incidents and -- as
13 well as evidence collection and those kind of things?

14 INVESTIGATOR YERTON: No, sir, I'm not
15 responsible. The training within the facility
16 is -- however, I am certified trainer in evidence-based
17 sexual assault, which the State of Oklahoma has now
18 made mandatory for all certified officers within the
19 state to go through that eight-hour program.

20 DR. WILKINSON: Say that again? It's a
21 certified what officer?

22 INVESTIGATOR YERTON: As a certified officer

1 to be CALEA certified within the state of Oklahoma,
2 it's mandatory you have this eight-hour --

3 DR. WILKINSON: No, what did you say about the
4 sexual assault?

5 INVESTIGATOR YERTON: Evidence-based sexual
6 assault.

7 DR. WILKINSON: So they're trained in
8 evidence-based sexual assault?

9 INVESTIGATOR YERTON: Correct. How to respond
10 to those, collection of evidence, preservation of crime
11 scenes. And I will be presenting one of those classes
12 to the certified officers at the jail before the end of
13 this calendar year.

14 DR. WILKINSON: Okay.

15 SHERIFF GLANZ: Let me say one other thing.
16 One of the things that I've been involved with is
17 accreditation. I think it's very important that
18 agencies be accredited, the jail's accredited with ACA
19 and NCCHC. And then we have CALEA accreditation, the
20 Commission on Accreditation for Law Enforcement
21 Agencies. And I think all of that's important to meet
22 those standards.

1 One of my concerns about the Prison Rape
2 Elimination Act and the standards that we're looking at
3 today, this year I've been inspected by ACA, NCCHC, our
4 State Jail Inspectors. We've had the non-English
5 speaking -- Limited English Proficiency people from the
6 Justice Department inspect our jail. I just had an
7 inspection by Homeland Security Civil Rights Division,
8 and now we're going to be looking at a Prison Rape
9 Elimination Act standards, and how does that
10 incorporate with all the other standards? I've been
11 working with Michael Pearson who is the
12 detention -- anyway, he works for the Justice
13 Department, and he's over -- works with the Marshall
14 Service on inspections. We have that inspection as
15 well.

16 And how are all these going to be integrated
17 together? And possibly the Justice Department and
18 Homeland Security and the Marshall Service and ICE and
19 everyone could get together, along with what's going to
20 happen with the Prison Rape Elimination Act, and try
21 and bring those inspections together so we don't
22 experience one weekly or monthly in our jail.

1 DR. WILKINSON: I'd like to see you do
2 something to describe or define the cost of responding
3 to all the different, you know, standards and
4 accreditation, you know, compliance efforts.

5 SHERIFF GLANZ: Well, we have a full-time
6 standards person -- we have two full-time standards
7 persons. We do continuing inspections. I believe, to
8 honestly evaluate what it would cost you for a CALEA
9 accreditation is around \$100,000, even though the cost
10 is about \$8,000 to \$10,000 to CALEA. ACA, we probably
11 spend -- we go to their conferences, we have to do the
12 inspections. We maybe spend \$40,000, \$50,000 a year
13 just going to conferences and keeping up with what's
14 going on. So we spend a lot of money.

15 Now for ICE, they -- we have those inspections
16 annually, too, along with sometimes monthly
17 inspections. And I always have to have people work
18 with them. So again, there's additional costs there.
19 We are reimbursed a lot by ICE, so I don't think that's
20 as big a problem.

21 But then the state comes in and inspects us,
22 so it's -- it's just one after the other. And we don't

1 mind being an open facility, I think that's one of the
2 things that prevents sexual assaults in our facility,
3 is because we are so open for the community and to the
4 community. We have probably 300 volunteers with
5 our -- through the chaplain service, and then we have
6 another volunteer program with reserve deputies. We
7 have, you know, literally hundreds of volunteers in and
8 out of the jail on a daily basis. So being open to the
9 community I think is really important to prevent those
10 assaults.

11 When someone enters our facility, we tell them
12 what to expect and how to behave, and they pretty much
13 follow that.

14 DR. WILKINSON: Yeah, I could see how you
15 could get standards fatigue, you know, from time to
16 time.

17 SHERIFF GLANZ: Yes, sir.

18 DR. CHRISTENSEN: All right, two questions.
19 And then Sheriff, you've kind of covered both of them,
20 but I just want to ask specifically what you think the
21 major, the number one factor, if you had to tease one
22 out is, to being a low-incidence facility?

1 SHERIFF GLANZ: I think training is very
2 important and the accreditation.

3 DR. CHRISTENSEN: So all those processes that
4 you just outlined, that's --

5 SHERIFF GLANZ: Yes.

6 DR. CHRISTENSEN: Okay. And also just
7 interested in some of the stuff that you talked about
8 relative to the re-entry. The volunteers, the in and
9 out. Have you dealt specifically to build continuity
10 of care from the jail facility to the community, and
11 ensure that those -- those implementations or those
12 treatments mesh, that they're doing the same types of
13 things?

14 SHERIFF GLANZ: Yes, sir, we try to. Mental
15 health is -- our mental health people is really our
16 biggest ongoing problem, that we work with the Mental
17 Health Association very closely to see that there's
18 care, follow-up care for those people when they get
19 out.

20 And a lot of people end up in jail over
21 medication. Right now we have a --

22 CHIEF DEPUTY ROBINETTE: A.S.

1 SHERIFF GLANZ: Who?

2 CHIEF DEPUTY ROBINETTE: A.S.

3 SHERIFF GLANZ: Right now we have A.S. in
4 jail, he's a big man. He's probably 350 pounds, six-
5 and-a-half, seven feet tall, was a pro football player.
6 He has a mental health issue, and we have to deal with
7 him. And when he gets out of the -- if he walks out of
8 that facility without his medications, he could be
9 really dangerous to the community. I mean -- and he
10 has lost his temper and injured a lot of our
11 inmates -- I mean our staff at one time.

12 So we try to make sure if -- the mental health
13 communities are one of our biggest concerns right now.

14 DR. CHRISTENSEN: And for non-mentally ill
15 inmates, just inmates transitioning from the facility
16 to the county -- or to the community?

17 SHERIFF GLANZ: Yes, sir, we work a lot with
18 the religious groups in our community. We have -- ORU
19 is really big with volunteers and a lot of churches.
20 We also have RHEMA Bible College in Broken Arrow, and
21 they, too, bring a lot of people in and they try and
22 counsel inmates as they're departing our facility.

1 DR. CHRISTENSEN: So largely faith based?

2 SHERIFF GLANZ: Yes, sir, a lot of faith-based
3 things.

4 DR. WILKINSON: How many inmates did you say
5 were in your facility?

6 SHERIFF GLANZ: We normally have around --

7 DR. WILKINSON: Like an average daily count?

8 SHERIFF GLANZ: -- 1,600.

9 DR. WILKINSON: And that is all on one site
10 now?

11 SHERIFF GLANZ: Yes, sir, it's all under one
12 roof. We have a hallway that's almost a quarter
13 mile -- over a quarter mile long.

14 DR. WILKINSON: And it's all direct
15 supervision?

16 SHERIFF GLANZ: It's direct supervision
17 totally. We have three special housing units, and we
18 even try to use the direct supervision philosophy in
19 those pods, but it's not as easy to do.

20 DR. WILKINSON: I presume you have a
21 classification system, but I was intrigued about what
22 you said, it's not just about your classification but

1 your behavior is going to dictate, you know, kind of.

2 So Chief, can you say a little bit more about that?

3 CHIEF DEPUTY ROBINETTE: I can. The
4 classification tree that we use takes into account past
5 behaviors in the facility, and I can speak a little bit
6 to what Mr. Lucas was talking about, the bond amount.

7 The charge itself, the entirety of why they're
8 there comes into play when they're classified. When we
9 classify them, we have different levels.

10 We have three pods that are closed custody.
11 And closed custody is, they get to experience the open
12 pod environment, but they can't leave that pod, that
13 housing pod, without being escorted and restrained.
14 Minimal security inmates can leave the housing unit and
15 go to medical unit, can go to the library, can go to
16 the kitchen, wherever they need to go unescorted on
17 their own. The closed custodies cannot.

18 So the classification system is driven by
19 probably eleven or twelve facets of their time in the
20 facility, having come in. And dependent on their
21 behavior while they're there, their classification can
22 change very quickly. If they are in a minimum security

1 pod where they're free to go from housing unit, say,
2 down to medical, and then they -- their behavior
3 dictates that we can no longer trust them to do that.
4 And trust is a loose word, but we cannot control their
5 behavior the way that we're allowing them to do that,
6 then their classification level will change.

7 And we'll change that one component of
8 behavior in that decision tree, and it will reclassify
9 them. And we will rehouse them either in a closed
10 custody pod or special management housing unit. So
11 every minute of every day, dependent on how they do.
12 And we have progressive discipline within the housing
13 units to allow them, you know, the little mistakes here
14 and there. They will get up one day and they're in a
15 bad mood, and they say something that is against the
16 rules, or they verbally abuse an officer, then they can
17 get discipline in the pod without adjusting their
18 classification level. But it's progressive.

19 So three of those, and they'll be bounced up
20 to a more strenuous custody level where they're not
21 allowed so much freedom within the facility or within
22 that housing pod. So it's all -- it is all behavior

1 based. If you're going to act out, we're going to
2 treat you like you're going to act out, and you'll go
3 to a maximum security environment. If you're going to
4 do what you're supposed to do, abide by the rules, do
5 your time and go home, then you'll be in a minimum
6 security housing. And it works really well.

7 DR. WILKINSON: Sure. So if there is a
8 problem, I presume because it's direct supervision, any
9 inmate can almost have immediate access to a staff
10 person?

11 CHIEF DEPUTY ROBINETTE: Yes. Direct
12 supervision, I have one officer in a housing pod
13 twenty-four/seven with as many as ninety-four inmates
14 out and about. I have some of the -- some of the perks
15 to the behavior driven is, I have big coffee hot pots,
16 full of hot water on a counter that has never been used
17 as a weapon, or threatened to be used as a weapon.
18 Because they know, once they even say the word, it's
19 gone, and they can't have their Ramen noodles or their
20 coffee or their hot cocoa, which is a privilege to
21 them.

22 You give them those kind of things, they know

1 they can be taken away, and their behavior is
2 controlled. So it benefits both the inmate and the
3 officer, and it's -- it's streamlined. They know what
4 they can and cannot do. Their handbook is very plain.

5 It's what violations are and what the sanctions are
6 for each of those violations. And if they choose to
7 commit one, then they're going to suffer the
8 consequence of what the officers are held to do.

9 DR. WILKINSON: Okay, great. Well, we
10 appreciate -- do you have any more questions?

11 DR. CHRISTENSEN: No. I just also appreciate
12 the voluminous information and the information that you
13 provided and your commitment to the field at large.

14 DR. WILKINSON: Yeah.

15 SHERIFF GLANZ: And let me say that we applaud
16 your efforts. We don't want people assaulted in our
17 facility. But as we go through the process and develop
18 the standards, let's use some reason, if we can.

19 DR. WILKINSON: Yeah, I -- you know, we talked
20 about the costs of accreditation and standards
21 compliance and so forth. But sometimes you can
22 calculate the cost of not doing those things.

1 SHERIFF GLANZ: Right.

2 DR. WILKINSON: You know, one learned person
3 once said that, if you think the cost of education is
4 expensive, then try ignorance. You know, so I mean, it
5 looks like you're doing all the right things to prevent
6 problems from happening in the first place.

7 SHERIFF GLANZ: Well, I think there's some
8 innovative things that the government could do, such as
9 I know they spend millions and millions of dollars with
10 outside agencies coming in and inspecting jails. I
11 know that Homeland Security does that. I'm not sure
12 how much the Justice Department spends doing
13 investigations and research. And if you would simply
14 have grants put out to allow people to become
15 accredited through ACA or NCHC, whatever the
16 accreditation process is. And then use those
17 inspections as part of the process, instead of bringing
18 in all of these different inspectors all the time, I
19 think it would make a big difference.

20 DR. WILKINSON: Yeah. And we're still, of
21 course, awaiting the final, final, final version of the
22 PREA standards. The question that looms now is, you

1 know, what will be the process for compliance? And so
2 I think that's, you know, yet to be spelled out. It's
3 certainly been thought about, but you know, there's
4 still questions looming about that as well.

5 SHERIFF GLANZ: And we will meet whatever
6 those standards are.

7 DR. WILKINSON: Well, I'm sure you will. We
8 have no doubt about that.

9 Any other final thoughts, Mr. Yerton, Chief?

10 CHIEF DEPUTY ROBINETTE: No. I would like to
11 say that, like Jeremy, I was brought up in the old
12 facility, prior to the standards, prior to all the
13 changes that have taken place. And while you can't put
14 a financial cost on not being accredited, I know that
15 testimony from people that have worked in the old
16 facilities, that were never accredited, making the
17 changes necessary and working in a facility that is now
18 accredited and forward-thinking, getting involved in
19 direct supervision when it was such an idea that people
20 could not comprehend at the time.

21 I think that it would be erroneous for us not
22 to suggest and support anybody and everybody who's

1 willing to take that step into the future and bring
2 about the change necessary so that there can be more
3 facilities -- and I'm prejudiced -- but more facilities
4 like ours, for the inmates as well as the officers that
5 have to work there. I don't think you can put a cost
6 on that.

7 DR. WILKINSON: Sure.

8 Sheriff, any final thoughts?

9 SHERIFF GLANZ: No, not that I can think of.
10 Just I want to thank you for inviting us to Washington,
11 and putting us up for the night.

12 DR. WILKINSON: Well, you have a very
13 impressive facility and team and county. And you know,
14 we would love to use you as an example of best
15 practices in a lot of different areas. So thank you
16 for sharing that with us, and congratulations on the
17 work that you do. And I'm sure, going forward, you'll
18 continue to do the same things that you've been doing
19 in Tulsa County.

20 So thank you very much for being here.

21 SHERIFF GLANZ: Thank you.

22 DR. CHRISTENSEN: Thank you.

1 DR. WILKINSON: We will take, you know, a
2 fifteen-minute break or so, and then rejoin, and come
3 back with Hinds County.

4 (A short recess was taken.)

5 DR. WILKINSON: Well, we welcome the good
6 people from Hinds County. You have the distinction of
7 being our last set of witnesses for the hearing on low
8 prevalence institutions. And hopefully you enjoyed
9 your journey to Washington, D.C., along the way. So
10 Sheriff and Chief, we need to swear you in, if that's
11 okay.

12 Whereupon,

13 SHERIFF MALCOLM McMILLIN

14 and

15 CHIEF DEPUTY STEVEN PICKETT

16 appeared as witnesses herein and, having been
17 first duly sworn to tell the truth, were examined and
18 testified as follows:

19 DR. WILKINSON: Thank you.

20 And Sheriff, I need you to attest to this
21 statement as well, if you would raise your right hand
22 again.

1 To the best of your knowledge, can you attest
2 to the accuracy and truthfulness of the written
3 response of the Hinds County Sheriff's office to the
4 data requests that the Review Panel on Prison Rape sent
5 to your agency in preparation for today's hearing, as
6 well as to the accuracy and truthfulness of other
7 documentation that your agency gave to the panel in the
8 interim?

9 SHERIFF McMILLIN: I do.

10 DR. WILKINSON: Thank you, sir.

11 I presume, Sheriff or Chief, you have an
12 opening testimony or comments? If so, you may proceed.

13 TESTIMONY OF SHERIFF MALCOLM McMILLIN

14 SHERIFF McMILLIN: Mr. Chairman, members of
15 the committee, ladies and gentlemen, my name is Malcolm
16 McMillin and I currently serve as Sheriff of Hinds
17 County, Mississippi. Based on the Mississippi
18 Constitution, the Sheriff is a creature of the
19 Constitution. We are a constitutionally-created
20 office. It's the Sheriff's ongoing responsibility,
21 among his other duties, to be the keeper of the county
22 jail. And as such, it's my responsibility -- and to

1 the security of our community, our detention officers
2 and the individuals incarcerated in our facility is of
3 paramount importance to me.

4 We strongly believe in protection guaranteed
5 by the Constitution, have a zero tolerance for
6 individuals who violate those principles. We
7 acknowledge that protecting prisoners from sexual abuse
8 remains a challenge to those who are charged with their
9 safety. We accept that challenge. And despite public
10 perception, sexual abuse is not an inevitable
11 consequence of incarceration, especially in
12 prisons -- in facilities that promote safety and don't
13 tolerate abuse of any kind.

14 I'm proud that the Hinds County Inmate Work
15 Center, also known as the Hinds County Penal Farm,
16 which is over 150 years old. It's been recognized as a
17 facility that has a low incidence of inmate sexual
18 assault.

19 According to the Bureau of Justice Statistics
20 reports, *Sexual Victimization of Prisoners in Jails in*
21 *2008 and '09*, less than one percent of those inmates
22 surveyed at our facility reported any type of sexual

1 victimization. I'm confident that if the Hinds County
2 Detention Center were also surveyed, the results would
3 be equally favorable. I believe this is a reflection
4 of our first line of defense, which is our correctional
5 officers.

6 Our deputies who are assigned as detention
7 officers are required to complete mandatory state
8 requirement of eighty hours of training in order to be
9 certified. So there are no uncertified jailers working
10 in the jail. They also receive additional training
11 periodically to address issues such as diversity
12 training and sexual harassment. They are trained to be
13 fair but firm with those individuals who are
14 incarcerated in our facility, allowing them to be
15 observant towards conditions that might lead to
16 possible sexual assault, and trusting enough for the
17 inmates to confide in them should such an incident
18 occur.

19 Our facility itself, as it's designed, also
20 acts as a deterrent toward sexual assault. We have
21 direct supervision. Two of the three facilities we
22 have are direct-supervision facilities. In our work

1 center penal farm, half of those inmates there are from
2 the Department of Corrections. They are like
3 medium-custody inmates and have been thoroughly
4 screened before they come in to the -- before they come
5 in to our facility. Which also contributes to the low
6 incidence of assaults and sexual assaults within
7 the -- within the facility.

8 Our living accommodations in the penal farm
9 are open bay, which minimizes areas where assaults
10 could occur. We have a thoroughly modern video
11 surveillance system installed throughout the facility,
12 which detention officers monitor twenty-four hours a
13 day. We've got a medical unit at the facility, and all
14 inmates have access to our main twenty-four-hour
15 medical unit at the Hinds County Detention facility
16 should an incident occur. Our detention center also
17 has a full-time social worker for any counseling needs.

18 The fact that the penal farm is a work center
19 also helps minimize opportunities for sexual assault.
20 There's practically constant supervision, and
21 supervised activities throughout the day. Inmates are
22 assigned jobs in the facility and in the community

1 under direct supervision. And inmates vary from
2 working with non profits, such as the Mississippi Food
3 Network, Habitat for Humanity -- which on incident, we
4 built a Habitat house from the foundation to the
5 rooftop utilizing the inmate labor and accommodation of
6 supervisors from -- from our network of supervisors.

7 We also have a fire-fighting unit, which is
8 recognized and certified by the State of Mississippi as
9 a volunteer fire department in the Hinds County area.
10 We have better response time, obviously, because
11 ours -- we can put our hands on them all day long,
12 where most volunteer fire departments' volunteers have
13 to come from the rest of the community, wherever they
14 do their normal, everyday work. So these penal farm
15 fire fighters do a better job, and better response
16 time, and it worked with the local fire departments,
17 and are readily accepted by them as part of that -- you
18 know, part of the effort to combat fires in our
19 community.

20 Those who assist -- normally these inmates
21 work a minimum of thirty hours a week. And that's
22 from -- everything from litter to graffiti eradication

1 to building Habitat houses, to working for those non
2 profits within the community that serve the less
3 advantaged in our community.

4 Our process for dealing with the reported
5 assaults was developed before the Prison Rape
6 Elimination Act of 2003 was passed. When an assault is
7 reported, we conduct an immediate medical evaluation
8 with assistance from the University of Mississippi
9 Medical Center, simultaneously conduct a thorough
10 investigation into the incident. And the process has
11 proven successful for us in handling reported incidents
12 of sexual assault.

13 I am, as Sheriff, responsible for safely
14 operating the correctional facilities in Hinds County
15 and take that responsibility seriously. As a law
16 enforcement officer, I take enforcement of the Prison
17 Rape Elimination Act of 2003 just as seriously. We've
18 taken the steps needed without any BJA grants, though
19 we're not opposed to getting any, to make our
20 facilities safe for those who work there and those who
21 are incarcerated there.

22 I thank the committee for inviting me to

1 discuss this important issue and for recognizing our
2 efforts to fulfill our obligation to protect those
3 inmates that are housed in our facilities. Thank you.

4 DR. WILKINSON: Thank you so much, Sheriff.
5 Hinds County, is that Jackson?

6 SHERIFF McMILLIN: That's correct.

7 DR. WILKINSON: Okay. So I've become a big
8 fan of Mississippi Corrections. Commissioner Epps and
9 I are good friends. When you see him, tell him I
10 acknowledge that I taught him everything he knows in
11 Mississippi.

12 SHERIFF McMILLIN: But you didn't teach him
13 everything you know, right?

14 DR. WILKINSON: That's exactly right. And
15 Mohammed Ali said that about Larry Holmes, and that's
16 exactly right.

17 The -- and I'm just a huge, huge fan, and we
18 can talk about PREA community service work. And you
19 know, your involvement with Habitat for Humanity and
20 volunteer firefighting all endears you to the
21 community. And they consequently appreciate the fact
22 that, you know, in some respects, you know, the inmates

1 there are paying community restitution to that area,
2 and they don't forget those kinds of things. It makes
3 you good neighbors, and it saves money, and just a lot
4 of different things that is a cost benefit, as well as
5 a human benefit to all that you do. So congratulations
6 on that work as well.

7 SHERIFF McMILLIN: Thank you, Dr. Wilkinson.
8 I appreciate that. And the community has appreciated
9 me for five terms, but this time they turned me out to
10 pasture. So --

11 DR. WILKINSON: So are you no longer the
12 sheriff?

13 SHERIFF McMILLIN: No -- well, as of January
14 1, I will play with my grandchildren.

15 DR. WILKINSON: Well, good for you. I think
16 there's redeeming value in that as well. I'm sure your
17 legacy will loom large in Hinds County.

18 Mr. Pickett, thank you for being here, Chief.

19 Any opening thoughts that you have, as the
20 day-to-day -- as having the day-to-day responsibility
21 of managing a jail?

22 CHIEF DEPUTY PICKETT: The -- when the Sheriff

1 hired me fifteen years ago, I didn't have a clue that
2 when he threw me in the cellblock with sixty-six
3 inmates, that fifteen years later I'd be here with him
4 as Chief Deputy. I have enjoyed every position from
5 deputy through the ranks of lieutenant, corporal,
6 sergeant. The only rank that he enabled me to skip
7 over two years was the rank of major.

8 He taught me a long time ago that, if you'll
9 give respect, it will be given. And that's something
10 that all the deputies within the detention center -- we
11 actually have three of them, and our patrol division.
12 You're absolutely correct about the community being
13 endeared, through these projects. I've seen first-hand
14 the good that comes to the community, but also the
15 growth that comes to the inmate for having the
16 opportunities for NA and AA and religious programs.
17 And it's basically all this network, which is really
18 surveillance, whether it's a programs deputy or the
19 social worker or the sergeant on duty, all these
20 things, all these components work together to make our
21 facility safe for -- to not have these incidents.

22 DR. WILKINSON: I'm going to kind of

1 proselytize for one moment. I forgot to turn my phone
2 down, sorry.

3 I wrote my doctoral dissertation on the value
4 of community service work. And I theorized that, you
5 know, community service work is not just a benefit to
6 the community but it's rehabilitative. So I
7 presume -- and I want to ask that -- about repeat
8 persons who come to jail.

9 I mean, do you think you have a pretty good
10 success rate of, you know, persons who come through the
11 jail and then kind of learn it's not what -- the place
12 that they want to be, not just because it's jail, but
13 also you -- I mean, you have a series of programs that
14 are designed to prevent them from coming back. Because
15 they're also learning work skills, they're learning
16 work ethic, they're learning a number of things that I
17 think will be beneficial for them and their families.

18 CHIEF DEPUTY PICKETT: I don't know so much
19 about the recidivism rate, or how it would impact on
20 that. I can say we can show from the evidence of the
21 low number of assaults, aggravated assaults, sexual
22 assaults within the inmate population, that it

1 does -- and the way that we operate does impact on the
2 way that they treat one another. And that there is a
3 greater respect within -- like we said, within them,
4 and a greater respect that comes out of that community
5 service.

6 I can remember the pride one time when we
7 completed a Habitat house that we'd done from
8 foundation to rooftop, that it came time to give the
9 keys to the recipient. And the inmates gave those
10 keys. And there was a -- we believe that everybody
11 needs a reason to get up in the morning, a reason to
12 live, a reason to contribute to the community, to be a
13 part of something and have pride in yourself and what
14 you do. And it's impacted on how they treat one
15 another and other people.

16 And I can say with regard to Mr. Epps, he has
17 been good about helping us with our screening, because
18 too often we'll take -- we would take someone because
19 of the talent that they had, that they could make a
20 contribution toward that community service work and not
21 play close enough attention to who we're dealing with
22 as opposed to the crime he was accused -- the crime he

1 had been convicted of.

2 DR. WILKINSON: Did I hear you right that you
3 actually had state sentenced inmates at the penal farm?

4 SHERIFF McMILLIN: We've got 200 state inmates
5 and 200 county inmates for misdemeanors. So we're a
6 combination, state and county work center. But we
7 haven't been that for too long. We were independently
8 operated work center that was created by an act of
9 the -- well, created by the legislature to enable the
10 board of supervisors to create a work center. And that
11 was what we were to start with.

12 And then the board of supervisors was quick to
13 want to shift that responsibility, so they gave it to
14 the Sheriff and we took it from there.

15 DR. WILKINSON: Tell me what you meant when
16 you said that mixing the state and the locally
17 sentenced persons keeps assaults down, or other kind of
18 misconduct?

19 SHERIFF McMILLIN: There's -- those that we
20 get from the state have been screened. So we pretty
21 much know what we've gotten. What we've depended upon
22 before when it came to local inmates that we were going

1 to keep there, even though they had been convicted of
2 felonies, and keeping at that work center, was the fact
3 that we knew who they were. We knew their mother,
4 father, their girlfriends, the group they ran with, the
5 neighborhood they lived in. We're not the smallest
6 city in the state, but we're small enough to know
7 that -- know our community pretty well.

8 So the mix of those two oftentimes can
9 help -- you can help a young inmate there that's a
10 crackhead, that's twenty-three, twenty-four years old,
11 around a seasoned inmate that's done ten years in time
12 and can help you, teach you how to do that time and how
13 to get along.

14 DR. WILKINSON: Right. Gary?

15 DR. CHRISTENSEN: Sheriff, you mentioned that
16 you had a lot of standards in place prior to PREA. How
17 have the PREA standards changed, if at all, what you're
18 doing in the detention center?

19 SHERIFF McMILLIN: Well, we had -- there
20 was -- and I know that the two of you are familiar with
21 the *Gates v. Collier*, was the standard by which
22 Mississippi Corrections was governed since -- when was

1 that, 1960 -- 1960-something, when Robert Gates sued
2 the State of Mississippi for -- and did away with the
3 inmate trustee program and a lot of abuse that went on
4 at Parchman State Prison.

5 And from that time, Judge Katy ordered the
6 number of square feet that you could have -- that you
7 had to have for an inmate, certain punishments were
8 outlawed, a lot of abuse was gotten rid of. The inmate
9 trustee system was that -- was done away with. And
10 from that time forward, the courts paid particular
11 attention to what went on in -- what went on in
12 Mississippi in the Department of Corrections.

13 We have just recently come out
14 under -- Commissioner Epps come out from under *Gates v.*
15 *Collier* and the state's running the penal system again.

16 But we had to abide by a lot of regulations that
17 weren't there before, and when we would go to our
18 funding agency, you know, they say that's not
19 important. You know, the last thing you want to fund
20 when you're passing out the money is the correctional
21 system. That's the last thing. Mom's apple pie, flag,
22 everything else comes first; prisons come last.

1 And so we were able to, through that use of
2 *Gates v. Collier* and other orders from the federal
3 court, to compel the board of supervisors to fund those
4 things that we needed to do.

5 DR. CHRISTENSEN: So in your opinion, that
6 funding and that push basically professionalized, at
7 least made more current your current system of
8 operating with inmates?

9 SHERIFF McMILLIN: I think that's a good way
10 of putting it. It made it more current.

11 DR. CHRISTENSEN: And I, too, am a proponent
12 of jail transition, re-entry and integration with the
13 community. And I'm wondering if you feel that your
14 efforts, having inmates working throughout the
15 community, gives them an opportunity -- gives the
16 inmates an opportunity to, in often cases for the first
17 time, feel part of what goes on in the community and
18 actually contribute to the community and be proud of
19 that contribution?

20 SHERIFF McMILLIN: I know that that's the
21 case. And yes, I do believe in it, advocate it. I
22 mean, I've hired inmates within the department before,

1 and helped through getting jobs in the community. And
2 there are those firefighters that are graduated from
3 the state academy that have gone on to firefighting, in
4 the communities that they live in by participating in
5 those volunteer departments.

6 DR. CHRISTENSEN: Thank you.

7 DR. WILKINSON: You said you had 150 acres?

8 SHERIFF McMILLIN: No, we had 150 acres at one
9 time. We had a pretty good size -- we had a pretty
10 good size farm, and they sold it off and then built a
11 jail on part of it. Took up --

12 DR. WILKINSON: So no more livestock or --

13 SHERIFF McMILLIN: No, we --

14 DR. WILKINSON: -- tillable acres or --

15 SHERIFF McMILLIN: We do have a garden
16 project, and we have people that will actually lease us
17 land for a dollar a year to garden. So we -- you know,
18 it's a funny thing how you have to stretch things
19 sometimes to meet the requirements, but you can
20 sell -- we can eat all that we can grow, obviously.
21 And then we can have cold storage for that that is
22 excess. And then when we have more than we can grow or

1 freeze, then we can sell it. And then that can be
2 plowed back into the Sheriff's Department's farm
3 budget.

4 So there's -- no we do -- we still do a lot
5 of -- there are lot of peas picked and a lot of corn
6 and okra, lot of vegetables grown.

7 We also take that farm, our animal control is
8 operated out of there, our mounted unit is maintained
9 by inmate labor, where they're -- the horses are fed
10 and groomed. And we have -- had had up until the past
11 year or so, had a real close relationship with churches
12 in the area.

13 When we took over, there was nothing for
14 recreation in the budget for the penal farm. I mean,
15 that was it. There was an old basketball court -- you
16 know, basketball goal with the dirt court, and that was
17 it, and one old basketball. And when you're dealing
18 with people that I was having to deal with, at the age
19 that I am, you need more than that to keep people
20 occupied when they're not working.

21 So one of the things that's traditional with
22 our people is music, particularly church music. So we

1 started a choir, had somebody volunteer to start that
2 choir. So every Sunday morning, there would be thirty
3 inmates that would be in somebody's church on Sunday
4 morning, and you could call it singing for their
5 supper, because the ladies of the church would provide
6 lunch for that day, so that was an encouragement to get
7 them to participate. But that was another outreach
8 thing, where people in the community get an opportunity
9 to see them as other than inmates, and inmates get an
10 opportunity to see the public as more than a victim.

11 DR. WILKINSON: Chief, you feel good about
12 your classification system, and anything that would
13 tend to separate the bad apples from the ones who want
14 to do the right thing, and leave and not come back?

15 CHIEF DEPUTY PICKETT: What we're seeing is a
16 younger inmate now. The incarceration -- we have a
17 high incarceration rate in Mississippi, as you know.
18 But the inmates are getting younger and younger.
19 That's probably one of the biggest problems that we're
20 encountering, because it's a big difference between,
21 you know, a thirty-year-old man and then you got a
22 twenty-year-old boy. Basically, between rock music,

1 video games and Similac, there's not a lot of interest
2 in routine of -- you know, one of the biggest things
3 that the Sheriff -- you know, innovative programs he
4 brought to the county was the GED aspect.

5 We have lifetime learning going on at all
6 three facilities all the time, and helping get that GED
7 to where there's an opportunity. The Sheriff often
8 says and reminds the public that these folks are coming
9 back to the community, and that he wants to see them
10 come back better when they leave than they were when
11 they came.

12 But as far as the classification, the concern,
13 you know, that you raised, that you inquired about,
14 that's one of the biggest problems that we've got, is
15 that younger inmates are not more inclined to work,
16 because they're not used to it, and they have fewer
17 skills.

18 SHERIFF McMILLIN: What Chief said, I mean, we
19 have people that can't work, that don't know how to
20 work, simple work. I mean, dig a ditch, measure how
21 long it's going to be, they don't have any -- they have
22 no concept of that. You know, I mean sometimes a job

1 that they have when they come to the farm is the first
2 job that they've ever had, the first time that they've
3 ever had to get up at a certain time in their life to
4 follow any type of schedule. And it's an adjustment
5 for them.

6 DR. WILKINSON: Yeah, we know Mississippi has
7 financial challenges, like a lot of places, but it
8 looks like you've kind of gotten around some of that
9 and still provide an awful lot of services and proper
10 security and everything that goes into having a well
11 run facility. And consequently, a well run county as
12 it relates to the justice system.

13 Sheriff, I presume you have road patrols as
14 well, or --

15 SHERIFF McMILLIN: The Sheriff is, according
16 to the constitution, the chief law enforcement officer
17 in the county, and has both law enforcement
18 responsibilities, responsibilities of the chief
19 executive officer of every court, which he or his
20 designee has to attend in every session. You know,
21 that service of civil process, all of that. So Sheriff
22 in Mississippi is a full-time law enforcement.

1 DR. WILKINSON: So if there are incidences in
2 the institution, on the farm, your deputies, you know,
3 do the investigations?

4 SHERIFF McMILLIN: We have an internal affairs
5 division that handles the investigation.

6 DR. WILKINSON: Anything else?

7 DR. CHRISTENSEN: No.

8 DR. WILKINSON: Unless you both have closing
9 comments, I think we're done with any questions that we
10 might have. Any further thoughts, Sheriff?

11 SHERIFF McMILLIN: No. We enjoyed the trip up
12 here.

13 DR. WILKINSON: Well, we appreciate your
14 coming up here for an hour's visitation with us. But
15 Washington, D.C. is beautiful this time of year, so
16 enjoy it.

17 SHERIFF McMILLIN: It is.

18 DR. WILKINSON: Chief, any further thoughts
19 or --

20 CHIEF DEPUTY PICKETT: The opportunity to
21 appear is a real honor. I can tell you, you know, our
22 agency is considered the largest in the state. There

1 is a need -- the Sheriff mentioned those grants
2 earlier. That there is a need for training,
3 particularly in rural areas, because our agency is
4 lucky, one, that we -- I can take the liberty of saying
5 that, you know, my boss is a very innovative sheriff.
6 But there are a lot of sheriffs that are not quite as
7 innovative in rural Mississippi. So Hinds County has
8 been very lucky. And you're right about -- you know,
9 he is revered throughout the state and known throughout
10 the state.

11 But there are smaller agencies, rural agencies
12 that some type of grant programs, monitoring, training,
13 that's something that Mississippi law enforcement
14 severely lacks is ongoing professional training
15 opportunities. So if I could urge the committee to
16 adopt any practice today, it would be to send more
17 folks to rural states, to rural areas, because small
18 departments, their chiefs and deputy chiefs and midline
19 supervisors can't afford the travel, just because the
20 budgets are too strapped for small rural agencies.

21 DR. WILKINSON: All right. Appreciate that
22 input.

1 Well, thank both of you for being here. You
2 have a lot to be proud of in Jackson City and Hinds
3 County, Mississippi.

4 And with that, we will adjourn the hearing on
5 low prevalence institutions. Safe trip back.

6 (The hearing was adjourned at 10:48 a.m.)

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