MR. MCFARLAND: The panel will reconvene.

This morning we have the privilege of hearing from Ms. Lorie Brisbin, who is the coordinator for the Idaho Department of Corrections PREA work, as well as the former Secretary of CDCR, Rod Hickman.

Thank you both for your time and your insights and your candor. I guess we will start with Secretary Hickman.

Oh, we've got to swear you.

(Oath administered by Mr. McFarland.)

MR. MCFARLAND: Thank you, Secretary Hickman.

MR. HICKMAN: It's my pleasure to be here.

It's quite flattering that the panel would reach out to me and ask for me to provide testimony to you as you go forward in developing what I think is going to be protocols, processes and change in
organizations across this country that have suffered from not enough attention for many, many years. I think that anything that I can provide you of assistance, I really welcome the opportunity to do that.

I left corrections in February of this year,
and I have had the opportunity to both reflect upon
my experience of 27 years when I was in corrections,
from the time I was a correctional officer to the
time I left as Secretary, leading the reorganization
of corrections in California to allow it to be more
thoughtful in the way it went about doing its
business, to allow it to be capable of using
evidence to make policy decisions and to influence
policy decisions in California. But I think in that
time of reflection I have also had the time to spend
in other states and kind of expand my horizon in
regards to those issues that face corrections across
the country, and, quite frankly, PREA is going to be
a significant watershed event, I think, in
corrections for years and years to come. I think it
is going to provide an opportunity for people to
really be clear about what we do in this country
regarding the detention and incarceration and return
of citizens of this country back to the communities,
back to our communities. So I think it is an excellent opportunity.

The question you asked me to talk specifically about are: What conditions, policies, practices, protocols, training in prison either permit or even promote sexual assault by inmates and staff upon
inmates? And then the other side of that question:

What are those things that inhibit the incidence of those activities?

I am going to take a different tack that I originally thought. I had the opportunity to listen to the testimony of the panel that was before me, corrections folks from CDCR who I will always commend for doing a wonderful job. They've taken a leadership role in many, many areas in California. I commend John and the group that is still there doing yeoman's work in California and Director Thigpen from NIC.

I am going to pull back my yoke and go from a different altitude in sharing with you what I believe the response to these questions will be from a different level. So I am going to take a 50,000 foot approach to this and deal with it from a national perspective, not just those things here in California, to share with you my experiences as both
with the Americans -- with ASCA and as member of the
Board of Governors for ACA, and how we approach this
from a professional standpoint across the country so
you have continuity in what we do

MR. MCFARLAND: That is the Association of
State Correctional Administrators and American
Correctional Association?

MR. HICKMAN: Yes, sir.

Of the policies which I think many people have spoken to, that either inhibit or allow those acts to happen, you have to clearly look at the housing policies. You have to clearly look at how you design, if you have the capability to design. You have to clearly look at how you modify within existing designs from a fiscal standpoint of the plant that house people in the prisons across this country.

Quite frankly, from a 50,000 foot level from a Secretary of Corrections with an 8.2 billion budget, I can tell you almost unequivocally every secretary or commission across this country has a significant problem in maintaining its facilities. So when we talk about whether you can go to the fiscal environment of the legislature in these states and say I need X to accomplish Y regarding PREA, when
you know that you can't replace your roofs, is problematic.

So as you engage with people that are leading correctional organizations across the country, I think that engagement has to include what is the execution of it, how can you really do it and what
does the environment in which you live in order to achieve resources allow you to accomplish it.

If you talk about technology, every commissioner of corrections across this country probably has a wish list an arm long of those things they wish they could implement that would improve upon the safety of both the facility and the staff and inmates that work there. But how do you do that within a fiscally responsible environment? How do you do that within a political environment that, quite frankly, sometimes is not going to let you make that investment?

MR. MCFARLAND: Are you talking cameras?

MR. HICKMAN: Cameras, RFI technology --

MR. MCFARLAND: RFI?

MR. HICKMAN: Radio frequency wrist bands.

There is technology that is out there available to really impact the incidence of violence and incidence of rape and sexual misconduct in the
20 prisons across this country.

21 The question is: One, are you going to find

22 the policy-makers that are in the place to make the

23 decisions to fund it to have the political will to

24 do it? It is a very difficult, very difficult

25 environment in which the commissioners and
secretaries are working on a day-to-day basis and fighting for a finite amount of resources within the general fund to accomplish that.

You talk about design and you talk about staffing. I overheard the conversation with Director Thigpen about what that staffing model should be. But I think if you go look at it from a higher altitude to get a clear and comprehensive view of what staffing should be, whether they be in detention facilities at the county level or state facilities at the state level or community correction facilities. There is a lot of input that you need to put into that process of staffing. What is the design? What is the deadly force policy? What type of forces are allowed to be used in regards to the ability to control a large scale incident?

John Dovey talked about the ratio in California being six to one. California, generally,
has been 48th in the states in regards to staffing ratio. But California was one of the few states that had designed prisons with lethal force inside. Very few prisons across the country have lethal force deployed inside the secure perimeter. That was a clear and conscious decision by people that
made the decision in the design process to do that.

So I think when you look at staff and what can
allow you the ability to both impact or reduce the
incidence of misconduct and sexual rape in prison,
it has a lot to do with those policy decisions made
in the design process.

Policies in the area of classifications. And
I think one of things that I'm really glad to see is
the fact we are having a conversation about prison
rape elimination in this country. That, in fact,
will drive a lot of the changes that will happen.

So there needed to be a vehicle of change. And the
vehicle of change very well might be the PREA Act
that makes states and local municipalities look at
things from a different lens than they ever looked
before because of the advent of PREA there. So I
think it is a vehicle of change that we need to
embrace and use. But in doing so, we have to do
that in a thoughtful way.
Movement policies. How do you move inmates to and from? It is a very interesting thing for me as a practitioner for many, many years. As I came from the community into corrections, I wasn't always a corrections professional. I was a community member. I become a correctional officer. I started to look
at the way we do things and often wondered why do we
do things the way we do them.

If you look at the way we search people,
there's never been any need before this conversation
to have any kind of privacy for body searches.
Unclothed body searches clearly have been done in
large scale rooms. They still are. It is a matter
of staffing and capability of doing that.

MR. MCFARLAND: That is unclothed?

MR. HICKMAN: Unclothed body searches.

But the one thing I have to say that is of the
most importance to me is, is there a culture in
detention, corrections and supervision of people
that causes dehumanization of the offender? That is
truly a question. Because a deterrent for me as an
individual in society is that as soon as you told me
that I had to bend over, spread the cheeks of my
rectum and cough, I would have been cured. I would
never be back. But I think when it is not -- it is
20 a safety need. But then I think it needs to be
21 looked at with a different lens as we go forward
22 with an opportunity to review the policies,
23 procedures, practices that we use. Can you do them
24 differently? Can you do them in a way that is not
25 inadvertently degrading, in a way that allows people
to have dignity and respect as they are doing the
time for the crime that they committed in society?
We look at movement, classification and housing.

    Investigative oversight. What are the
protocols that are used to investigate? John Dovey
talked about the disciplinary matrix and the code of
silence and the things that have gone forward in
California that I think were precedent-setting and
the willingness of corrections professionals to say
things that needed to be said.

    Now the result of that dialogue is going to be
the policies and procedural changes that come as a
result of that. But the willingness for
correctional professionals to step forward and say,
"Yes, we believe there is a code of silence and,
yes, there is discipline if you don't tell what you
do know. There will be discipline as a result of
that." As John defined as the paycheck protection
plan.
Collective bargaining agreements. Director Thigpen talked about how you have to bring union folks to the table. You really do have to bring those folks and collaborate in order to achieve. But what has happened, in my view, that you moved from the ability to impact salaries and wages and
terms and conditions of employment to political activism.

So are you, in fact, as a secretary or commissioner capable of making collaborative decisions with your representatives when, in fact, the game is not being played in your boardroom? The game is being played on the air and the televisions of the people of California. Where is the game really being played and are you in a position to really impact the result?

And sometimes, quite frankly, the commissioners and secretaries are not in a position to do that. They try to stay apolitical. Quite frankly, the majority would like to be apolitical and make comprehensive policy decisions based upon what the practices to improve the organizations are. But you can't remain apolitical as I live to tell you myself. But if you could, you would.

Where is the real game being played and what
is the real result that everyone that is in that

game really wants?

I think that as you look at policies,

procedures and relationships of collective

bargaining units across the country, and I had

Secretary Pierce, we're dealing with the same type
of challenges that I dealt with as Secretary in regards
to how I was being depicted or how I was being identified
as moving forward with the organization when it is not
essentially the truth.

Searching practices, culturally. Director Thigpen
talked about culture. What is the culture? I think when
you look at a culture of prison in the detention facilities
across the country, we have to step back again and have
a little broader perspective. What is the culture of society?
What does society really expect to happen to someone
when they are incarcerated? What is an acceptable result?

I very vividly remember a conversation I had when I
was a captain with a correctional officer that had worked
in a unit where there was an inmate who was mentally
ill that continually ate the flesh on his arm. The officer
came down; he had an appointment with the captain. Now
you have to
remember in the culture I am a captain. I have two
bars. I am the head custodial officer. So this
officer had enough courage to come to my office.
He came to my office because he wanted to
resign. He came in and said, "Cpt. Rick, I need to
resign."
I said, "Why do you need to resign?"

He says, "Because this guy's mentally ill. We take him to the clinician. They give him his medication corrected and he doesn't do it any more, and then three or four days later he doesn't take his medication and he does it again. We take him back down there and he does it again." He says, "I can't do it anymore. I just can't do it anymore."

I tell him, I told him, "I am proud of you because I have hundreds of people out there that believe that is normal, that they have to become callous to that real human tragedy that's existing in the prison. So when you look at the culture of corrections, the culture of corrections and prisons in this country is nothing more than a microcosm of what the impact of society is.

So what is supposed to happen when someone comes to prison? Is it what you see on Oz? Is it supposed to be what you see on Prison Break? Is it
supposed to be The Shawshank Redemption? Is it
supposed to be the movies that are depicting what
the prison non-reality is? So that is what
influences people in the policy area.

So when you talk about are you capable of
doing things from a policy standpoint, the
commissioners and the secretaries are going to have
to respond to the political environment and who
influences those people. That is the real question
you have. I hope I am not too far out on those
issues, but I think those issues have been really
clearly identified by the panelists before me.

In the area of training on both sides of the
equation, inhibiting or prohibiting, investigative
training is of the utmost importance. The
investigative training needs to be far more
comprehensive, to talk about the prosecutors for the
DAs or investigators for the District Attorney's
office, if they, in fact, have them.

What is the District Attorney's discretion in
regards to prosecution? The training has to happen
in those areas so that if you are really going to
accomplish it, it has to be done in a way that is
collaborative with those District Attorneys and
those local municipalities and the prisons in a way
that they understand what the result will be. And

there is a finite amount of prosecutorial dollars.

There is a finite amount of it, so we have to talk

about what that fiscal impact is. What are the

values of those people that are doing them?

So in closing, I will say this: to accomplish
what really needs to be accomplished in the change of corrections under the auspices of PREA, it will take a societal change, societal education. It's going to clearly take leadership, both for those people that are in detention leadership positions and those people in political positions that oversee the operating leadership of detention facilities. It is going to take political courage. It is going to take the willingness of people to have a conversation that is not politically correct, but is real. It is going to take the reality that you can't continue down the path that we are without impacting it fiscally. What you are willing to pay to accomplish what we want to accomplish in the improvements of prisons across the country. It is going to take a realization for us to talk about. Do we dehumanize people when they are incarcerated? Do we or not? It is going to take responsibility for the associations of corrections to be at the
table for the American Association of State Corrections Administrators, American Correctional Association, criminal and juvenile justice administrators, all administrators in the DAs administration; all those folks have to be able to talk about the true definition of punishment.
1 Is punishment incarceration as we stated or is it the experience of the punishment? That is the true sense that we have to talk about in order to change those. And the bottom line is going to take execution. Government is great in grandiose schemes. We've got to execute. We have to put some metrics behind it to say these are the things that you should do, these are the metrics that you should have, these are the ways we are go to measure that, with solid empirical data.

One of the things that California did was to change its mission to improve public safety through evidence-based contravention and recidivism reduction strategy. Evidence does not agree all the time with politics. It is an amazing phenomenon. So one has to sort out the noise, what is real and what is anecdotal and what is true metrics. So there has to be education of the media, of the political environment. There has to be leadership
taking responsibility of telling the true story and
willing to be courageous and say what is really
going on in prison, and we have to talk about what
the catalyst of change is going to be.

My belief is, now that I've been away from it
for a while, that the catalyst is change. Whether
the people like it from a policy or program standpoint, the catalyst of change very well might be fiscal. It very well might be can we continue down the path that we are going and sustain it fiscally. And the answer to the question is no.

So whatever that vehicle, change needs to be.

I think that the catalyst for that change will be whether or not it is going to be fiscally sustainable.

So I hope I have been helpful in my comments.

I don't know if I answered your questions. I'd appreciate follow-ups to probably do that in more detail. I think a lot of the information that you asked me I think was provided by other panelists. I wanted to just give you a different perspective from my point of view.

Thank you very much.

MR. MCFARLAND: Thank you very much,

Mr. Hickman.