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REVIEW PANEL ON PRISON RAPE

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

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C O N T E N T S

SPEAKER	PAGE
Arthur Wallenstein	7
Dr. Allen Beck	33
Cynthia Totten	70
Elizabeth Cumming	83
Wesley Ware	95
ORLEANS PARISH PRISON	
Jerry Ursin	127
Dr. Samuel Gore	141
Anella Joseph	144
CLALLAM COUNTY CORRECTIONS FACILITY	
William L. Benedict	220
MIAMI-DADE PRE-TRIAL DETENTION CENTER	
Timothy P. Ryan	284

1 PROCEEDINGS

2 DR. WILKINSON: Good morning, we will
3 officially convene the hearings on high prevalence
4 facilities that have been -- who have been invited to
5 participate in this round of prison Panel hearings.
6 Thank you for being here. We have a full day of
7 testimony and discussion, and without further ado, I
8 think we will convene shortly with testimony from
9 Arthur Wallenstein from Montgomery County, Maryland.

10 But before that, I always like to remind the
11 audience at least that we are here to gather
12 information, not just for the facilities that have been
13 invited to provide testimony, but to gather information
14 that might help the cause of eliminating incidents of
15 sexual misconduct inside correctional institutions in
16 the United States.

17 This is the third round of hearings. We've
18 completed hearings on juvenile facilities, adult
19 correctional institutions, and this set of hearings
20 today and tomorrow will be on adult detention
21 facilities.

22 I'm Reggie Wilkinson, I chair the Panel on

1 Prison Rape. Just a little bit about me, former
2 director, retired, from the Ohio Department of
3 Rehabilitation and Correction as the director of that
4 state prison system. Was with the agency for thirty-
5 three years, was a director for sixteen years, past
6 president of the American Correctional Association as
7 well as the Association of State Correctional
8 Administrators.

9 And I will ask my colleague and fellow
10 panelist, Dr. Gary Christensen, to introduce himself.

11 DR. CHRISTENSEN: Well, you just did that. My
12 name is Gary Christensen, and I also have been in the
13 field since 1978. I've worked within correctional
14 jail -- mainly jail facilities for the majority of my
15 career and consult around the country in jail
16 facilities and systems.

17 DR. WILKINSON: So again, thank all of you for
18 being here.

19 I want to start out with the testimony from a
20 good friend and colleague that I've known for many,
21 many years. We're federal or fellow panelists on the
22 National Institute of Corrections Advisory Board. And

1 Arthur Wallenstein -- Art Wallenstein is not too far
2 away in Mongtomery County, Maryland, and have agreed to
3 provide testimony to help set the stage for the
4 testimony we will receive from other witnesses on adult
5 detention facilities.

6 So Art, I must swear you in prior to your
7 testimony. So if you'll raise your right hand.

8 Whereupon,

9 ARTHUR WALLENSTEIN

10 Appeared as a witness herein and, having been
11 first duly sworn to tell the truth, was examined and
12 testified as follows:

13 TESTIMONY OF ARTHUR WALLENSTEIN

14 DR. WILKINSON: Art's a long-time director of
15 the Montgomery County Correctional Complex, and Art,
16 I'll turn it over to you.

17 MR. WALLENSTEIN: Thank you.

18 I am actually, I mean, feeling both honored
19 and tested to begin this discussion. My purpose this
20 morning is to offer some comments and I'll take up
21 about half of that allotted time and then to engage in
22 some questions and answers which I hope to generate,

1 with primary focus on jails.

2 I want to be very direct, I have some very
3 strong feelings on these issues as a practitioner. And
4 while some of the drama gets devoted to who scored up
5 here, and who scored up there, it's an imperfect
6 process at best. And if it weren't for the incredible
7 skill of Allen Beck, I don't know that we would ever
8 have found a way to engage this part of the data
9 collection. And Allen's involvement in methodology
10 gives it its credibility as far as it can go.

11 But ultimately the real value of these
12 hearings, all right, is to create an environment where
13 we can learn more about a zero-tolerance, as it relates
14 to sexual misconduct in the field of corrections across
15 the country. So I would hope that, at least from my
16 part and others, the focus is not on seeking blame,
17 casting blame, awarding crowns and what have you, but
18 on furrowing into the methodology of PREA and how we
19 can improve upon it and integrate it into correctional
20 operations.

21 Okay. I'm a correctional administrator. So
22 when I leave here after appearing before a very august

1 body, and two very fine Commissioners, and I gather the
2 third Commissioner is not here today?

3 DR. WILKINSON: Yes.

4 MR. WALLENSTEIN: All right. Who is, I mean,
5 equally excellent. I'll go back to a jail system where
6 twenty minutes ago detention electronics went down and
7 we locked the building down until we could get
8 everything back up. We are nothing special. We are a
9 jail system, one of 3,325 -- or whatever Allen used to
10 tell me exactly was the recorded number that he could
11 find in the country.

12 And for me, PREA is core-operating principles,
13 whether I agree or disagree. And in large measure, it
14 really doesn't make much difference, because 99.9
15 percent of it is already black letter law. It is
16 included in the operating standards that most of us
17 have come to accept and those who don't access them are
18 still responsible for them through hundreds of case law
19 decisions that have come down.

20 It just happens it's been packaged in a,
21 quote, new unusual format, but it really has nothing to
22 do with the existence of operating principles that have

1 been with us and began to come to us really from about
2 1970 right up through the present. While there are few
3 standards that are under review, and may change, and
4 may not change, the fact is, most of it is hard-core-
5 operating principles that should be accepted and have
6 to be accepted, because there is no way to argue
7 against them given existing case law.

8 Jails need more attention. I think until,
9 again, Allen's involvement at BJS, data collection on
10 jails was virtually non-existent. Certainly it was far
11 more difficult to collect data on 3,320-plus
12 institutions than it was on fifty states who could be
13 very quickly isolated if they did not participate.
14 Some of the counties most likely don't even honor the
15 existence of a federal government in Washington. I'm
16 sure Allen had his day in trying to collect the data.

17 But the fact is, the jail system dwarfs the
18 state correctional system and the federal system. This
19 idea of suggesting that on a given day there's 2.2
20 million people in custody and 700,000-some are from the
21 jail, then presumes that two times that number exists
22 within the state and the federal system, if you use

1 average daily population. The importance of PREA has
2 nothing to do with average daily population. PREA and
3 jails impact over thirteen million people, some
4 seventeen times the number of people who pass through
5 state and federal correctional systems.

6 Now that's not a plug for jails, it is
7 evidence-based practice to me. Go out and count how
8 many people will be impacted by PREA standards in a
9 given year, and it will number seventeen times the size
10 of state and federal. It doesn't diminish their
11 importance, but you're talking about impacting people.

12 And zero-tolerance meaning something, the jails are
13 the critical element.

14 A little bit harder to get to, perhaps, a
15 little more complex, 3,320 directors or wardens or
16 chief deputies, lot of politics, not just fifty
17 governors, but that's where the people are. And every
18 single human being who ends up in a state and federal
19 prison virtually has started that stay in a county
20 jail.

21 All right. I think the jails need to
22 increasingly be a major, major focus of criminal

1 justice practice. Certainly they are a harbinger of
2 change to come and an incredible place to engage
3 re-entry and the testing and practice of all of the
4 PREA standards. Since many people who come into the
5 jail system have no experience with the criminal
6 justice system, they are absolutely vulnerable up to
7 their eyes. It's got to work in the jails.

8 Believe me, many state prisoners are quite
9 capable of taking care of themselves; a large number of
10 county jail inmates, detainees, whatever, don't have a
11 clue. And that means they rely virtually totally on
12 staff to mandate their safety, to establish this zero-
13 tolerance, to walk the talk and to make it happen.

14 I would hope that these hearings, this current
15 iteration of the hearings, will not only discuss PREA
16 but will discuss its application in jails and how it
17 will impact thirteen million-plus people. And if a
18 third are the same people, so it's ten million people.

19 And when we finally get around to realizing the
20 importance of jails, wow, if we can impact diminished
21 return, we can dramatically drop the criminal justice
22 population in this country. That's really another

1 topic for another day.

2 I commend my colleagues Allen Beck and Bill
3 Sable for putting jails on the map, and for increasing
4 professionalism amongst the people who operate jails.
5 All right, for making it a core element.

6 Now one of the main points I wanted to make
7 this morning is that PREA is nothing new. It isn't
8 even dramatic. You want to go back to drama, go back
9 to 1970 and *Holt v. Sarver* and then followed very
10 quickly by *Estelle v. Gamble* and *Wolff v. McDonald*, and
11 people thought Ccrrections was coming to an end. The
12 courts came in, hands off was abolished, people thought
13 the jails and the prisons in this country would never
14 be able to operate effectively.

15 Much the same ignorance of police colleagues
16 who assumed that Miranda was going to end the ability
17 to arrest people in the United States. That was
18 nonsense. Just as a suggestion that judicial
19 intervention in jail operations was somehow going to
20 take away the authority of correctional administrators.
21 Wrong. In the same way it's wrong to suggest that
22 PREA is somehow going to diminish the ability of

1 correctional administrators and line correctional
2 officers to conduct their business.

3 We learned decisively in the period 1970 to
4 1991, the high period of judicial intervention, that
5 our control was not lost. Billions of dollars had to
6 be invested in the jail system and state correctional
7 systems to respond to federal mandates. Now of course,
8 the Preamble to PREA says that there should be no cost,
9 that's ridiculous. There will be costs. And that's
10 not our issue here today. But those costs will help
11 develop a safer system, not just for inmates, but for
12 staff members.

13 I mean, just imagine, 1975, an inmate
14 clamoring for medical assistance, and no federal
15 requirement that it had to be provided, and
16 correctional officers stuck having to figure out what
17 to do. Well, *Estelle* came and the world of
18 correctional health care changed forever. Has not been
19 impacted by political changes in the nature of the
20 federal courts or the supreme court. It established
21 rock solid practice that exists today.

22 I'm thinking that part of the criticism of

1 PREA or the fear or concerns may have come from folks
2 who are newer to senior management positions and never
3 went through the period of 1970 to 1991. I did, I
4 worked through every one of the major landmark court
5 decisions, and all I saw was an improvement in the
6 safety and quality of our institutions.

7 My point for this morning was, no earthquake,
8 all right? No tornadoes. Isn't even close. There
9 isn't a standard within PREA -- and of course, we don't
10 know what the final standards will be -- but in macro,
11 doesn't even touch the alarm and the concerns that
12 existed when the hands-off doctrine died a very, very
13 real death as a result of judicial intervention. In
14 some ways, what's new and countered and really most
15 unusual here is, it didn't come from a court, it came
16 from advocates in the field. No one thought it was
17 going to pass and then all of a sudden it did. And
18 then George Bush signs it, and wow, everybody now pays
19 attention.

20 But there are issues. And for the
21 Commissioners, there should be no need to explain,
22 because as you go through this work, it's already

1 mainline practice. Any institution that has ever
2 engaged the standards of the American Correctional
3 Association, the National Commission on Correctional
4 Healthcare, the Correctional Education Association,
5 states with mandatory standards, this is merely a
6 continuation plus federal court doctrines developed in
7 hundreds and hundreds of cases since the early 1970s.
8 It's just something new, it comes in a little bit of a
9 different package, but it represents core practice.

10 In concluding, I'd like to go to the specific
11 suggestions, because we were asked how might this be
12 most usefully implemented out in the field to have some
13 meaning to it? As with most issues at the jail level,
14 it must be top down. This can't be, as it was in part
15 in the early '70s, people being dragged into the room.

16 It needs to be verbalized, all right, by
17 administrators. And given that the standards are
18 largely black letter law, it would take a lot of
19 explanation to believe why you wouldn't support ninety-
20 nine percent of the standards, and we'll see which ones
21 we're going to argue about once they're finally handed
22 down.

1 There needs to be a realization that PREA is
2 federal law, that's the process we're going through.
3 The standards are already federal case law. And the
4 vast majority of PREA operating standards are already
5 well within constitutional practices within United
6 States correctional practice.

7 Administrators should give verbal approval and
8 recognition in a macro sense to efforts to abolish
9 sexual misconduct by inmates and staff members, and
10 fears of sexual reprisal and assault by every inmate
11 under our supervision, with no exceptions. The very
12 things that we've always argued for now of course are
13 cast before us in standards format. And sometimes it's
14 very difficult to ask, because you may get what you
15 have asked for.

16 Training in PREA doctrine in process should
17 flow regularly, following the same examples that we
18 long ago accepted in engaging proper use of force,
19 responding to medical concerns, reporting incidents of
20 a broad nature to supervisors, knowledge of first aid
21 practices, including CPR that help sustain life, and
22 inmate gender equality, cross-cutting all dimensions of

1 operations. Training, training, and then more
2 training, until PREA is as well understood as inmate
3 disciplinary hearings or inmate access to healthcare.

4 This is all line-correctional operations,
5 there isn't an administrator or an officer in this
6 country who doesn't know that if an inmate asks for
7 medical help, they're entitled to get it and
8 corrections has to provide that access. PREA should be
9 no different.

10 Methods of staff supervision of inmate
11 behavior and inmate social interactions should be
12 encouraged. It will abolish in significant measure
13 opportunities for inmate isolation, abuse, and sexual
14 engagement in any correctional setting. There isn't a
15 jail administrator in America who wouldn't postulate
16 that as the way of conducting business, and they don't
17 need PREA to remind them of that fact.

18 Recognition that zero-tolerance is a policy
19 and graded monitored outcomes carries the same
20 predetermined priority, no different, as suicide
21 prevention and diminishing loss of life in every
22 correctional operation in the United States. Give PREA

1 the same kind of support that we do in engaging *Wolff*
2 *v. McDonald* generated due process inmate disciplinary
3 hearings. Obviously the complete transformation of
4 correctional healthcare since *Estelle v. Gamble* was
5 turned down, and our requirements to operate
6 constitutional systems that really began with *Holt v.*
7 *Sarver* and finding full systems to be unconstitutional.

8 We should accept some form of mandatory
9 inspections incumbent upon every correctional facility
10 and program in the United States. And we can argue
11 with the review process what those are that should be
12 about. But there's no reason that it should be any
13 different on sexual misconduct than it would be for any
14 other aspect of correctional operations. Neutral,
15 external review must be supported.

16 We must accept across the country already
17 existing best practices and try to mirror standards
18 programs that really so brilliantly came online through
19 the efforts of ACA and NCCAC. Really who taught the
20 profession that A, it could monitor itself, and of
21 course the goal is to bring more and more jurisdictions
22 into those standards. But PREA already covers everyone

1 because most of it flows from federal court proviso
2 that affects every correctional program in the country.

3 And then we should also begin to use the
4 technical assistance organizations that the Justice
5 Department, I think, has rather brilliantly set up to
6 come to the assistance of any correctional facility in
7 America who would like to know how to do it better.

8 In closing, PREA represents a continuation,
9 nothing new, simply a continuation of what started in
10 1970, and hopefully jails will be the recipients of
11 significant acceptance and utilization of these
12 standards to impact the safety of over thirteen million
13 people.

14 Thank you.

15 DR. WILKINSON: Director Wallenstein, thank
16 you very much for your impassioned and skillful
17 testimony. We appreciate it. We'll spend maybe
18 another ten minutes asking a few questions, if you
19 don't mind.

20 Before we maybe get any questions, I do want
21 to go back to your comment about jails dwarfing
22 prisons. And having run prisons, I do want to say that

1 prisons, in many cases, are revolving doors as well.
2 In Ohio, sixty percent of everyone who came to prison
3 did less than a year in prison. You know, thirty
4 percent did less than six months, and some people
5 literally only came for a few weeks. So it may not be
6 seventeen percent, but you're right, there are a lot
7 more people who go through jails than who go through
8 prisons, but prisons aren't just everybody who stays in
9 for a year or longer.

10 The thought that you had about, you know, PREA
11 isn't new is an interesting one, of course. And after
12 Attica, just about everything changed in this country,
13 you know, regarding offenders' ability to petition, to
14 have better conditions inside institutions. And of
15 course, the federal court has got very, very involved,
16 and ultimately CRIPA got involved with the Department
17 of Justice.

18 And PREA isn't -- you know, the concept of
19 trying to deal with prison rape isn't new. What is
20 new, of course, is the 2003 law, the PREA Commission,
21 the research, the prison Panel, the standards and the
22 attention, you know, that it's getting. I think the

1 attention is long overdue.

2 And I was one of those doubting Thomases when
3 Congress was debating whether or not PREA was the right
4 thing to do, but indeed, the zero-tolerance piece, I
5 think, is important for all correctional facilities,
6 adult or juvenile, to perpetuate.

7 But as -- how long were you the director in
8 Montgomery County?

9 MR. WALLENSTEIN: I've been there twelve
10 years.

11 DR. WILKINSON: Okay. Incidence of sexual
12 assault there that you had to deal with? If so, what
13 do you do about it?

14 MR. WALLENSTEIN: We have, as does any ACA
15 accredited facility, and most jail systems around the
16 country have, of course, very clear policy and
17 procedures on what you do if you believe there has been
18 a crime or a sexual assault.

19 The first major issue is, they are never
20 hidden before you ever know if it's taken place. The
21 first moment an inmate says that they may have been
22 victimized, we call the sexual offender unit of the

1 local police department. And they are there within the
2 hour. We turn over responsibility for investigation
3 to -- when I say an outside group, not part of our
4 organization, and people who spend twenty-four hours a
5 day investigating sexual crimes.

6 So it begins with that crucial issue, which
7 ensures total transparency, okay? No hiding of the
8 issue, and frankly making it a public law enforcement
9 issue. And I consider that frankly something that
10 needs to be done immediately. The engagement of local
11 police as the key start to where it really is
12 considered that important, that you put yourself online
13 before the police immediately.

14 DR. WILKINSON: And can you describe training
15 and education both for staff and inmates that they get,
16 so they'll know in cases of staff, you know, what to
17 look for in cases of inmates, how to report first
18 responders? Can you just kind of describe the whole
19 training and education piece?

20 MR. WALLENSTEIN: Almost all policies and
21 procedures list that you will publish sections
22 regarding PREA in the inmate handbook. You'll have a

1 group of signs on zero-tolerance. We have all the
2 usual placards and sorts of things.

3 But let me tell you, the most important group
4 here is not the inmate population, it's the staff. The
5 staff will be the group to ensure that the potential
6 for sexual misconduct will be diminished in the
7 greatest degree. Inmates have grown up in one
8 environment. I assure you they don't have a clue what
9 President Bush signed or what President Clinton helped
10 develop prior to the legislation. They won't be there
11 when Allen's groups come around because they only come
12 once every five or six years to each individual
13 facility. And given the high turnover in jails, they
14 won't even realize that next week is PREA week because
15 they won't even be here.

16 That means you sell it, you discuss it, you
17 build it into all of your orientation. But the only
18 folks who are really going to be there longer than
19 thirty, sixty, ninety days, for the most part, are
20 going to be your staff. And I truly believe that
21 that's where the majority of the effort has to go.
22 That staff understand that they need to report

1 everything, all right, which in a good jail, they are
2 doing anyway. And they need to be up and off their
3 backsides and moving.

4 The greatest way to implement PREA is for a
5 corrections officer moving throughout a housing unit,
6 all right, I mean, and the cost of that is zero. There
7 may be a cost in retooling ancient policies and
8 procedures and union guidelines and what have you, but
9 you can't supervise sitting at the desk. And of
10 course, you can't supervise anything in podular remote,
11 because you're locked up when the inmates are out, and
12 again, that's another issue. We are a direct-
13 supervision facility, so our staff members are
14 completely unencumbered by glass, and the inmates can
15 walk up to them, as are the case workers who also
16 reside in the housing units.

17 So I believe that the major focus is staff-
18 generated, proactive engagement. And that's really
19 been with us for a very long time. It's just been
20 formalized by some of the PREA standards, but no
21 different in context than literally all of the ACA
22 standards or the NCCAC standards that really required

1 this kind of behavior for many years.

2 DR. CHRISTENSEN: Are you direct supervision
3 for high security inmates as well?

4 MR. WALLENSTEIN: Everyone is in direct
5 supervision, except about twenty who are in the highest
6 disciplinary segregation, and I guess that's -- they're
7 just locked up. The officers are never locked -- we
8 have no officers who are behind a glass anything. In
9 every unit, they are out doing physical supervision.

10 DR. CHRISTENSEN: Okay. So no remote
11 controlling from a glass center somewhere?

12 MR. WALLENSTEIN: None.

13 DR. CHRISTENSEN: None.

14 I would -- again, thanks again for your
15 testimony, and I would agree with everything you said.

16 If you were to poll jail administrators throughout the
17 country, not one jail administrator would say that any
18 type of sexual victimization is acceptable within his
19 or her facility. However, on the other hand, when you
20 talk about PREA standards and the application of same
21 in local correctional facilities, there's much disdain
22 about the application of the -- of the actual standards

1 that are better called for within PREA.

2 Could you speak to that a little bit?

3 MR. WALLENSTEIN: Sure.

4 DR. WILKINSON: And talk in terms of
5 significant barriers that are faced?

6 MR. WALLENSTEIN: Okay. Let's remember, the
7 Bureau of Justice statistics did not write the
8 legislation. Congress said they were to go out and
9 engage the inmate population, all right?

10 It was also determined that there would be no
11 investigation of any of the allegations. So that
12 upsets us. It has nothing to do with Allen's work.
13 How do they know that each of the inmates who said they
14 were touched or untouched or glared at or looked at
15 aren't lying through their teeth? Remember, we're not
16 allowed to know the names of anyone who checks off the
17 wrong box. And I didn't come to debate that, it's part
18 of the legislation or the rules of the legislation.
19 And it upsets us all up to here.

20 But that's our background that says, if you're
21 going to accuse us of something, you darn well better
22 prove it. So now some places have to come here because

1 their scores were here (indicating), or up here
2 (indicating). I'm -- but you asked me a question, so
3 I'm giving you an answer. That's a very difficult one
4 to accept since we really don't know whether there is
5 accuracy. Just as we didn't know in our facility, even
6 though we scored reasonably well, we didn't have a clue
7 whether there was any truth to any of the folks who
8 said anything happened to them, because we never
9 actually knew.

10 That's maybe an imperfection in data
11 collection, not how it's collected but in the policy
12 that maybe we'll have to look at it, if PREA survives
13 and sustains itself. And remember something, if the
14 funding for PREA was abolished tomorrow and the
15 Congress went on and dealt with healthcare and
16 Afghanistan and said, PREA nothing. All the
17 Commissions are gone and everything else, the case law
18 would still exist, and inmates could still bring suit
19 for negligent failure to supervise and provide safety
20 under a zillion federal court cases.

21 And we'll all see in the next couple years
22 when the Attorneys General bring the first suits, and

1 PREA is challenged as to whether it has any credibility
2 as guidelines. My feeling is, it doesn't need to,
3 because most of the standards will relate to existing
4 case law. But there will most likely be some
5 fascinating arguments before federal district courts
6 and the Supreme Court as to whether PREA has
7 credibility and stands independently.

8 Because remember, about twenty years ago, ACA
9 standards, a federal court ruled, don't establish black
10 letter case law, they are what they are: best
11 practices accepted by the profession. I am most
12 offended that I don't get a chance to go do battle with
13 any inmate who says that they were improperly treated
14 in our system, and if we did that for 3,300 -- well,
15 the fifteen percent for mandatory inspections, we'd
16 most likely need 500 investigators. And that's just an
17 issue that concerns me.

18 DR. CHRISTENSEN: Thank you.

19 You also described the process, at least in
20 your facility, when someone alleges sexual
21 victimization. What about in cases where it
22 is -- would still be sexual victimization, but just of

1 a lesser severity, like sexual harassment? Do you have
2 policies and procedures for that, and how do they
3 differ from the ones you described earlier?

4 MR. WALLENSTEIN: Absolutely, we are a firm
5 supporter, of course, of ACA standards. But even if
6 you don't support ACA standards, thirty-six out of the
7 fifty states do have some statutory noted jail
8 standards. Sexual harassment is a violation in every
9 county in the United States. So you'd better be doing
10 your homework, all right, because you may not be sued
11 federally, you may not be criminally charged, but we
12 terminate people.

13 We had one PREA violation the first year, a
14 superb officer kissed a female prisoner on the cheek,
15 okay? He was fired on the spot. Now you have to go
16 through due process, but I mean, he was put out the
17 door, and even though he had a wonderful record and it
18 wasn't PREA that did it, we shouldn't condone staff
19 members kissing inmates. One lousy kiss, he gave up
20 his career. Why? I don't even care. He was turned in
21 by another correctional officer who certainly didn't
22 want that going on on her post, so we engaged that very

1 aggressively.

2 We engage sexual harassment by staff, by
3 inmates, wherever it comes, and you have to do that
4 today, frankly, especially in a union focused personnel
5 environment, or you're going to pay dearly in terms of
6 negligent failure to do your due diligence in this
7 area.

8 DR. WILKINSON: Thanks Art, for your
9 testimony. We appreciate you being here today,
10 appreciate your candor and you know, your ongoing
11 wonderful work in Montgomery County, and indeed,
12 throughout the United States, as you have the
13 opportunity to share your thoughts with the rest of the
14 field. So thank you very much for being here today,
15 Art. Appreciate it.

16 DR. CHRISTENSEN: Thank you, Art.

17 DR. WILKINSON: I failed to mention that we
18 have staff from the Office of Justice Programs, the
19 Office for Civil Rights with us here today. Could you
20 all briefly, you know, mention who you all are, so
21 you're just not mystical figures sitting at the table
22 there?

1 MR. ALSTON: I'm Michael Alston.

2 DR. WILKINSON: Okay, Michael Alston.

3 MR. ZUBOWITZ: Christopher Zubowitz.

4 DR. WILKINSON: And Joe?

5 MR. SWIDERSKI: I'm Joe Swiderski.

6 DR. WILKINSON: And missing is George Mazza.

7 So we do have support staff. And I also wanted to
8 mention that Anne Seymour, who is also another
9 panelist, could not be with us because of another
10 scheduling conflict.

11 I would like to invite now from the Bureau of
12 Justice Statistics Dr. Allen Alt --

13 MR. ZUBOWITZ: Beck.

14 DR. WILKINSON: I mean, I'm sorry, that's
15 right, Dr. Allen Beck -- there's too many Allens
16 around, including me, my middle name is Allen.

17 Dr. Beck, the stage has been set a little bit
18 with Art's testimony about the data collection and kind
19 of all that's important with the work that you've been
20 doing over the last four or five years or so, or
21 longer. And so if you wouldn't mind, you know, kind of
22 briefly describe your process, and at some point, you

1 know, what makes the jail data collection different
2 than adult prisons and juvenile facilities.

3 DR. BECK: Okay.

4 DR. WILKINSON: Oh, I'm sorry, yes, you're
5 right, I have to swear you in.

6 Whereupon,

7 DR. ALLEN BECK

8 appeared as a witness herein and, having been
9 first duly sworn to tell the truth, was examined and
10 testified as follows:

11 TESTIMONY OF DR. ALLEN BECK

12 DR. WILKINSON: Thank you, sir. You may
13 proceed with the testimony.

14 DR. BECK: Thank you very much. Am I
15 connected here?

16 Good morning, everyone. I appreciated the
17 kind words of Director Wallenstein. They were very
18 kind words. I must say that he has been a strong
19 supporter of our work and involved in some of the
20 initial work in terms of design and talking through
21 many of the issues. I also --

22 DR. WILKINSON: Can I just get a mic check?

1 Can people hear the testimony pretty good? We need to
2 either get closer to the mic, or if we can turn the
3 volume up a little bit.

4 DR. BECK: I also --

5 DR. WILKINSON: There, good. Thanks.

6 DR. BECK: -- don't wish to take credit for
7 all that has come before us, certainly it involves a
8 team effort. Certainly Paige Harrison at BJS has been
9 a principal in this effort. Paul Guerrino who, perhaps
10 is not here today, has also been a team member. And we
11 also say that this represents the work of nearly an
12 army of people related to data collection.

13 We've perhaps had as many as 300 staff members
14 on this collecting data nationwide. We had a principal
15 data collection agent, RTI International from
16 Raleigh-Durham, North Carolina, Kris Krebbs, Rachel
17 Casper, and Marcus Brezovski. So it represents very
18 much a team effort, and certainly an effort -- major
19 effort on the part of the Bureau of Justice Statistics
20 to fulfill the mandates imposed under the PREA
21 legislation.

22 We have completed two rounds of data

1 collection in adult prisons and jails, one round in
2 juvenile facilities. And so what this represents is
3 the data collection that we conducted between October
4 2008 and December 2009 in 286 jails. We completed
5 roughly 45,000 interviews in these 286 jails and we had
6 a very high level of cooperation from facilities that
7 we sampled.

8 Let me say, we sampled 320 facilities, and we
9 had only ten facilities that refused to participate.
10 The others -- another nine indicated that they were
11 unable to participate. We gave them a deferral to
12 2011, and they are among those being surveyed this
13 year.

14 Within the facilities that we have here today,
15 we had a very high level of cooperation. They provided
16 maximum assistance to our staff, we very much
17 appreciate their professionalism, very much appreciate
18 the efforts that went into the data collection efforts
19 in those -- in the facilities. The survey is a
20 voluntary survey, but under PREA we are required to
21 list those facilities that choose not to participate,
22 and we did so in our survey.

1 The survey is constructed to maximize the
2 ability of respondents to feel comfortable with coming
3 forward with information that perhaps they have
4 never -- never shared before. Our efforts are directed
5 to understanding sexual victimization and all the
6 various forms that occur in correctional settings.

7 And so while it is the Prison Rape Elimination
8 Act, it is all forms of sexual victimization,
9 including, perhaps, willful voluntary sexual
10 involvement with staff that is illegal, similar to
11 statutory rape, in which inmates though may initiate
12 some such activity, it cannot be viewed as fully
13 willing in that activity. As a vulnerable population,
14 they are protected under law, and staff who engage in
15 such activity, even though initiated by inmates, are
16 acting improperly and considered predators.

17 The survey protocol and questionnaires were
18 developed through extensive collaboration with the
19 field and with stakeholders. We had approximately ten
20 different workshops nationally to review the material,
21 to develop the instrumentation, to develop the
22 procedures. And let me say that it was a large tent,

1 that we tried to involve all stakeholders, all persons,
2 all individuals with differing opinions, different
3 stakes in the outcomes. And that was, I think, the key
4 to the success of the survey, and that is that we were
5 open to alternative positions, suggestions, widely, and
6 everyone was -- who had a stake in it, had an
7 opportunity to express their interests and their
8 concerns.

9 We developed an ACASI survey; that is, audio
10 computer-assisted self-interview. The literature in
11 the research field is such that self-administration is
12 key when you have very sensitive items, either
13 behaviors or attitudes that you're trying to collect
14 information on. Personal interviews are somewhat
15 troubled by the nature of that personal interaction,
16 and various concerns are expressed related to social
17 stigma or perhaps fears that, in a personal setting,
18 inmates will not come forward. However, in a private
19 setting in which they're doing a self-interview, there
20 is belief that such a methodology will elicit greatest
21 expression and truest representation of that experience
22 or that -- of those attitudes.

1 So we developed an audio computer self-
2 interview, which means that we used a laptop with a
3 touch screen. We used a computer to navigate through
4 the questionnaire, and with a simultaneous audio feed
5 so that respondents who had lower levels of literacy,
6 cognitive issues, could be assisted with a audio feed.
7 The survey was done in both in English and in Spanish
8 for those who were Spanish-speaking only.

9 The interviews took about twenty-five minutes
10 in length. We padded out the interviews so that
11 regardless of whether the inmate expressed
12 victimization or not, the interviews took about the
13 same length of time. By padding is that we would
14 implement other questions so -- related to drug use,
15 abuse, treatment, other questions that were of interest
16 to ensure that one could not infer the report based
17 on -- report of victimization based on length of time
18 the interview actually took place.

19 Let me say that we have no ability to identify
20 respondents or link answers to the identified
21 individuals required under the law, under PREA, also
22 required under the terms of our institutional review

1 boards, our IRBs. And also required under our
2 statutory authority at BJS, to ensure confidentiality,
3 to protect the identity of individuals. So that means
4 substantially that we are unable to follow, and that is
5 through investigation, any allegations that are made in
6 the context of the survey. And so we should be clear
7 that what we are collecting here are allegations
8 through self-reporting.

9 Let me talk about some of the general
10 findings, and then address issues related to high rate
11 facilities. And then finally, address some of the
12 criticisms that we have received in the course of doing
13 our surveys.

14 So briefly, about 3.1 percent of jail inmates
15 said that they experienced some form of sexual
16 victimization since coming to the facility, or in the
17 last twelve months, whichever period was shorter. So
18 what we have here is an estimate of prevalence that is
19 bounded by the time period since coming to the facility
20 or within the last twelve months, whichever is shorter.

21 A very conventional victimization rate, prevalence
22 rate. And it is designed as such so that we can

1 separate experiences that may have occurred before,
2 either outside of an institution, or in other
3 institutions prior to coming to the facility. And
4 designed to collect information that is bounded by a
5 twelve-month period.

6 On average, the inmates that we interviewed
7 had about a 3.4-month exposure period. That is not
8 surprising, jail inmates move through facilities with
9 some degree of speed. And so the inmates that we
10 surveyed in a single day had an average time served in
11 the facility of about a little over three months.

12 We found that about 1.5 percent of all inmates
13 reported some form of inmate-on-inmate sexual
14 victimization. Now inmate-on-inmate sexual
15 victimization can be a variety of experiences. The
16 most severe experience, of course, is rape, which we
17 would label as non-consensual sexual acts that involve
18 penetration, that are unwanted, unwilling. And about
19 eight-tenths of a percent of those inmates reported
20 such an experience with another inmate.

21 Seven-tenths of one percent reported other
22 kinds of sexual victimization: unwanted grabbing,

1 groping, touching that did not involve penetration. So
2 let us be clear: we are not totally talking about
3 rape. We are talking about all forms of unwanted
4 sexual contact within a correctional setting.

5 About two percent of the inmates reported some
6 form of staff sexual misconduct. About half of that
7 was considered willing, that there was no indication of
8 coercion or force, bribes, or undue efforts to
9 persuade, to engage in that activity. That is 1.1
10 percent of the inmates reported willing sexual activity
11 with staff. And about 1.5 percent reported unwilling,
12 involving some form of coercion, the most serious form
13 of coercion being force, threat of force, threat of
14 harm.

15 So that 3.1 percent involves varying kinds of
16 sexual victimization. And some inmates experience both
17 inmate-on-inmate and staff sexual misconduct. Overall,
18 we estimated that about 24,000 victims of staff -- of
19 inmate-on-inmate or staff sexual misconduct were found
20 in our survey, representing 777,000 inmates eighteen or
21 older during 2008.

22 Let me say beyond these general prevalence

1 estimates, we learned a great deal about individual
2 risk factors and experiences, the nature of
3 victimization. And that is inadvertent value added by
4 our efforts and continues to be added, and greater
5 understanding emerges as we do additional surveys.

6 And so what did we learn? We learned that
7 inmate-on-inmate rates of sexual victimization are
8 higher for females than for males. We learned that
9 inmate-on-inmate and staff sexual misconduct declines
10 with age -- that is, the older the inmate, the lower
11 the rate of reported inmate-on-inmate victimization and
12 staff sexual misconduct.

13 We found that the college educated inmates
14 have higher rates of -- higher risk than other inmates,
15 inmates with less education, less than high school
16 education. We learned profoundly that persons who have
17 a sexual orientation other than heterosexual had very
18 high rates of sexual victimization, particularly when
19 it comes to inmate-on-inmate victimization. Those
20 rates are about six to seven times higher among
21 non-heterosexuals, other than versus those who are
22 heterosexual.

1 We learned that having experienced sexual
2 victimization in the past is a very strong risk factor
3 related to experiencing sexual victimization while in
4 prison, whether it be inmate-on-inmate or staff sexual
5 misconduct. We also learned, not surprisingly, that
6 those who are in for violent sexual offenses experience
7 higher rates of inmate-on-inmate victimization than do
8 other inmates held for other types of offenses.

9 And finally, we learned that the time in the
10 correctional facility, and time spent in the past in
11 correctional facilities is associated with
12 victimization.

13 We also learned about the nature of
14 victimization, and the circumstances surrounding that
15 victimization. We find that males are much more likely
16 than females to report harm or injury with respect to
17 inmate-on-inmate victimization. That is, nearly half
18 of the victims, male victims, said that they had at
19 least once been threatened with harm or force versus
20 about sixteen percent of the females, in cases of
21 inmate-on-inmate victimization.

22 We learned that about a third of the

1 males -- male victims of inmate-on-inmate victimization
2 were injured compared to about ten percent of the
3 females, the primary -- the most serious injury being
4 anal/rectal tearing among men. We learned that males
5 indicate that there's greater involvement of gangs when
6 it comes to inmate-on-inmate victimization. We've
7 learned that males are more likely than females to
8 report multiple victimizations, multiple incidents. We
9 learned that males are more likely to report that they
10 were victimized within the first twenty-four hours than
11 are females.

12 We learned for both men and women, the most
13 common time is second shift. We learned that the most
14 common area is in their cell or sleeping area, followed
15 by a shower or bathroom. These I think largely confirm
16 what people have come to understand about the
17 correlates and circumstances surrounding victimization.

18 When it comes to staff sexual misconduct,
19 however, we find that men are much more likely than
20 women to report staff sexual misconduct. And males are
21 much more likely than women to report that that staff
22 sexual misconduct involved no force or pressure, that

1 it was seemingly, willingly engaged in.

2 We find that staff sexual misconduct occurs
3 very quickly for men, within the twenty-four hours
4 thirty percent of the victims report that they
5 experienced such victimization. We learned that injury
6 is much more likely for men when it comes to staff
7 sexual misconduct than it is for women. And we learned
8 that it's much more likely to occur in a victim's cell,
9 if you're a male, than if you're a female.

10 And so we learned a great deal about the
11 nature and circumstances surrounding the victimization.

12 We are currently collecting additional data to -- and
13 will be in over 350 jails in 2011-2012, and we will be
14 interviewing more than 50,000 jail inmates. And I
15 think we'll get even greater understanding of the risk
16 factors and the co-variants related to victimization.

17 So with that said, I'd like to turn my
18 attention to the identification of the high-rate
19 facilities. We use a statistical standard that
20 acknowledges the fact that the information that we
21 collect is based on sample. That in ranking
22 facilities, it is very difficult to rank facilities

1 when you don't have a complete enumeration of every
2 person in the facility and consequently you're left
3 with a sample, subject to sampling error. And had we
4 only interviewed everyone or interviewed others, the
5 outcomes might have occurred -- might have been
6 somewhat different.

7 There are statistical procedures to quantify
8 that measurement, that sampling error, if you will.
9 And we calculate standard errors around each estimate
10 by type of victimization, and a standard error gives us
11 a sense of confidence about the precision of those
12 estimates. And so when it comes to general
13 victimization rate of inmate-on-inmate, that 1.5
14 percent, that is a very, very precise estimate. That
15 is our ninety-five percent confidence about that 1.5
16 percent was plus or minus .2 percent, which points.

17 So what that means is, if we were to do that
18 survey again, and do it infinite number of times and
19 take multiple samples, that ninety-five percent of
20 those confidence intervals that we would construct
21 around an estimate, that we contained the basic
22 parameter of 1.5 percent. So it is a very precise

1 estimate.

2 Now when it comes to estimating at a facility
3 level, you have the complication, of course, of lower
4 numbers of inmates being interviewed. We have, as a
5 result of that, constructing confidence intervals
6 around each of the estimates for each of the
7 facilities, established a criteria that the lower bound
8 of the confidence interval must be at least fifty-five,
9 greater than the average for the comparable facility.

10 In doing so, we found that six jails rose to
11 the level of being classified as a high-rate facility
12 based on inmate-on-inmate victimization, and five jails
13 were identified as high-rate facilities based on
14 reported incidence of staff sexual misconduct. And so
15 the three facilities we have here today had high rates
16 that met that criteria. That is the lower bound, the
17 lower confidence intervals around those estimates were
18 at least fifty-five percent higher than the general
19 estimate for the type of victimization considered.

20 And so South White Street Jail, Orleans Parish
21 had a 7.5 percent rate of inmate-on-inmate
22 victimization, the Miami-Dade Pretrial Detention

1 Facility had a 5.1 percent rate of inmate-on-inmate
2 victimization, and the Clallum County Jail had a rate
3 of 6.1 percent.

4 Now in looking at those rates, we examined
5 those rates in some detail. And we engaged in
6 identifying the basic risk factors associated with
7 victimization, and we examined the extent to which
8 these rates, these high rates could be accounted for by
9 variations in the compositions of inmates.

10 There are some criticisms in the past that
11 have suggested that our rates are high because we got
12 dealt a tough hand. We got inmates who perhaps were
13 more violent. We got inmates who were all females. We
14 got inmates who were predisposed to victimization,
15 perhaps higher proportions non-heterosexual, perhaps
16 younger inmates.

17 And so in fairly examining these high-rate
18 facilities, we developed statistical procedures to hold
19 those factors constant. And each of the three
20 facilities that we have here today, the bulk of the
21 rates, the high rates, are not accounted for by those
22 distributional differences, those distributional

1 disadvantages. In fact, more than half of the high
2 rates are unaccounted for through those prediction
3 efforts.

4 And so that speaks directly to concerns and I
5 think validates our procedures related to identifying
6 high-rate facilities as we have. We can talk about
7 that in more detail if you wish.

8 Now let me talk quickly about some of the
9 criticisms. Obviously over the course of at least
10 eight years, we've been involved in substantial detail
11 working with the field addressing concerns, addressing
12 fears, addressing unhappiness. And you know, there are
13 various expressions of that. And so we are eager to
14 hear those expressions, and I think we obviously are
15 obligated to respond to those criticisms.

16 The most obvious criticisms is, these are
17 allegations, these are not substantiated incidents.
18 And after all, we know inmates lie. After all, we know
19 inmates are not always truthful, perhaps the
20 fact -- the reason why they're there in the first
21 place.

22 Let's say we develop methodologies to look for

1 inconsistent response patterns. We excluded some
2 interviews, 208 of them, for either being incomplete or
3 taking too much -- too little time. That is one
4 indicator of an inmate messing with you, is that, you
5 know, just kind of hitting the buttons and moving
6 forward, and no human being can actually roll through
7 the instrument, read everything, listen to everything,
8 respond based on a short period -- such a short period
9 of time. So we threw out at least 208 interviews based
10 on that.

11 We also constructed nineteen different
12 indicators of inconsistent response patterns and
13 examined the distribution of those response patterns.
14 And let me say that ninety-five percent of the
15 interviews had no inconsistencies whatsoever on those
16 nineteen indicators. And five percent had one
17 inconsistent response and less than half of one percent
18 had two or more.

19 And so we feel, given -- based on internal
20 consistency, we have some enhanced confidence in the
21 reliability of what is being said. Obviously, internal
22 consistency does not equal validity. We know, we

1 understand that some inmates may have been untruthful.

2 We also know that some inmates may not have come
3 forward, so it's the issue of false negatives, that is
4 fearful, yet not willing to come forward, and as well
5 as false positives, over-reporting.

6 We constructed the interview so that it would
7 be very difficult to spin a consistent story. With a
8 computerized survey instrument, inmates do not know the
9 consequences of answering yes to one item, they do not
10 know what items will follow. So that as they move
11 through the instrument, they get increasing numbers of
12 questions and follow-up questions, so it is very
13 difficult for an inmate to know in advance the -- what
14 is going to be asked should they answer in one way or
15 another. And so through it's through computer assisted
16 self-interviewing, by our checks, we have a strong
17 sense of internal consistency.

18 Let me further say that there -- that this is
19 not the gold standard for truth. An instrument like
20 this can ever rise to the level that investigation can
21 attain. And so we are left with the fact that these
22 are allegations. Alternatively, however, we know that

1 every facility we are in is given the same protocol.
2 We established a uniform set of methodologies that all
3 inmates were subjected to the same set of questions.

4 So administrators who come out with high rates
5 should ask the question, why are their inmates more
6 likely to lie than inmates elsewhere? And to ask
7 themselves why those inmates may be lying while others
8 are not. Clearly if anything, it should cause the
9 administrator to examine the policies and procedures,
10 and to entertain the possibility that he or she doesn't
11 know everything that is going on in his or her
12 facility. That should be a moment for reflection and
13 examination of the policies and procedures, even if the
14 absolute numbers of allegations are in doubt.

15 I must say that other criticisms have been
16 made of the survey, one of which is that the report
17 makes improper comparisons. My inmates are different,
18 I have mental health problems, I have violent
19 offenders, I have repeat offenders, I have hardened
20 criminals, all the factors. As I explained before,
21 we've gone through a multi-varied attempt to address
22 this and at the control and for compositional

1 differences.

2 The issue of comparison is a challenging one,
3 because you can split the 286 facilities in a whole
4 variety of ways and say, this is the -- really the
5 group I should be compared to, not this other group.
6 The law requires us to compare facilities, it does not
7 require us to compare jurisdictions.

8 And so what we're here to do is to provide
9 estimates at a facility level, not at a jurisdictional
10 level, the distinction being there's about 2,560 jail
11 jurisdictions; there are about 3,283 jail facilities.
12 About 191 jail jurisdictions have multiple facilities,
13 two or more. And so in surveying the jails nationwide,
14 we were required under the law to survey facilities and
15 to rank facilities and to compare those facilities.

16 Let me also say a criticism has been made that
17 the data collection was contaminated. That it was
18 contaminated by offers of incentives. In about half of
19 the facilities, we offered inmates a cookie if they
20 wished -- when they came down to participate in the
21 survey. Incentives were suggested by a jail
22 administrator to overcome low rates of participation.

1 We utilized the incentive and found that it had
2 absolutely no impact on reported victimization, that
3 the rates of victimization in facilities that had no
4 incentives was 3.1 percent, the rate of victimization
5 in facilities with incentives was 3.2 percent. There
6 is no statistical difference between those two numbers.

7 But what we did achieve in using those
8 incentives was a higher rate of response. That is, in
9 facilities with those incentives, we got a seventy-two
10 percent response rate; facilities without incentive we
11 got a sixty-two percent rate. So what we achieved was
12 greater precision in those facilities through using
13 that incentive. Now understand that we only utilized
14 incentives when a sheriff or a jail administrator
15 agreed to it. But we at no time, in no case, did we
16 impose an incentive on the operations of our
17 collection.

18 Finally, there has been criticism
19 based -- suggested that the report was influenced by an
20 agenda, by an agenda about the authors, or perhaps even
21 in the most extreme sense, advocates assisted in
22 writing the report. Let me say that if you know the

1 history of our work in PREA, you'll understand that we
2 have maintained a stance of great independence and
3 transparency, and that has come at some times with some
4 discomfort.

5 Let me also say that at no case did advocates
6 see a report before others in the field. In fact,
7 everyone received it at the same time. We involved
8 advocates and all stakeholders in the process of
9 designing the survey, of working through the protocol,
10 but we did not involve them in -- anyone in the
11 collection, except when it came to training of staff.

12 In the first year of collection, we utilized
13 JDI to assist us in sensitizing our staff to issues of
14 sexual victimization. We at the same time utilized the
15 training film from BOP to sensitize our staff to
16 procedural responses to allegations of sexual
17 victimization. So the notion that somehow this report
18 was influenced by advocates in -- or the corrections I
19 think is a misguided notion, but it is, I think, the
20 history of PREA and the responses to PREA; the concerns
21 that one stakeholder is given advantage, another is
22 not. Through transparency, I think we fully addressed

1 that.

2 So with those comments, I'm open for
3 questions.

4 DR. CHRISTENSEN: Dr. Beck, you heard -- and
5 thank you for your testimony again. But you heard
6 Director Wallenstein talk about what I would
7 characterize as general mistrust across the field about
8 the survey and perhaps not understanding the confidence
9 interval.

10 Could you explain for the field the validity
11 and what a ninety-five percent confidence interval
12 means?

13 DR. BECK: Sure. A ninety-five percent
14 confidence interval is a way of assessing, if you will,
15 the -- in more common parlance, the margin of error.
16 Any time you do a survey and you don't talk to
17 everyone, there's a margin of error. Had you only
18 talked to everyone, you would have a precise estimate,
19 based on your methodology of prevalence of either the
20 behavior or the attitude. And short of a complete
21 enumeration, you have sampling error. You have error
22 that can be introduced and biases that come with

1 selectivity. That is, persons who choose to respond
2 may be different from persons who perhaps refuse.

3 And so through proper weighting and
4 adjustments for non-response bias -- and we did that
5 through various modeling of co-variants of response and
6 non-response, after we do that, we can calculate a
7 margin of error around each of the estimates that the
8 survey provides. And so the most traditional
9 confidence interval is a ninety-five percent confidence
10 interval. You can have other confidence intervals of
11 various widths. But basically, it says that five times
12 out of 100, you could be wrong, that it could
13 be -- that your parameter could be outside of the
14 confidence interval that you've established around the
15 given estimate.

16 So going back to the original comment, that is
17 the 3.1 percent of inmates reporting some form of
18 sexual victimization in the last twelve months or since
19 coming into the facility, whichever is shorter, that
20 confidence, the standard error around that was .1
21 percent. You multiply it by 1.9 percent -- 9.6
22 percent, you get about a .2. So what that means is,

1 you can put the confidence interval between 2.9 percent
2 and 3.3 percent. And say that, had you interviewed
3 everyone, that -- well, had you done this an infinite
4 number of times -- I would say 100 times, 100
5 times -- ninety-five times out of 100, the parameter
6 would be between 2.9 and 3.2.

7 DR. WILKINSON: Dr. Beck, maybe one question
8 just because of the timeframe. Pretend I'm the U.S.
9 House subcommittee on criminal justice, and I'm asking
10 you that this law was passed in 2003. Does your data
11 suggest that we're on a path to eliminate sexual
12 misconduct in correctional facilities? Can you
13 quantify what's happened at least between 2003 and
14 2011? Do correctional facilities across the country
15 really get it?

16 DR. BECK: Well, a number of answers to that
17 question.

18 The first answer is, no. There is no
19 indication that there's been a reduction in sexual
20 victimization in prisons and jails since the passage of
21 the Act. In fact, you know, we have stability in the
22 levels of victimization, and we have stability in the

1 kinds of victimizations being reported through self
2 reports. There's the difference between 3.2 and 3.1 is
3 no difference at all, and we see the same composition
4 from our first survey to our second survey a year and a
5 half or so later.

6 We also collected data through administrative
7 collections. That is, what comes to the attention of
8 correctional administrators gets reported to them, and
9 then subsequently gets investigated. We have actually
10 seen an increase in the number of administrative
11 records, that is, numbers of allegations being reported
12 to correctional authorities and reported to us. That
13 increase, though, has not been accompanied by an
14 increase in the numbers of substantiated incidents,
15 it's been flat. There's been no increase in the
16 numbers of substantiated incidents.

17 So what this means to me is that the field is
18 paying attention, like it hasn't paid attention before.
19 That it is building the capacity to track incidents,
20 track allegations, and report those allegations, that
21 there is greater acceptance of the need to do so as
22 well. And so we're getting larger numbers being

1 reported to us as allegations. And I think -- I think
2 at this point, the field has stepped up to the
3 challenge of PREA, welcoming us in in many cases,
4 sometimes not. And we're seeing greater tracking and
5 record keeping associated with it.

6 DR. WILKINSON: Maybe one other question.

7 DR. BECK: Sure.

8 DR. WILKINSON: In terms of criticism, I hear
9 folks saying that, well, if we do a good job of
10 reporting our sexual misconducts, then we're punished,
11 whereby the facilities that may be sweeping them under
12 the rug, you know, may go unscathed. Now I know that's
13 a little bit different than the --

14 DR. BECK: Sure.

15 DR. WILKINSON: -- audio interviews that you
16 do --

17 DR. BECK: right.

18 DR. WILKINSON: -- but in general --

19 DR. BECK: The good guys get punished.

20 DR. WILKINSON: -- in some cases, reporting is
21 a good thing?

22 DR. BECK: Uh-huh, yes. You know, obviously

1 there is always the risk that if you're more thorough
2 and more complete and more forthcoming, your numbers
3 will be higher than others who are less eager and less
4 engaged. And to a certain extent we've seen some of
5 that in our administrative data collections. We see
6 some states that are -- have a fuller, much more robust
7 definition of what falls under PREA, of reporting
8 things that are more at the margins of what might be
9 considered sexual victimization.

10 We do not use those data administratively to
11 rank or to compare systems or facilities. We advise
12 against it. In some measure, it's because of the
13 absence of uniformity from one jurisdiction or one
14 facility to another. And absent that uniformity, I
15 think it's relatively unfair to compare systems and
16 facilities. Nevertheless, those administrative data
17 are informative and can provide administrators a good
18 sense of what they're faced with.

19 When you say again that the personal
20 interviews, which we're talking about today, those
21 interviews are designed to get at what administrators
22 largely don't know, can't know, perhaps never will

1 know. And so sometimes it comes at a great surprise
2 that there are reports. But I think in some -- we are
3 doing our jobs by providing that information.

4 Now you know, administrators may choose to
5 criticize it, to deny, to run away. Yet, I think the
6 information can be used and can be a tool for
7 re-evaluating their policies, their procedures, they're
8 taking another look at them saying, well, maybe I don't
9 know everything that's going on.

10 And so insofar as there remains doubt about an
11 outcome in a specific facility, I think the survey
12 still provides that function of collecting information
13 at a facility level that cannot be collected really in
14 any other way.

15 DR. CHRISTENSEN: Dr. Beck, today we have
16 before us the three -- we're going to be talking with
17 three facilities to try and learn from their
18 experience. And I know that at least two have voiced
19 specific concerns about the survey and its methodology.

20 And I thought that it would be useful for you to
21 address concerns specific to each facility; the Orleans
22 Parish Prison, Clallum County Sheriff's Office and the

1 Miami-Dade Pre-Trial, if any. And your thoughts
2 relative to that, so when those folks come on later,
3 that we can talk about that.

4 DR. BECK: Sure. Let me say that -- just get
5 a kind of a thumbnail sketch of each, up to this kind
6 of weakness, if you will. But I do have material here.

7 Orleans Parish, South White Street Jail, we
8 interviewed 138 female inmates. We got a remarkable
9 response rate, eighty-three percent of them -- of the
10 sampled inmates agreed to participate. We offered
11 incentives in that facility, but nevertheless, we got a
12 very high rate of cooperation.

13 Of those 138, we had twelve -- we twelve
14 victims, twelve women alleging some form of
15 victimization, whether inmate-on-inmate or staff sexual
16 misconduct. Orleans Parish is here today because it
17 had a very high level of inmate-on-inmate
18 victimization, that is ten of the twelve victims were
19 reported in inmate-on-inmate victimization. So that
20 generates a rate of 7.5 percent with a confidence
21 interval between 5.5 percent and 10.2 percent.

22 Now I understand that the concern is is that

1 this is a female-only facility, and females have a
2 tendency, as we've seen, to be more likely to report
3 inmate-on-inmate victimization than are men. It is not
4 surprising in context of what we've seen before that
5 women are reporting the higher rates.

6 Now in designing the survey, we sampled
7 facilities from a list based on the Census of Jails
8 2006. In that census, there were approximately thirty
9 to thirty-five female-only jail facilities. We did not
10 over-sample for female facilities. I think if we had
11 over-sampled, we'd have to take them all in order to do
12 a ranking comparatively to other female facilities. We
13 sampled in our -- through just luck or bad luck,
14 depending on one's perspective, we selected two of the
15 thirty or so female-only facilities nationwide. That's
16 unlike prisons in which we could over-sample for
17 female-only prisons.

18 And so what we're doing is we're comparing
19 facilities, regardless of gender, regardless of who's
20 being held in those facilities, their age and other
21 risk factors. And so we addressed the concern of a
22 female-only facility being compared to other facilities

1 by looking at a multi-variant logistic regression
2 equation that essentially compared the predicted rate
3 through those risks -- set of risk factors with the
4 overall rate.

5 And so based on the set of risk factors, you
6 know, we would have predicted 3.3 percent rate of
7 victimization in inmate-on-inmate out of the -- and so
8 more than half of that overall victimization rate in
9 that facility was unaccounted for by the set of -- of
10 risk factors. So that suggests that the rates in the
11 Orleans Parish South White Jail are higher than what
12 should have been expected, based on other facilities
13 through a fair comparison.

14 Let me say that the Clallum County
15 Correctional Facility is a somewhat smaller facility.
16 We interviewed seventy-five inmates. We had no
17 incentives in that -- in the course of that collection.
18 The -- there's been considerable dialog between me and
19 Sheriff Benedict, largely through the press, related to
20 the accuracy of the findings.

21 We encountered a 6.1 percent rate of staff
22 sexual misconduct, that's the reason they're here, with

1 a lower bound of 3.4 and upper bound of 10.6, well
2 above the two percent staff sexual misconduct that we
3 evolved nationwide. But five percent of the inmates
4 reported that the -- force was involved; five percent
5 reported at least one incident with pressure; about two
6 percent reported some victimization without pressure.
7 Six percent overall, we had eight percent of seventy-
8 five reporting some form of victimization.

9 Now in the course of time, a female inmate
10 came forward and made allegations that the inmates who
11 took the -- took part in the survey were having fun.
12 They were making it up. They're coming back and, if
13 you will, talking smart about -- about the survey. And
14 I do not know if this individual actually took the
15 survey; I do not know the identities of the
16 individuals. I presume she did. And I presume that
17 the women who took the survey came back and talked
18 smart about the survey.

19 But this does not undercut the outcome of the
20 survey, because there was only one female victim among
21 the victims who reported. And so there's no sense that
22 there was collusion or a conspiracy or just good old

1 common fun to mislead and pull the wool over the eyes
2 of our surveys. So we do not know if this one female
3 victim told the truth or didn't. We do not know if it
4 is the person who came forward. We only know what was
5 said through the press.

6 Let me say that the staff, when we conducted
7 the survey, was very friendly. The -- we had high
8 levels of cooperation.

9 And finally, let me turn to the Miami-Dade.
10 Miami-Dade facility had a lower response rate, a fifty
11 percent response rate. We interviewed 158 inmates, but
12 let me account for that low response rate. And
13 fundamentally, that low response rate was due to high
14 turnover in the facility, meaning that it's a detention
15 facility, it's a pre-trial detention facility, meaning
16 inmates come and go and come and go rather rapidly.
17 And so if you look at a refusal rate, it was a twenty-
18 three percent refusal rate.

19 The others that we did not -- essentially did
20 not contact, that is they had -- were gone after we
21 sampled them, or present at the time we sampled but
22 gone out of the facility before we could contact them.

1 So there's a lot of turnover within detention
2 facilities, and therefore lower response rates result.

3 When we examined the overall rate of
4 inmate-on-inmate victimization, that rate was 5.1
5 percent -- that's the reason they're here today -- with
6 a confidence interval between 2.9 percent and 9.1
7 percent. When we examined the facility based on our
8 analyses of risk factors, we would have predicted 1.9
9 percent. We did. And so the outcome -- the difference
10 between 1.9 percent and 5.1 percent is unexplained by
11 the compositional factors we have examined.

12 We offered no incentive in the Miami-Dade
13 facility.

14 DR. CHRISTENSEN: Thank you.

15 DR. WILKINSON: Thank you very much, Dr. Beck,
16 for your testimony and for your great research. And I
17 know Paige Harrison helped a lot with that and you've
18 got a great team. So you're going to be starting your
19 third round -- or you've already started it?

20 DR. BECK: Yes, we've started it and we are at
21 least at the halfway point. We are doing some things
22 new this time. We are including kids, that is youthful

1 offenders under age eighteen in prisons and jails.
2 There are about 9,000 of them on any single day, but
3 this is the first time that we're actually
4 over-sampling for them so that we can get a good
5 estimate of their experiences.

6 We are also looking at mental health issues,
7 emotional problems, examining those factors that might
8 co-vary with a risk of victimization. So we expect to
9 be finished in April or so with the data collection and
10 should be out with a report by the end of 2012.

11 DR. WILKINSON: All right. Thank you, Dr.
12 Beck.

13 DR. BECK: Thank you.

14 DR. WILKINSON: I'd like to call Cynthia
15 Totten to the table.

16 Ms. Totten, thank you for being here. We
17 won't swear you in because it's my understanding that
18 you're providing testimony for another person.

19 MS. TOTTON: Right.

20 DR. WILKINSON: So we won't also want to ask
21 you questions because you're not sworn in.

22 MS. TOTTON: Thank you.

1 DR. WILKINSON: So for the record, you may
2 proceed with your testimony.

3 TESTIMONY OF CYNTHIA TOTTEN

4 MS. TOTTEN: Great, thank you.

5 I am a program director with Just Detention
6 International, JDI. And we're an organization, a
7 health and human rights organization that seeks to end
8 sexual abuse in all forms of detention. We've received
9 over 1,000 letters a year from survivors of sexual
10 abuse in detention, and I was asked by the Department
11 of Justice to read this testimony on behalf of a
12 survivor who contacted JDI about his experiences while
13 detained at the Orleans Parish Prison. We don't
14 represent that inmate and he's not affiliated with JDI.

15 This is the testimony:

16 First I would like to thank the Review Panel
17 for listening to my story about how I was raped
18 and abused at Orleans Parish Prison in New
19 Orleans, Louisiana. I can't be with you today
20 because I'm an inmate at the Eastern Mississippi
21 Correctional Facility in Meridian, Mississippi,
22 but I'm very happy that you're hearing my story

1 anyway.

2 When I was arrested in 2008 in New Orleans, I
3 was on a seventy-two-hour pass from the Harrison
4 County Work Center in Mississippi. I was in New
5 Orleans spending time with my boyfriend. Because
6 I didn't return to the work center within seventy-
7 two hours, I was considered an escapee and was
8 arrested on October 31st, 2008. I went to the
9 central lockup at the OPP, the Orleans Parish
10 Prison's House of Detention. I was thirty years
11 old at the time.

12 In January 2009, I was moved from central
13 lockup to the general population at the OPP's
14 House of Detention. Before assigning me to the
15 general population, the facility officials did not
16 do a screening process. For instance, no one
17 asked me if I was gay, no one had asked me if I
18 had ever been sexually assaulted before, either.
19 The fact is that I had been prior to my
20 incarceration.

21 Because I was afraid for my safety, I told
22 them that I was gay and that I wanted to be put on

1 a tier for gay men. I knew they had one, because
2 I had heard of it when I had been in OPP a few
3 years before. When they said they didn't have
4 that tier anymore, I asked if I could just stay in
5 central lockup. They said, no, and then I had to
6 go to the general population.

7 They put me in an overcrowded cell that should
8 have been used for ten inmates maximum, but had
9 fifteen or sixteen in it when I got there. The
10 other inmates were all between eighteen and
11 twenty-one years old. From the moment I arrived,
12 they were sizing me up. They asked me whether I
13 was gay. I was scared to lie to them, so I said,
14 yes. I didn't have a bed so I took a mat to lay
15 on. I was so depressed and exhausted that I put
16 it on the floor next to the cell bars and took a
17 nap.

18 I woke up all of a sudden when someone of my
19 cell mates threw a chest of ice on me that was
20 kept in the cell for drinks. One of the inmates
21 told me to give him a blow job. This man was very
22 scary and I felt extremely afraid. I called for

1 help but there were no guards around and no one
2 responded to my screams.

3 At first I refused to do what the inmate was
4 telling me to do, but then he grabbed me by my
5 hair and kicked me while another inmate held a
6 knife to my back. I decided that I had better do
7 what he wanted in order to save my life. I was
8 already bleeding from the knife.

9 Later that night, several of these inmates
10 tied me down to the frame of a bed in the cell
11 with strips of a blue towel. I tried to fight
12 them off at first, but a large inmate choked me
13 until I passed out. When I came to, I was choked
14 again. There were at least a dozen inmates around
15 who saw what was happening.

16 Three of the men said they wanted me to give
17 them oral sex, but they were afraid that I would
18 bite them, so they masturbated onto me instead.
19 This nightmare only ended when an inmate kicked me
20 off the bed I was tied to, because he wanted to go
21 to sleep.

22 During my assault, there were no guards

1 around. I quickly realized that the guards at OPP
2 did not do rounds of the tiers on a regular basis,
3 so there was no one to protect me. The only guard
4 who ever came to the tier would bring food for all
5 the guys on the tier. He would leave it with an
6 older inmate who was considered the tier rep to
7 hand out to the other inmates.

8 The guard would take the elevator to the tier,
9 take a few steps to the tier rep's cell to drop
10 off the food, and then turn around and leave. And
11 there were no cameras around, so the attacks
12 weren't recorded or seen by guards in another part
13 of the jail. And on top of that, I've heard that
14 OPP lost track of inmates pretty regularly,
15 because they don't count them.

16 The morning after that first night at OPP, I
17 couldn't go to the showers, so I washed up as best
18 I could using the small sink in the cell. I tried
19 to be friendly to the other inmates, just so I
20 could try to keep from being attacked again, but I
21 was on the lookout for an officer who I could ask
22 for help. The whole day passed, and I never had a

1 chance to talk to a guard or any other staff
2 member.

3 As the next night came, I was really anxious.

4 I had not been able to speak with any jail
5 officials, and I was so afraid that my cell mates
6 would attack me again. That night three of the
7 inmates, all large men, anally raped me. With no
8 one to help me, I laid down on the floor, bleeding
9 from my injuries and terrified about what would
10 happen next.

11 My cellmates continued to orally and anally
12 gang rape me the whole time I was at OPP.
13 Sometimes in the cell, but often in the showers.
14 It happened so many times, I lost count. Many
15 times I had to give oral sex to several men at
16 once. When they anally raped me, they would stuff
17 a rag in my mouth and hold me down or tie me to
18 the bed. They also tried to shove a broom handle
19 inside my rectum.

20 On one occasion, some of them wrapped me in
21 toilet paper and set me on fire before peeing on
22 me to put the fire out. The guys who raped me

1 laughed at me while they did this stuff. The
2 attacks, and the constant fear that I could be
3 raped again at any moment had me feeling so angry,
4 ashamed and alone.

5 While I was at OPP, I tried on many instances
6 to request help from the people running the jail.

7 I turned in at least six grievances, being
8 careful to complain only about the sexual
9 assaults, nothing else. My lawyer had told me
10 that this would increase the chances that OPP
11 would help me. Sometimes I tried to give the
12 grievance forms to the guards, but couldn't,
13 either because the guard wouldn't accept it or
14 because I was too afraid of my cellmates seeing
15 what I was doing to go through with it.

16 I remember one time when I tried to give a
17 grievance to a guard who I had not seen before.
18 And he said to me, "A faggot raped in prison,
19 imagine that."

20 I also tried filling out a grievance form and
21 giving it to another inmate who was a jailhouse
22 lawyer. He promised to file it on my behalf, but

1 I never heard anything back from anyone at the
2 jail for that grievance or any of the others I
3 turned in.

4 In addition, my attorney and I requested that
5 I be placed in protective custody, but the jail
6 denied the request. I was never moved to safer
7 housing during the time I was at OPP. I also sent
8 a letter to the Special Operations Division of
9 OPP, complaining about the abuse and sent a copy
10 to the Department of Justice. But I never
11 received a response from either of those letters,
12 either.

13 As far as I know, my pleas for help were never
14 investigated and no record was kept of the
15 assaults. I reached out to various other
16 organizations and government agencies for help,
17 but the only responses I ever received were from
18 the ACLU and Just Detention International.

19 I also turned in requests for medical help to
20 the guards two or three times a week from February
21 to April of 2009, because I was afraid I would get
22 an STD from the rapes. I must have filed over

1 twenty-five slips asking for medical help. I
2 never got a response. I was badly injured from
3 the attacks. I had anal tearing and bleeding, my
4 hair was singed, and there was bruising around my
5 neck from being choked. During one of the rapes,
6 the inmates who attacked me even broke my right
7 index finger.

8 Despite my serious injuries, which I reported
9 in my grievances, I never had a rape kit and I
10 didn't get any medical care or mental health
11 counseling. Instead, I had to manage on my own
12 without any help from OPP. The only time I saw a
13 doctor at OPP was by accident. I usually avoided
14 the recreation yard due to my fear of the gangs
15 that hung out there. But one day towards the end
16 of my time at OPP, I decided to go to the yard
17 with a friend who was also gay. On the way, we
18 passed by the medical office, and I asked to go in
19 and see the doctor on duty. After waiting for two
20 hours, I met with the doctor and told him about
21 the sexual assaults. The doctor did blood work on
22 me, including tests for Hepatitis C and HIV. But

1 he didn't do a rape kit.

2 Following the tests, the doctor told me I had
3 Herpes, which he thinks I got from the rapes. The
4 doctor told me that he couldn't do anything about
5 the rapes and beatings, because that was a
6 security issue, not a medical one. There was no
7 one I could talk with to help me with how I was
8 feeling emotionally. I don't think OPP had a
9 chaplain or counselor, and there were no religious
10 services or any other type of support that I could
11 find.

12 I spent my days like the other inmates,
13 watching the televisions that were on the walls
14 along the hallways outside the cellblocks,
15 thinking about what would happen to me when I got
16 back to my housing area, and the fact that I
17 couldn't do anything about it.

18 I would say without a doubt that the whole
19 time I was at OPP, I had to deal with all this
20 stuff on my own. Not one person there tried to
21 help me in any way. While I was at OPP, I also
22 saw other guys who were raped, I would say between

1 five and seven. One time some of the guys in my
2 cell forced an inmate from Texas to give them oral
3 sex. He fought back and threatened to bite them
4 so they left him alone. I think one reason they
5 backed off of him was because he was straight.

6 Another time, there was a really violent
7 attack on a transgender woman who got to OPP
8 around Mardi Gras in March of 2009. She refused
9 to have sex with the other inmates and fought
10 back, but in the end she was raped and beaten so
11 badly that she had to be taken to the hospital. I
12 never saw her again after that.

13 Eventually I was taken to Old Parish, another
14 OPP facility, because the House of Detention had
15 to be treated for infestation. Many of the people
16 in my tier were taken with me to Old Parish. That
17 place was not as overcrowded, and it was a little
18 easier to turn in a complaint from a guard without
19 being watched by the other inmates; but I still
20 didn't get any help while I was there and coping
21 with the sexual assaults.

22 When I was released from OPP at the end of

1 2009, I felt messed up. What I went through there
2 really turned my life upside-down. As a result, I
3 would say I keep to myself more. I don't joke
4 around much or have as many friends as I used to.

5 I feel afraid and nervous or paranoid all the
6 time. I take a few different prescribed
7 psychiatric drugs, but I really don't think I am
8 ever going to get over this.

9 I think that what I went through and what I
10 saw happening to some of the other people at OPP
11 could have been prevented if OPP had done
12 something to keep inmates like me, guys who are
13 gay or who were going to be targeted by other
14 inmates, safe. Not only did the guards at OPP sit
15 by and do nothing while I was being raped on a
16 regular basis, they made it even worse by not
17 helping me in any way when I complained, and not
18 providing me with basic healthcare after the
19 rapes.

20 I feel as if I was treated as less than human
21 at OPP. It has taken so much since then just to
22 begin to feel a little bit like myself. I have

1 gotten some counseling at my current facility,
2 which has helped some. And my mother tries to be
3 very supportive.

4 A lot of other people like me went through
5 this type of nightmare at OPP. Being raped while
6 I was just supposed to be there doing some time
7 for skipping out on that seventy-two-hour pass. I
8 am asking you to do whatever you can to hold OPP
9 responsible for what I, and the other people who
10 were victimized, went through. Please make sure
11 no one else has to suffer like this. It doesn't
12 matter what crime someone may have done, no one
13 deserves this.

14 Thank you.

15 DR. WILKINSON: Thank you for your testimony.

16 DR. CHRISTENSEN: Thank you.

17 DR. WILKINSON: At this point, I'd like to
18 invite Elizabeth Cumming from the Law Office of
19 Elizabeth Cumming to provide testimony.

20 Good morning and welcome.

21 MS. CUMMING: Good morning.

22 DR. WILKINSON: We would like to swear you in,

1 if that's okay.

2 MS. CUMMING: Yes.

3 Whereupon,

4 ELIZABETH CUMMING

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

8 TESTIMONY OF ELIZABETH CUMMING

9 MS. CUMMING: Thank you for the opportunity to
10 speak here this morning. My name is Elizabeth Cumming
11 and I'm a civil rights attorney in New Orleans.

12 In 2006, I began working with the Orleans
13 Parish Prison Reform Coalition, or OPPRC, which is a
14 coalition dedicated to reducing the massive size of the
15 jail and improving jail conditions and practices to
16 make it a safer place for those who are held there and
17 those who are working there.

18 In my work with OPPRC, I collected information
19 on jail funding structures, population demographics and
20 tracked the deaths occurring in the jail. I also met
21 with members of the City Council to push forward
22 efforts to increase transparency of jail funding and

1 budgetary processes.

2 In 2008, I received an Equal Justice Works
3 Fellowship to advocate for access to healthcare for
4 people with infectious diseases held at Orleans Parish
5 Prison, or OPP. Though the focus of the fellowship was
6 supposed to be on infectious disease, the horrific
7 conditions at the jail and a number of deaths caused by
8 the breakdown in the delivery of medical and mental
9 healthcare services led to an expanded focus on access
10 to medical care in general for people held at the jail.

11 In the course of that work, I met with and
12 received letters from hundreds of people held at OPP,
13 some of whom began to confide in me that they had
14 witnessed or had themselves been victims of sexual
15 assault while being housed at the various facilities
16 that comprise OPP. I began compiling these reports and
17 sending them to the Department of Justice Civil Rights
18 Division, Special Litigation Unit which completed an
19 investigation of the jail in a CRIPA letter in
20 September of 2009.

21 I am currently in private practice with the
22 bulk of my practice consisting of litigating Section

1 1983 claims arising out of the myriad constitutional
2 rights deprivations that occur at the jail. I have
3 continued to track reports of violence and sexual
4 assault, and I continue to work with the Department of
5 Justice to support and push forward its current work
6 towards a consent decree to govern OPP. And if a
7 consent decree is not forthcoming soon -- and it has
8 been two years, over two years since the Department's
9 findings of broad-scale, unconstitutional conditions
10 with no improvement in conditions or operations, the
11 Department must litigate.

12 OPP is a sprawling complex of six facilities
13 comprised of Old Parish Prison, House of Detention, or
14 HOD, The Tents, Conchetta, Templeman Five and formerly
15 South White Street. Until recently, all women held at
16 OPP were held at the South White Street facility, which
17 has been closed down in part due to the incredibly poor
18 conditions of that building. In the last six months,
19 the women who have been moved to the -- have been moved
20 to the Templeman Five complex, which also houses
21 federal detainees, state prisoners in pre-release
22 status and juveniles charged as adults.

1 OPP houses approximately 2,500 inmates, some
2 of whom are State Department of Corrections, or DOC
3 prisoners sentenced to lengthy terms of incarceration,
4 sometimes as much as ten years. Some are pre-trial for
5 higher-level felonies. But most are being held for
6 low-level, non-violent misdemeanors or felonies and
7 probation violations.

8 New Orleans can boast the highest per capita
9 jail detention rate in the country. This distinction
10 is borne in part from the peculiar mechanisms that fund
11 the jail, and a forty-year-old consent decree with no
12 active substantive, component authorizes the sheriff to
13 charge the city for each day he holds a person in OPP.

14 This per diem funding structure allows the sheriff's
15 office to create a budgetary black hole, receiving
16 money from the city with functionally no oversight or
17 line item accounting required. And it incentivizes the
18 sheriff to keep OPP's population high, even while that
19 office is in a state of financial crisis.

20 The per diem funding structure and the
21 enormous jail population that flow from it all create
22 the foundation for the jail's rampant sexual assault

1 and violence rate. Despite the enormous population
2 size of the jail, the sheriff cannot or does not employ
3 sufficient numbers of line deputies to ensure the
4 safety of the people detained at the jail.

5 According to the National Institute of
6 Corrections, or NIC report done in 2008, I quote,
7 "Staffing issues were pervasive and most serious.
8 Actual staffing levels are so far below planned
9 staffing levels that required and critical important
10 duties, such as inmate welfare or security rounds
11 cannot be completed in many cases."

12 In the three years since the NIC report,
13 nothing has changed. I still receive regular reports
14 of violent attacks that occurred in the frequent,
15 hours-long absences of deputies from the tiers. The
16 danger created by the staffing failures are compounded
17 by failures to appropriately classify prisoners. The
18 current classification system fails to take into
19 account previous convictions, previous histories of
20 violence, age, residence, or neighborhood, or body-mass
21 index.

22 Instead, the classification system is relying

1 almost entirely on bond amount. However, even this
2 rudimentary classification is often ignored because of
3 space constraints in the various facilities. Inmates
4 are placed wherever space can be found, even if it's
5 just a mattress on the floor of HOD.

6 When breaking down the narratives of violence
7 and sexual assault that haunt OPP, the staffing and
8 classification problems are perhaps the most
9 significant factors contributing directly to an
10 environment that allows for the rampant sexual assault
11 and violence levels that we see at the jail.

12 Perhaps less threat, but still significant
13 contributors to OPP's sexual assault and violence
14 levels are the significant barriers to reporting unsafe
15 conditions: harassment, sexual assault, and other
16 situations that can escalate to rape. OPP's inmate
17 grievance system is essentially non-existent. Few
18 grievances are ever even acknowledged, and even fewer
19 people are -- even fewer grievances are responded to
20 appropriately. The failures of the grievance system
21 make it difficult for people held at OPP to report
22 unsafe housing assignments, threats, harassment, or

1 anything else that could prevent behavior that can
2 escalate to rape.

3 When rapes do occur, the failures to the
4 grievance system and the lack of staff supervision can
5 mean that a rape will go unreported for days, even when
6 the survivor is looking for a way to report or to be
7 moved into protective custody. In addition, total lack
8 of private visitation for attorneys and clients and
9 limited family visit hours create yet another barrier
10 to reporting unsafe environments and sexual assaults to
11 a trusted advocate or family member.

12 When I first began working with people held at
13 OPP, I recall vividly attempting to have a conversation
14 with a woman who had just received the news that she
15 was HIV positive. We were attempting to have a
16 conversation about her diagnosis and potential
17 treatment while shouting through a plexiglass divider
18 in a room filled with other prisoners, lawyers, and
19 probation officers.

20 On another occasion, I was attempting to speak
21 with a man about a severe beating he had received only
22 days before. Again, in a virtually public space and

1 through a plexiglass divider. All of the occasions on
2 which I have attempted to hold whispered conversations
3 with clients about profoundly traumatic events are too
4 numerous to list in this forum. But suffice it to say
5 that the absolutely unacceptable visitation conditions
6 at OPP create a substantial chilling effect on the
7 reporting and sexual -- of sexual assault or violence.

8 In addition, investigative failures and lack
9 of medical and mental health support all contribute to
10 a hostile environment for survivors of sexual assault
11 and perpetuate a culture in which sexual assault is
12 accepted as a necessary part of incarceration. All of
13 these factors contributed to the experiences of the
14 people who have been victims of the sexual assault at
15 OPP.

16 One young man who was at particular risk for
17 experiencing sexual violence, because he is gay,
18 confided in me that while he was being held at HOD, he
19 was jumped by four other prisoners. He was badly
20 beaten and lost consciousness. During this entire
21 incident, no deputy came down the tier. When he
22 regained consciousness, he attempted to call for help

1 from the deputy. Despite his screams and the screams
2 of other prisoners attempting to call for help for this
3 young man, no deputy came down the tier until the
4 deputy had to perform a routine task.

5 The young man was taken to the hospital where
6 a medical examination revealed that he had not only
7 been beaten but also sexually assaulted. He reported
8 that the investigative unit took his bloody clothes but
9 no prosecution was ever undertaken. This young man's
10 experience is one out of many. Prisoners regular -- at
11 HOD regularly described other prisoners popping locks
12 to get out of their cells to violently attack and
13 sexually assault other prisoners.

14 Among juveniles charged as adults being held
15 at Templeman Five, the level of sexual assault has
16 created a crisis. Another young man being held at
17 Templeman Five was beaten and sexually assaulted so
18 brutally he had to be taken to the hospital to recover.

19 He was assaulted by a group of prisoners who had
20 beaten up another prisoner only months before.

21 In addition to these reports from prisoners,
22 the *New Orleans Times Picayune* reported just last week

1 that a New Orleans Parish sheriff's deputy had been
2 charged with kidnapping and raping a prisoner at the
3 jail. These allegations have just come to light and
4 more detail has yet to emerge. However, they raise
5 significant and troubling questions about the role
6 deputies take in fostering a culture tolerant of sexual
7 assault.

8 There are broad corrections lessons that can
9 be taken away from the systemic failures in OPP's daily
10 operation that created the environment in which these
11 horrific experiences became possible. First,
12 transparency and oversight are essential for any
13 corrections institution. OPP is, in part, the deformed
14 result of a forty-year experiment in jail
15 self-governance. The city must retake control of its
16 jail. The first mechanism to do so is to fund the jail
17 through a performance based general fund budgeting
18 process in order to ensure adequate oversight and
19 transparency.

20 In addition, moving away from the per diem
21 structures and other prisoner-based revenue, freeze all
22 criminal justice stakeholders to consider and implement

1 alternatives to detention without having to -- that
2 discussion muddied by concerns about cutting off
3 revenue sources. Preventing sexual assaults in a
4 correctional setting is significantly easier if fewer
5 people are in the jail and if the jail is adequately
6 staffed. We have to begin to disincentivize
7 unnecessary detention in New Orleans.

8 Second, an appropriate classification protocol
9 must be in place based on relevant criteria, such as
10 history of violence, proclivity towards violence,
11 history of incarceration, age, body mass-index, current
12 and previous charges. A meaningful classification
13 protocol is essential to prevent the victimization of
14 vulnerable populations.

15 And last, there must be appropriate staffing
16 levels commensurate with the number of people held at
17 OPP. In an impoverished city like New Orleans, that
18 means a reduction of the number of people held at OPP
19 so that the city can afford appropriate staffing. OPP
20 is in such a state of crisis that we in New Orleans are
21 forced to rely on the Department of Justice Civil
22 Rights Division to help us rebuild a fundamentally

1 broken system. The level of sexual assaults and
2 violence present in the jail are symptoms of this
3 system's profound dysfunction.

4 The mission of preventing sexual assault is
5 essentially intertwined with the mission to create a
6 responsible, safe, secure, and humane jail system. And
7 we in New Orleans urge you to intervene in any way that
8 you can to help stop the level of sexual assault and
9 violence that we see at the jail today.

10 Thank you.

11 DR. CHRISTENSEN: Thank you.

12 DR. WILKINSON: Thank you, Ms. Cumming.

13 Before we ask you any questions, we're going
14 to receive testimony from Mr. Ware.

15 MS. CUMMING: Sure.

16 DR. WILKINSON: So if I can invite Wesley Ware
17 from -- who is the director of BreakOUT! to the table?

18 Whereupon,

19 WESLEY WARE

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

1 TESTIMONY OF WESLEY WARE

2 DR. WILKINSON: Thank you, you may proceed
3 with your testimony.

4 MR. WARE: My name is Wesley Ware. I first
5 want to thank members of the Panel for convening this
6 hearing and listening to testimony today.

7 I'm here today to speak with members of the
8 Panel regarding the treatment of lesbian, gay, bisexual
9 and transgender -- LGBT -- young people inside Orleans
10 Parish Prison or OPP. I testify before this Panel
11 today in honor of those who lost their lives inside of
12 OPP, those who were raped and violently assaulted
13 inside OPP and in honor of those LGBT young people who
14 are not able to be with us today. I thank them for
15 their courage for sharing their stories and
16 recommendations for reforming OPP and for trusting me
17 to deliver them to you.

18 I'm the director of BreakOUT!, which is a
19 process of the Juvenile Justice Project of Louisiana
20 that focuses on working with LGBT young people to help
21 reform the criminal justice system in New Orleans.
22 Prior to founding BreakOUT!, I worked as an advocate

1 and investigator at the Juvenile Justice Project of
2 Louisiana visiting youth in facilities across the
3 state. At JJPL, from 2007 until 2010, I focused on the
4 needs and experiences of LGBT young people in
5 Louisiana's state secure care facilities as well as
6 local detention centers.

7 I presented on this issue at numerous juvenile
8 justice conferences and trans-system stakeholders from
9 detention line staff to juvenile judges. I published a
10 report on the experiences of LGBT youth in state
11 custody called *Locked Up and Out*, and investigated
12 cases of abuse and discriminatory treatment toward
13 trans-women in custody.

14 I currently sit on the advisory board of the
15 Equity Project, a national initiative to provide
16 juvenile courts to provide fairness to LGBT clients and
17 am on a working group convened by the National
18 Institute of Corrections to develop policy guidelines
19 for LGBT people in prisons and jails.

20 While at JJPL I began working more and more
21 with the LGBT young people who had been released from
22 the system and were interested in making change in

1 their communities. Although many were still teenagers
2 and in high school, many had already been detained at
3 OPP. I began working with these young people and
4 listening to their stories of sexual assault, threat
5 and rape in OPP. In 2011, I received the Soros U.S.
6 Justice Fellowship to launch BreakOUT!.

7 Just this past summer, BreakOUT! youth
8 members, most of whom are formerly incarcerated
9 African-American transgender women between the ages of
10 sixteen and twenty-four recently began conducting a
11 survey of their peers. They began with surveying
12 fifteen young trans-women and one gay identified
13 partner of a transgender woman.

14 All participants are African-American with the
15 exception of one biracial respondent. Most of the
16 respondents identified as straight or heterosexual and
17 partnered with men. All respondents were homeless or
18 marginally housed with the majority living in motels.
19 Most have previously or currently engaged in sex work
20 or prostitution in order to survive.

21 The surveys were conducted in person by their
22 peers. Respondents had the choice to be anonymous

1 without fear of incrimination. In our preliminary
2 results, we found that ninety percent who had been
3 detained, over eighty percent had experienced some kind
4 of sexual assault, rape, or physical attack in OPP.
5 Eighty-five percent did not receive medication they are
6 prescribed, from HIV medication to doctor-prescribed
7 hormones necessary for their health and well being.

8 They were housed at various locations
9 throughout OPP, including The Tents and the House of
10 Detention, or HOD. The majority of violence was
11 considered inmate-versus-inmate in areas with little or
12 no staff or guard supervision.

13 As the Department of Justice recently released
14 their investigative findings of the New Orleans Police
15 Department, citing examples of discriminatory policing
16 against the LGBT community, in particular
17 African-American transgender women, it should come as
18 no surprise that LGBT people are disproportionately
19 represented in prisons and jails, both locally and
20 across the country. Of course, once detained, LGBT
21 people in prison often experience extreme physical,
22 psychological and sexual abuse and victimization.

1 In 2009, the American Civil Liberties Union
2 stated in a public letter to Sheriff Marlin Gusman, and
3 I quote, "Under present circumstances, if you are gay
4 and you happen to be arrested in Orleans Parish, we
5 recommend you try your best to post bond as quickly as
6 possible because you're at risk of rape in Orleans
7 Parish Prison." This advice is well known to members
8 of the trans community in New Orleans, and came after
9 investigation that uncovered multiple complaints of
10 rape from people housed in OPP.

11 Recently I spoke with a transgender young
12 woman who works with BreakOUT! about her experiences at
13 OPP. She told me the story of a young trans-woman with
14 whom she was incarcerated in 2009. She was housed in
15 The Tents at OPP. After repeating several times to the
16 few staff and guards who were supervising The Tents
17 that she needed to be placed under protective custody
18 out of fear for her safety, she was brought into the
19 shower by another inmate and raped. When she attempted
20 to run from her attacker, she was charged with
21 attempted escape.

22 Another youth who works with BreakOUT! told me

1 the story of an Asian trans-woman he met while detained
2 just this past March of 2011. She told him stories of
3 surviving rape and abuse in HOD during her time
4 incarcerated as well. And just this past Friday,
5 September 9th, an Orleans Sheriff's Office prison guard
6 was fired and arrested for raping and kidnapping an
7 inmate whom anonymous informants reported was targeted
8 because he was LGBT identified.

9 Lastly, I will never forget accepting an OPP
10 phone call late at night from a gay gender-
11 non-conforming youth I have worked with since 2007 who
12 was raped at OPP in 2010. Today I have the privilege
13 of providing you with his testimony, which I will now
14 read:

15 My name is Robert. I am a twenty-two-year-old
16 gender-non-conforming, gay white male. I was
17 arrested on a robbery charge on December 14th,
18 2010, and was in the custody of OPP until February
19 26th, 2011. I am 6'1" and at the time of my
20 arrest I weighed approximately 130 pounds.

21 After my arrest I was taken to central lockup
22 at the House of Detention, one of OPP's

1 facilities. I underwent a medical screening, and
2 then I was taken to a HOD tier that had thirteen
3 cells, where I was placed alone in Cell Three. At
4 no time during the screening process did OPP staff
5 if I had -- ask if I had any concerns about my
6 safety.

7 There was another inmate in the cell that was
8 next to my cell. There may have been inmates in
9 some of the other cells on the tier, but I'm not
10 sure. The inmate in the cell next to mine
11 attempted to interact with me when I walked by his
12 cell on my way to the shower, but I didn't engage
13 him.

14 On the second day of my incarceration at HOD,
15 I was awoken in the middle of the night by that
16 inmate trying to get into my cell with a
17 toothbrush. I do not know the exact time but it
18 was sometime after lights out, which occurred at
19 10:30 p.m. I told him to go away. When he
20 finally managed to pry open my cell door, I
21 screamed for help. The man was around 300 pounds
22 and I was 130 pounds, so I was scared.

1 Once he got in my cell, he told me to pull
2 down my pants and bend over. I said no, and
3 screamed for the guards at the top of my lungs.
4 We started fighting, and he managed to wrestle me
5 face-down on the floor where he pulled my pants
6 down and penetrated me. I was screaming as he
7 raped me. The assault went on for about ten to
8 fifteen minutes, during which time no guard
9 responded to my screams for help.

10 After the man finished, he got up, shut my
11 cell door, and left. I was crying because I was
12 hurting from being -- I was hurting from being
13 overpowered by the massive man. I continued to
14 scream for the guards following the rape. I did
15 not go back to sleep. The guards did not respond
16 to my screams or walk through on rounds for the
17 remainder of the night.

18 Sometime after the OPP shift change at 6:00
19 a.m. the following morning, I told the morning
20 shift guard that I had been raped. The guard
21 contacted his supervisor and about two hours after
22 the guard reported the incident, the supervisors

1 and two men from the Special Operations Division
2 interviewed me in the presence of the supervisory
3 guard. During the interview, one of the SOD
4 investigators accused me of lying and called me a
5 faggot. He accused me of wanting to have anal sex
6 because I was a faggot.

7 After the interview, I was placed in a holding
8 cell for two to three hours and then finally taken
9 to the hospital. I had bruises on my body and I
10 had tears in my anus. A rape kit was completed,
11 but I don't believe it ever made it to the New
12 Orleans Police Department because the OPP
13 officials who accompanied me to the hospital took
14 custody of it from the nurse who helped treat me.

15 I was taken back to HOD and placed back in the
16 same cell right next to the cell with the inmate
17 who raped me. OPP never provided me with any
18 additional medical or psychological treatment
19 while I was in custody. I filed a number of
20 written grievances while I was in OPP, including
21 an emergency grievance complaining about the rape,
22 as well as one complaining about being physically

1 abused by an OPP guard. I never received a
2 response to any of my grievances.

3 OPP needs to create a classification system
4 that doesn't mix everybody in when some people are
5 more vulnerable to others. They should hire
6 guards that are committed to doing their jobs
7 properly and responsibly. The place is severely
8 understaffed and no one is safe in there.

9 They should also install cameras on the tiers,
10 and they should increase both guard and inmate
11 supervision. They should also create an effective
12 protective custody tier and train guards and
13 supervisors on LGBT issues, and not permit its
14 employees to call people faggots or punks or other
15 derogatory names.

16 Finally, OPP should make sure that grievances
17 are properly processed. I wrote this personal
18 testimony because I was a victim. I want people
19 to know how I was hurt, mistreated, and violated.

20 There are people all over the world who are in or
21 have been in the same position I was in. It's
22 wrong that a human being has to experience such

1 events. We're supposed to be safe in our jails.

2 Robert's story, along with the stories of
3 other young people in OPP show a disturbing pattern of
4 rape from 2009 until now, two years after the ACLU
5 notified Sheriff Marlin Gusman of the problem, and
6 nearly two years after the Department of Justice issued
7 their investigative report findings demanding that
8 immediate steps be taken to improve conditions inside
9 the facility to prevent further legal action from being
10 taken.

11 In 2010, BreakOUT! convened a meeting where
12 the issue of OPP was discussed with LGBT community
13 members, most of whom were formerly incarcerated
14 African-American gay men or trans-women. Participants
15 gave recommendations for reform, many of which were not
16 unique to trans inmates, and have been echoed among
17 other criminal justice reform advocates across New
18 Orleans.

19 The following recommendations are brought to
20 you today from this meeting, as well as from BreakOUT!
21 youth members, many formerly incarcerated members of
22 the larger LGBT community in New Orleans, and other

1 criminal justice reform advocates in New Orleans.

2 Since there is virtually no classification
3 system inside OPP, establishing a thorough intake
4 process is crucial. However, the classification system
5 cannot rely on identifying LGBT people and isolating
6 them on a special tier. Increasingly, other
7 jurisdictions are looking at best practices for housing
8 LGBT identified people in prison, in particular
9 trans-women.

10 Cook County Jail in Chicago recently started
11 housing trans-women with other women in their
12 facilities. In New Orleans' own juvenile detention
13 center, the Youth Study Center recently adopted a model
14 LGBT policy as well. Classification decisions around
15 housing trans people should be done on an
16 individualized basis and in consultation with the
17 individual, with the majority of trans people housed
18 according to gender identity, not birth sex.

19 Orleans Parish Prison should establish a
20 thorough grievance and investigation system to ensure
21 the timely response to complaints of rape, proper
22 protocols for ensuring the safety and confidentiality

1 of those who report abuse, and access to the courts and
2 attorneys to report abuse. This includes addressing
3 issues of visitation at OPP and access to phone calls
4 and legal mail.

5 As overpopulation is a contributing factor to
6 prison rape and sexual violence behind bars, Orleans
7 Parish must also address fundamental issues with inmate
8 population and increase staff-to-inmate ratios.
9 Orleans Parish currently incarcerates more people per
10 capita than any other city in the U.S., and more than
11 fifty percent of the over 59,000 admissions to OPP in
12 2009 were for misdemeanor, municipal, or traffic
13 offenses. Approximately half of all inmates in OPP are
14 pre-trial detainees charged with non-violent offenses,
15 and another twenty-five percent are State Department of
16 Corrections prisoners who should be in State DOC
17 facilities.

18 DR. WILKINSON: Mr. Ware, can I ask you how
19 much longer your testimony is?

20 MR. WARE: Just about a page.

21 DR. WILKINSON: I'm sorry?

22 MR. WARE: Just about a page.

1 DR. WILKINSON: Okay.

2 MR. WARE: New Orleans is also the only major
3 U.S. city funding its jail on a per diem system, which
4 creates a financial incentive to fill jails in order to
5 cover fixed operational costs.

6 Staff at every level of Orleans Parish Prison,
7 from administration to line staff, should be trained on
8 LGBT issues, including the legal rights of LGBT people
9 in prison, and best practices for keeping LGBT people
10 safe in state custody. The training should be done in
11 accordance with national experts in the field and in
12 consultation with local formerly-incarcerated
13 individuals.

14 Orleans Parish Prison should ensure proper
15 medical care and follow-up for those in need of medical
16 attention. This includes individuals who have been the
17 victim of sexual assault and people who are more
18 vulnerable because of pre-existing medical conditions
19 and those who are living with HIV or Aids.

20 This also includes ensuring mental health
21 services for individuals who are mentally ill or have
22 mental health needs, as they may be more likely to be

1 victimized, as well as services for survivors of rape
2 or sexual assault. This also includes additional
3 programming and services for those who may be possible
4 perpetrators before incidents occur.

5 Lastly, all services and programs should be
6 LGBT competent and culturally competent. OPP should
7 increase its accountability mechanisms to the
8 community. This includes access to family visits and
9 attorney visits to communicate abuses and increase the
10 accountability to the public regarding reform and
11 implementation. Orleans Parish Sheriff's Office should
12 consider convening regular meetings with community
13 members, including LGBT young people with experiences
14 in OPP.

15 Orleans Parish Sheriff's Office should ensure
16 immigrant victims of sexual assault or rape can safely
17 come forward by not submitting to hold requests from
18 U.S. Immigration and Customs Enforcement, so that
19 individuals are able to come forward without the fear
20 of facing a removal proceeding.

21 In addition, language barriers should be
22 addressed so that non-English speaking individuals can

1 communicate concerns during intake and classification,
2 requests for intervention if they are being sexually
3 victimized, as well as report issues of sexual assault
4 or rape after it occurs.

5 It is critical to understand that reducing
6 rape and sexual abuse and improving conditions for LGBT
7 people in OPP cannot happen in a vacuum. We cannot
8 improve conditions at Orleans Parish Prison without
9 addressing the larger problem and the city's reliance
10 on incarceration. OPP is overcrowded with dismal
11 conditions and serious health and safety concerns,
12 including rape and death, the last reported death
13 occurring just this past June.

14 New Orleans has one of the highest violent
15 crime and murder rates in the U.S., as well as the
16 highest incarceration rate, and one of the most violent
17 jails in the country. Clearly our approach to criminal
18 justice and the safety of those who are incarcerated is
19 not working. It is apparent that, in addition to the
20 recommendations already stated, we need federal
21 oversight of our jail to realize full reform.

22 On behalf of Robert and the countless other

1 people who have survived rape behind the bars of
2 Orleans Parish Prison, I ask you today to act on our
3 recommended reforms.

4 Thank you.

5 DR. WILKINSON: Thanks for the testimony from
6 both of you.

7 Ms. Cumming, you mentioned that you provided
8 this kind of testimony to City Council?

9 MS. CUMMING: Not testimony. More private
10 meetings with City Council members.

11 DR. WILKINSON: What was the response of the
12 city officials?

13 MS. CUMMING: Negligible.

14 DR. WILKINSON: I'm sorry?

15 MS. CUMMING: Negligible. The -- most of the
16 meetings I had were with Councilman Carter and
17 Councilman Midura back in 2008 and 2009, both of whom
18 chose not to seek re-election. And both of whom had
19 been fairly active with the Criminal Justice
20 Subcommittee.

21 And part of the problem is the sheriff
22 is -- the way the Louisiana constitution is structured,

1 the sheriff is an elected official with essentially no
2 oversight. So the council -- because of this per diem
3 structure, the one way that council would have some
4 sort of oversight would normally be through some kind
5 of budgeting. But because of this consent decree and
6 the per diem funding structure, that's -- I'm sorry,
7 the Hamilton consent decree, it's harder for the City
8 Council to kind of gain some control that way.

9 So that's sort of been the hold up.

10 DR. WILKINSON: So there is a consent decree
11 on what?

12 MS. CUMMING: Well, so there's a consent
13 decree I referred to in my testimony as *Hamilton v.*
14 *Morial*, I think is how it's captioned.

15 DR. WILKINSON: Is that a conditions case
16 or --

17 MS. CUMMING: It was, forty years ago. In the
18 Fall of 2008, all of the plaintiffs have been
19 dismissed. So it's basically this consent decree
20 that's hanging in federal court with no plaintiffs.
21 The only parties now are the Department of Corrections,
22 Orleans Parish Prison -- or the Sheriff's Office and

1 the City. And all it is, it's a budgeting structure.
2 That's it. There is no actual conditions aspect to
3 that consent decree anymore.

4 DR. WILKINSON: It's federal then, right?

5 MS. CUMMING: It's federal, yes.

6 DR. WILKINSON: Okay. And there are no other
7 pending class actions or -- other than CRIPA?

8 MS. CUMMING: CRIPA's all we've got going.
9 We've got a bunch of individual cases going, but
10 CRIPA's the big thing that we're sort of hanging our
11 hopes on. So we don't have any other pending class
12 actions right now.

13 DR. WILKINSON: Are you familiar with
14 programming inside Orleans Parish facilities, you know,
15 substance abuse education, mental health, re-entry?

16 MS. CUMMING: A bit. I know that -- I know
17 that there is the re-entry program, I know there's also
18 a work release program. I've heard very mixed things
19 about both. I know that there's a GED program, which I
20 do hear positive things about. Substance abuse and
21 mental health, I haven't heard anything positive, I'm
22 sad to say. I know people who have attempted to get

1 help and have been absolutely unable to.

2 And with mental health, there's a "keep on
3 person" medication policy that is incredibly
4 problematic for anybody that's not housed on a
5 psychiatric tier. And the psychiatric tier, the people
6 I talk to up there report significant problems getting
7 regular access to medication, and even more significant
8 problems having any time in talking with a
9 psychiatrist.

10 DR. CHRISTENSEN: Ms. Cumming, thanks for your
11 testimony.

12 You -- within your statement, you referenced
13 two specific individuals --

14 MS. CUMMING: Uh-huh.

15 DR. CHRISTENSEN: -- who experienced
16 severe -- severe beatings, both physically and
17 sexually, and also referenced in both cases treatment
18 histories within hospitals, et cetera.

19 MS. CUMMING: Uh-huh.

20 DR. CHRISTENSEN: The first question is, are
21 there pending litigation in either of those cases?

22 MS. CUMMING: The one -- I the first one I

1 talked about actually filed a pro se civil suit. And I
2 didn't -- another people who I talk to regularly in the
3 jail actually called me about him, and I went and saw
4 him. And his suit was sort of fairly far along and
5 ultimately ended up getting dismissed. So there was
6 that one.

7 And then the other person is a juvenile facing
8 some pretty serious charges as -- he's charged as an
9 adult, and his criminal case is sort of coming first.
10 So his representation -- his counsel in his criminal
11 case is sort of would prefer to not get into any kind
12 of civil litigation on that. So -- and that's sort of
13 consistently -- the reports I get, those are the two I
14 mentioned specifically, because I had permission from
15 their lawyers or, in the first young man's case, he's
16 been extradited and is dealing with a completely other
17 set of charges.

18 With the other reports of sexual assault that
19 I've received, their lawyers didn't even want me to
20 mention them or the facts or anything, just because
21 they're that worried about their criminal charges.

22 DR. CHRISTENSEN: So it's safe to say then,

1 given what -- given your last statement, that neither
2 of these cases have been brought to the attention of
3 the authorities who run the prison? I mean, maybe by
4 the inmates, but I'm talking about their
5 representation, their counsel. Have either of their
6 counsel spoken with the officials who are responsible?

7 MS. CUMMING: The first young man had been
8 speaking with the members of -- you know, the rank and
9 people like that. So he actually was getting some
10 services.

11 The second young man, his criminal
12 representation was in fairly regular communication with
13 the jail. And then I've reached out and attempted to
14 get assistance for people as well when I've heard about
15 it.

16 So but usually that stuff is going through the
17 Orleans Parish Public Defender's office, they'll
18 attempt to kind of get some kind of services for people
19 who report sexual assault.

20 DR. CHRISTENSEN: Is there any kind of
21 documentation of which you are aware that proves those
22 interactions between the attorneys and the officials of

1 the prison?

2 MS. CUMMING: There are -- I mean, there are a
3 couple of email chains that I can think of, but those
4 are related to cases that the attorneys really didn't
5 want me to talk about. So yes, there are, I mean,
6 it's -- there are so many cases over there. So I'm
7 trying to --

8 DR. CHRISTENSEN: So are they available to
9 this Panel, those -- that type of proof?

10 MS. CUMMING: No. I can talk to the lawyer
11 for the second person that I talked about and ask him
12 if it would be all right if I shared that with the
13 Panel.

14 DR. CHRISTENSEN: Okay.

15 MS. CUMMING: So I can get back to you on
16 that.

17 DR. CHRISTENSEN: And in the same vein, you
18 referenced staffing deficiencies, absence of deputies,
19 violent attacks, sexual attacks, failures of the
20 grievance procedure.

21 MS. CUMMING: Uh-huh.

22 DR. CHRISTENSEN: Are you aware of anything

1 that proves that in terms of whether it be litigation
2 or similar type of proof?

3 MS. CUMMING: Uh-huh. Let's see, for the
4 grievance procedure, I have a couple of grievances that
5 people have sent me that have sort of these cryptic
6 minimal responses, like "We'll take it under
7 advisement." So I have a couple of those. For most of
8 them, the person who files the grievance doesn't have
9 the capability to make a copy of the grievance, so it
10 just sort of gets lost in the system.

11 So all I'm relying on is reports that they
12 have attempted to file; they're not receiving any word
13 back. And there are a couple people who I've gotten
14 these reports from who are -- tend to be more reliable
15 than others. And then these other ARPs that I've
16 gotten back that have these cryptic responses. So I
17 kind of am able to cobble together a scenario, but in
18 terms of actual hard data, like I can't present you
19 with a packet.

20 DR. CHRISTENSEN: But as their attorney, have
21 you then contacted the officials at the prison to
22 complain on their behalf or try and seek some resolve?

1 MS. CUMMING: For some, yes. For others,
2 they've asked me not to because they're either worried
3 about some sort of retaliation or, you know, they get
4 released or -- for whatever reason, they ask me not to.
5 But for some, yes.

6 DR. CHRISTENSEN: For the some that you can
7 speak to, are there specific people to whom you have
8 spoken or any type of proof that you can offer in that
9 respect?

10 MS. CUMMING: Sure. Actually, I've spoken
11 with Dr. Gore on a number of occasions, and then I've
12 talked with Chief Short and those are the two main
13 contacts I have.

14 DR. CHRISTENSEN: So when you've spoken with
15 Dr. Gore and Chief Short, what type of responses have
16 you -- what type of satisfaction for your clients?

17 MS. CUMMING: Dr. Gore has been very
18 responsive. And usually he will -- he's
19 able -- usually it's about medical care and usually
20 he's able to say, you know, yes this person is
21 receiving care. And then usually in about a month
22 there's a problem, like they can't file a sick call or

1 their prescription has run out.

2 For most of those people, they either get
3 released within a few days -- I think I've followed up
4 with Dr. Gore a couple times for some of those. Dr.
5 Gore can confirm that. And I'm trying to think.

6 DR. CHRISTENSEN: And with Chief Short?

7 MS. CUMMING: Chief Short -- we've played
8 phone tag a lot. So I've gotten one positive response
9 from him. There was a toilet paper shortage and he was
10 able to resolve that. But that was also with the help
11 of Dr. Gore. And yeah, I mean, I know that he's got
12 some -- under some significant restraints over there,
13 but we've had some complaints about broken windows and
14 things like that; I've sent letters to his office.
15 I've never gotten responses. So I can dig all of those
16 up for you if you are interested.

17 DR. CHRISTENSEN: Yeah. And what
18 about -- what about more -- not that there was
19 obviously -- we know that a lot of times things like
20 that generate into much larger problems within a prison
21 or a jail. But on -- I would be interested in those.
22 But more specifically speaking to incidents where your

1 clients have been victims of violent attacks, sexual
2 attacks, specific failures of the grievance procedures,
3 and things like that.

4 MS. CUMMING: Right. Part of the problem is
5 they're not necessarily my clients; I'm just receiving
6 reports about it. They're usually the clients of OPD
7 attorneys.

8 DR. CHRISTENSEN: I see.

9 MS. CUMMING: And so most of the
10 correspondence between the jail and the attorney is
11 through OPD. Now I'll advise them on that and kind
12 of -- well, sort of help them through trying to figure
13 out some way to correspond with the jail, and
14 occasionally I'll get CC'd on email chains. But
15 they're not my clients, so that's part of why I'm
16 having trouble answering some of your questions.

17 DR. CHRISTENSEN: Sure. But
18 certainly -- certainly if things like that are
19 available from those other attorneys, perhaps --

20 MS. CUMMING: Right. And that -- part of the
21 problem is that some of those attorneys are very
22 skittish about releasing some of that documentation,

1 because they're in active defense mode.

2 DR. CHRISTENSEN: Sure.

3 MS. CUMMING: So yeah, I can certainly go back
4 to OPD and ask what is available and, you know, what
5 they are willing to supply. But I can say that some of
6 them are not willing to release some of that stuff just
7 because they're worried about their clients.

8 DR. CHRISTENSEN: Great. Anything you can do
9 to help, that would be much appreciated.

10 MS. CUMMING: Sure.

11 DR. CHRISTENSEN: Mr. Ware, you also
12 mentioned -- I believe you -- I don't know if it's a
13 pseudonym or what, but the inmate that you've talked
14 about as Robert and read his situation into the
15 testimony, similar questions to you regarding proof or
16 litigation or communication, dialog, et cetera, et
17 cetera, with officials from -- are there such documents
18 or anything to help with that?

19 MR. WARE: Sure. Well, a representative from
20 the Department of Justice was able to meet with him, so
21 he might have additional information.

22 So far as I know, the grievances would -- we

1 would be able to request copies of the grievances. I
2 would assume that the facility would have those on
3 file, though I have also heard reports of grievances
4 being thrown away in front of inmates that filed them.

5 And then of course, there's medical records,
6 I'm sure he would consent to having those released to
7 the Panel.

8 DR. CHRISTENSEN: So did you specifically see
9 grievances yourself or has somebody seen the
10 grievances, per se?

11 MR. WARE: I have not seen the grievances
12 through OPP, no.

13 DR. CHRISTENSEN: Okay, thank you.

14 DR. WILKINSON: Mr. Ware, just one question
15 for you. It's my understanding -- and some of these
16 questions, by the way, we're going to repeat with the
17 staff. But I'm concerned about the classification
18 system. So the classification system, from our
19 understanding, is based on bail or bond that you get
20 instead of some internal classification system? Do
21 you -- can you speak to that at all?

22 MR. WARE: That's my understanding as well.

1 DR. WILKINSON: All right. Thank you both for
2 your testimony. We appreciate it.

3 We're going to take a fifteen-minute break.
4 Let's return at 11:15.

5 (A short recess was taken.)

6 DR. WILKINSON: Two reports that will be
7 entered into the record. One from the National
8 Immigration Justice Center and there will be a CRIPA
9 report, too. CRIPA, of course, is Civil Rights of
10 Incarcerated Persons Act.

11 And now we will move to the Orleans Parish
12 Prison. We have four representatives from that
13 facility -- facilities. And I presume that Colonel
14 Ursin, you are the lead person? Because there are two
15 Colonels I have listed here and --

16 COLONEL URSIN: Yes, sir, I think by default.

17 DR. WILKINSON: Okay. Well, we'll get to
18 that. So if I could ask all of you to raise your right
19 hand.

20 Whereupon,

21 COLONEL JERRY URSIN,

22 COLONEL ANELLA JOSEPH,

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DR. SAMUEL GORE

and MAJOR MICHAEL LAUGHLIN

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

DR. WILKINSON: And Mr. Ursin, I will ask you separately to raise your hand to testify to the documents that were submitted.

To the best of your knowledge, can you attest to the accuracy and truthfulness of the written response of Orleans Parish Prison to the data request that the Review Panel on Prison Rape sent to your agency in preparation for today's hearing, as well as to the accuracy and truthfulness of other documentation that your agency gave to the Panel in the interim?

COLONEL URSIN: I can swear that the documents that I reviewed that went up there, too. I can swear to that. There were some before I came onboard that were sent that I don't think I'm in a position to swear to.

DR. WILKINSON: So were there documents then sent that you weren't familiar with?

1 COLONEL URSIN: Early on, yes, sir.

2 DR. WILKINSON: Okay. Well then, can you
3 swear to the ones that you have knowledge about?

4 COLONEL URSIN: Yes, I certainly can.

5 DR. WILKINSON: Okay. Can I ask the other
6 panelists if there were other documents that maybe the
7 Colonel didn't -- wasn't aware of that you were aware
8 of, that I can get you to swear to?

9 DR. GORE: I can swear to the gathering of the
10 documents, but I didn't participate in the actual
11 gathering. I'm sorry, there was essentially a team
12 of -- a team of folks to gather the documents. I can
13 swear to the documents that I provided.

14 DR. WILKINSON: Well, let's just make this
15 real simple. Can I get all four of you to swear to the
16 information that -- the documentation that you are
17 aware of? If you're not aware of it, then we can't
18 hold you responsible to it.

19 So do you swear, yes?

20 (OPP Panel response: Yes.)

21 DR. WILKINSON: Thank you very much.

22 Okay. I presume Mr. Ursin, Colonel, you want

1 to begin with a testimony, sir?

2 TESTIMONY OF COLONEL JERRY URSIN

3 COLONEL URSIN: Yes, sir, if I could.

4 DR. WILKINSON: Okay, please. Thank you.

5 COLONEL URSIN: Before I begin --

6 DR. WILKINSON: Okay. Could you make sure
7 that your mic is both on -- I presume someone would
8 tell us if it's not on, but we -- speak as closely as
9 you can to the mic itself so that we can hear the
10 audio. Okay, thank you.

11 COLONEL URSIN: On behalf of the Orleans
12 Parish Sheriff's Office, we appreciate this opportunity
13 to be before the Panel today. I'd like to introduce
14 myself, I'm Jerry Ursin, I am a Colonel with the New
15 Orleans Sheriff's Office. I'm assigned to the Intake
16 and Processing Center. I've been with the Sheriff's
17 Office four years. Before that I did twenty-eight
18 years with the New Orleans Police Department, retiring
19 as assistant superintendent.

20 To my left is Major Michael Laughlin.

21 MAJOR LAUGHLIN: I am the commander of the
22 Special Operations Division. I've been employed with

1 the Sheriff's Office for twenty years. Eighteen of
2 those years have been in the investigative end.

3 COLONEL URSIN: To my right is Dr. Sam Gore.

4 DR. GORE: Hi. My name is Dr. Samuel Gore. I
5 have been employed with the Orleans Parish Sheriff's
6 Office for ten years. I am the medical director and
7 have been in that position for the last five years.

8 COLONEL JOSEPH: Good morning. I am Colonel
9 Anella Joseph, retired, but I have been with the
10 Sheriff's Office for thirty-six years. I was the
11 warden of the female division.

12 DR. WILKINSON: Are you currently retired?

13 COLONEL JOSEPH: I retired in May, sir.

14 DR. WILKINSON: But you are no longer on the
15 payroll of the --

16 COLONEL JOSEPH: I am under contract.

17 DR. WILKINSON: Okay. So you're under
18 personal services contract with the --

19 COLONEL JOSEPH: Yes, sir.

20 DR. WILKINSON: Okay.

21 COLONEL URSIN: I'd like to open, with your
22 permission, to read a letter from Sheriff Gusman who

1 could not be here today. I have a copy of that letter
2 under his signature and seal that I would submit to the
3 committee.

4 Mr. Chairman and members of the Commission,
5 thank you for this opportunity to address the
6 Review Panel on Prison Rape. I regret that I am
7 unable to attend in person. Although I had
8 cleared my schedule to attend your regional
9 meeting scheduled in August, after this hearing
10 was moved to September, I was unable to
11 participate due to a longstanding commitment to
12 speak and present a paper at another conference.

13 The Orleans Parish Sheriff's Office has fully
14 cooperated with the National Prison Rape
15 Elimination Commission. In December 2007, I along
16 with Dr. Sam Gore, the medical director for
17 Orleans Parish Prison, appeared and testified
18 before the Commission. We provided unfettered
19 access to the contract employees of RTI hired to
20 conduct the survey that forms the basis of this
21 statistical analysis presented to the Panel. We
22 have provided answers to all of the questions

1 propounded by their recent visit to tour our
2 facility.

3 The Sheriff's Office is still recovering from
4 the effects of Hurricane Katrina in 2011. Two and
5 a half years ago in 2009, we were mostly in
6 temporary emergency facilities. The Sheriff's
7 Office has a zero-tolerance for any acts of sexual
8 misconduct, sexual victimization, sexual
9 harassment, or sexual assault. All instances of
10 sexual misconduct, sexual harassment, or sexual
11 assault are reported and documented in our jail-
12 management system, fully investigated and
13 criminally charged if substantiated.

14 As regards to the South White Street Jail
15 during 2008, 2009, based upon our jail-management
16 system, grievances, incident reporting, informal
17 mechanisms, we have not discovered any
18 substantiated allegation of staff-on-inmate,
19 inmate-on-inmate or sexual victimization.

20 In our jail-management system, we have had
21 only one allegation of a sexual harassing remark
22 by a staff member, a civilian maintenance employee

1 who allegedly made a sexual derogatory remark.
2 This allegation came through the grievance system
3 and was directed to Colonel Joseph, the female
4 division commander who, after an investigation and
5 discussion with the inmate found it to be
6 unsubstantiated.

7 Her investigation included a review of the
8 logbook for the tier, verification in the jail-
9 management system that there was no work order and
10 no maintenance employee on the premises that day.

11 The South White Street building's physical
12 configuration also discourages incidences of
13 sexual misconduct, sexual assault, or sexual
14 victimization. It is mostly a large, open
15 dormitory style that has a deputy stationed
16 outside and cameras that view the interior of the
17 housing unit.

18 Specifically with regard to South White Street
19 building, we have a medical clinic on the second
20 floor, a learning laboratory and library on the
21 first floor, and a large day room area. Numerous
22 volunteer chaplains; teachers; case managers;

1 social workers; medical professionals, including
2 nurses, psychiatric, psychiatrists, medical
3 assistants; elected officials; and other
4 volunteers are able to interact with inmates in
5 friendly and, in some cases, also confidential
6 encounters with the inmates.

7 We have supplied affidavits to the Panel staff
8 that unequivocally state that no allegations of
9 sexual assault or sexual harassment were either
10 confided to them or otherwise brought to their
11 attention. In Orleans Parish Prison in 2009,
12 female inmates were housed in multiple locations,
13 with some of them in the House of Detention and
14 the Intake Processing Center as well as the South
15 White Street facility.

16 The survey analysis seems to treat the South
17 White Street building as a stand-alone jail, which
18 it should really be viewed as part of the entire
19 Orleans Parish Prison. While many female
20 prisoners were included in our study, our female
21 population was only one of two female-only jails
22 surveyed. The other one, in California, housed a

1 mere seventeen women.

2 OPP's South White Street female population was
3 then compared to all the other male-predominant
4 jails in the nation resulting in inappropriate
5 comparison and misleading conclusions. If the
6 entire population of Orleans Parish Prison had
7 been reported together, as done with most jails in
8 the study, our results would have been more in
9 keeping with the national average.

10 As an aside, the rate of reported sexual
11 victimization in our South White Street facility,
12 female facility was comparable to that -- to that
13 reported in one of the other female-only
14 facilities. In addition to the disclaimers
15 included in the study, in particular remarks from
16 Allen Beck, the person conducting the surveys,
17 stated to this previous Panel in Washington, D.C.
18 on March 11th, 2008, and I quote, "Consider the
19 allegations of staff sexual misconduct, particular
20 unwanted touching. The prevalence of these
21 allegations may strongly relate to a frequency of
22 pat-downs and strip searches which inmates simply

1 don't like", closed quotes.

2 I would like to further emphasize that these
3 were anonymous responses on computers after being
4 promised a bag of cookies by students for
5 completing the questionnaire. Aside from obvious
6 problems with offering a reward for responses, it
7 provided a great opportunity to seek retribution
8 against the Sheriff's Office or individual
9 employees. For those reasons and others stated
10 below, I don't think there is a high incidence of
11 sexual victimization in the South White Street
12 building.

13 As regards to Orleans Parish Prison, we have a
14 strong, committed, and dedicated staff as well as
15 policies, procedures, and protocols with
16 management systems and employee training that
17 focus on sexual victimization. We also have
18 videos that are shown each day to inmates that
19 detail zero-tolerance for sexual misconduct or
20 assault at Orleans Parish and provide the
21 information on how to report and avoid sexual
22 victimization. Copies of these videos have been

1 provided to the Panel staff.

2 In our ninety-hour orientation class, and our
3 411 hour post-academy class, we utilize the
4 facilitator's guide for facing prison rape in the
5 PREA video responding to prisoner rape. The
6 inmate video includes information on PREA and
7 Louisiana laws prohibiting sexual contact in penal
8 facilities. It also contains instructions on how
9 to make medical appointments and other
10 necessities. Copies of materials will be provided
11 to the Panel staff.

12 All incidents of any nature are reported in
13 the jail-management system, and all grievances as
14 filed by inmates are entered into the jail-
15 management system. Incident reports include
16 formal or informal statements from inmates,
17 statements from attorneys, family members, or
18 staff. Our jail-management system then preserves
19 and documents all these allegations, and we are
20 able to search by date, verbiage, and name of
21 inmates.

22 As previously stated, all allegations of

1 sexual victimization are completely investigated
2 by our Special Operations Division under the
3 command of Major Michael Laughlin. The process
4 begins with the receipt of a complaint or notice
5 of an incident. Detectives conduct primary
6 interviews, investigations with the victim to
7 gather facts. Then the alleged victim is examined
8 by medical staff before being routed to a hospital
9 for Sexual-Assault Nurse Examiner evaluation, or
10 SANE.

11 The detectives then collect evidence at the
12 scene, take photographs of the scene, interview
13 possible witnesses, and assemble a photographic
14 lineup of possible perpetrators. Then the deputy
15 on the tier and all the staff are interviewed.
16 Upon the inmate's return, a formal statement is
17 obtained from the victim. When the victim returns
18 from the hospital, the SANE kit is reviewed before
19 it's placed in evidence. If sufficient evidence
20 is available, the matter is referred to the
21 district attorney for prosecution.

22 The medical department's response to reports

1 of sexual violence is similarly standardized. If
2 an assault is reported to a nurse or any medical
3 staff member, the medical director is immediately
4 notified. The medical director then notifies the
5 commander of Special Operations, Major Laughlin,
6 to investigate -- to initiate an investigation and
7 discuss necessary medical actions.

8 The medical staff briefly screens the victim
9 for obvious injuries to ensure the patient is
10 stable. The only medical evaluation or treatment
11 is to correct potential life-threatening injuries
12 and make sure the patient is stable enough to get
13 to the hospital. The staff does not perform
14 evaluations that might interfere with the
15 collection of evidence.

16 The medical staff also inquires about the
17 medical status of the alleged perpetrator in order
18 to establish a risk of transmission of contagious
19 diseases. After this initial screening, the staff
20 immediately sends the victim to University
21 Hospital, located less than a mile away. Here a
22 SANE evaluation is performed by specially trained

1 staff, forensic evidence is obtained,
2 post-exposure prophylaxis medications are started,
3 and crisis-event counseling is performed as
4 indicated.

5 After the forensic component of the
6 evaluation, the hospital treats injuries and
7 provides recommendation for further evaluation and
8 treatment. Upon return from the hospital, the
9 victim is brought directly to the acute
10 psychiatric unit. Here the victim is housed for
11 protection and provided mental health care. The
12 psychiatrist evaluates the patient, starts medical
13 treatment if necessary, establishes follow-up, and
14 houses the patient until psychiatrically stable.

15 Social workers follow-up is established for
16 ongoing counseling and MD follow-up is established
17 in order to continue medical treatment and follow
18 up testing. The medical director is notified of
19 the arrival to the psychiatric unit so the medical
20 staff, social work, psychiatric and follow-up is
21 ensured.

22 Only psychiatrically stable and when safe

1 housing is ensured will the patient be transferred
2 from protective custody of the psychiatric unit.
3 Each warden responds immediately to all reports of
4 sexual victimization and then contacts the SOD or
5 Special Operations Division. Wardens also review
6 all grievances and incident reports filed in the
7 jail-management system, and respond to the inmate,
8 either in person or in writing. We also receive
9 information from third parties, including lawyers
10 and family members that is acted on immediately.

11 Of course we know we can improve our system.
12 For example, we plan to implement the PREA
13 screening checklist currently being used by
14 Louisiana Department of Corrections to help us
15 better identify both perpetrators and potential
16 victims to improve our classification system. We
17 also plan to institute the sexual assault, sexual
18 misconduct with offenders acknowledgement form
19 with all our commissioned and non-commissioned
20 staff.

21 We also plan to designate a staff member to
22 assist our designated PREA coordinator who will

1 have the responsibility for monitoring compliance
2 and training with all PREA guidelines and
3 standards. As stated at the outset, although we
4 are still recovering from Hurricane Katrina's
5 devastation, we have begun construction on a new
6 facility that meets the highest design standards
7 and will employ direct supervision. We pledge to
8 you our continued cooperation with your process
9 and our willingness to implement any
10 recommendations to the best of our ability to
11 further the goals of PREA.

12 Sincerely, Marlin N. Gusman, Sheriff, Orleans
13 Parish.

14 DR. WILKINSON: In a second, I want to ask
15 your colleagues if they have any kind of brief opening
16 comments. But I do want to mention that we encouraged
17 Sheriff Gusman to be here, and it's my understanding
18 that he's in Singapore providing a workshop and some
19 information on issues related to operations of the
20 facility in New Orleans. It's -- you know, we really
21 do want, you know, the highest ranking person to
22 participate. So hopefully you can speak for the

1 Sheriff as we're asking you some of the questions, and
2 we have plenty of them.

3 Either one of your colleagues here want to
4 provide any kind of opening thoughts from what you're
5 individually responsible for, or if you have a
6 predetermined order, that's okay.

7 TESTIMONY OF DR. SAMUEL GORE

8 DR. GORE: Again, my name is Dr. Samuel Gore,
9 I'm the medical director at the jail. I'm a board-
10 certified internist, I graduated from University of
11 Louisville, Kentucky, in '93. I did my residency
12 training at Keesler Air Force Base in Buloxi,
13 Mississippi, and board certified internal medicine
14 specialist. I have six years active-duty Air Force
15 service, and I resigned my commission as a major in
16 1999. Not long after -- I moved to New Orleans, and
17 not long after that, I started working at the Sheriff's
18 Office.

19 I'm also a CCHP certified provider, and as
20 mentioned we have our services -- our medical
21 department is NCCHC certified very recently.

22 Coming today, we had a different mindset of

1 what we were going to talk about. And so specifically,
2 a couple things that I wanted to focus, as the medical
3 director, first is that not only in -- on the security
4 side, but on the medical side, we have zero-tolerance
5 for sexual assault. As soon as something is
6 identified, first thing I do is call Major Laughlin and
7 make sure it gets handled appropriately, and then make
8 sure that the patient gets immediately transferred to
9 the medical center for SANE evaluation.

10 As -- I don't think I need to go into too much
11 more detail about what the medical department's
12 specific action plan is for victims of sexual assault,
13 but I'm happy to answer questions along those regards.

14 The other thing I wanted to emphasize is we
15 have a very close relationship between the nursing
16 staff and the female inmates on South White Street. As
17 I think was witnessed with the site visit a few weeks
18 ago, there's almost a motherly feeling for some of the
19 staff towards a lot of the inmates. The inmates tell
20 the nurses everything, and I have affidavits to support
21 this.

22 But in talking with the nurses, talking with

1 the providers, talking with the medical assistants,
2 talking with the social workers, talking with the
3 psychiatrists, talking with the substance abuse
4 counselor, talking with everybody in the medical
5 department, nobody ever said -- nobody could remember
6 or could report a single incidence of any kind of
7 sexual victimization on the female dorm during the
8 period in question. So that lends some skepticism to
9 the report itself. And we -- we just didn't know where
10 this was coming from.

11 Looking at the report further, I did notice
12 some inconsistencies that I don't think we really need
13 to go into detail, that were discussed. The fact that
14 it -- we were the only female jail looked at. There
15 are female prisons, but only two female jails, one with
16 seventeen inmates. Yet we were compared with all the
17 other male predominant jails in the country.

18 And had we -- had the female population been
19 put with the overall jail population, our numbers would
20 have been well within the range of the national
21 average. A little bit higher, but certainly not seven
22 times higher like the report seems to highlight.

1 But the last thing I want to emphasize is
2 that, despite that, despite some skepticism, despite
3 the fact we've had well established protocols, we're
4 here to cooperate and we're here to learn and we're
5 here to improve. That's what I do all day every day.
6 And so we want to cooperate, we want to learn, we want
7 to improve, we want to do a better job.

8 DR. WILKINSON: Thank you.

9 TESTIMONY OF COLONEL ANELLA JOSEPH

10 COLONEL JOSEPH: Again, I just want to
11 reiterate, I've been with the department for thirty-six
12 years. Of the thirty-six years, thirty-one of them
13 have been working directly with the females. So I know
14 all of them, I know the females; I know their mothers,
15 I know sisters, brothers; I know them. And I've never
16 received an allegation of any sexual misconduct as far
17 as them being raped or anything to that nature.

18 I usually find out a lot was going on other
19 places, because the women just have that trust in me.
20 I'm a person that if they come in without anything,
21 it's like sometimes they may come in without
22 underclothes, or they may not have deodorant or

1 something, until they can be furnished this stuff, I
2 have gotten with the Sheriff. We've got a little -- we
3 call it a care package, and we accommodate them with a
4 care package.

5 So normally, if something goes on in the jail,
6 I usually find out about it. And then I have a bunch
7 of other senior deputies that has been there for -- one
8 of them has been there for thirty-some-odd years, and
9 they know her quite well. So we can usually get our
10 information just from knowing them, or we get phone
11 calls. We can get phone calls. Sometimes you might
12 get a phone call, and the phone call -- let me speak to
13 Colonel Wilson, they might call me Wilson, and
14 I -- this is she. My daughter's back there, watch for
15 me, I'm coming to get her. Okay, no problem.

16 And then sometimes you just might look at you
17 see somebody might come in, you know they're not
18 supposed to be in that area, so you take and you put
19 them on a little special spot that we have during the
20 Mardi Gras season for first arrest, DWIs, and traffic.

21 So I don't know where the allegation come from, but
22 I -- you know, I just can't see it.

1 DR. WILKINSON: Can you describe the training
2 that staff get to respond to incidents of sexual
3 misconduct, how you respond to -- I mean, what -- I
4 think you mentioned detectives. Are these police
5 department detectives or Orleans Parish detectives, or
6 you know, jail detectives? Who are they? Is it
7 in-service, pre-service training? How do you -- what
8 do you do? Just kind of describe the process of what
9 training your staff get?

10 COLONEL URSIN: On the commissioned side, when
11 you're hired and you come onboard, and you go through a
12 ninety-hour orientation program that has a block on
13 PREA and sexual assault to our staff. Sometime after
14 you come onboard, you go back to the academy for the
15 POST academy. Again, there's a longer, more detailed
16 block that it goes to.

17 When you talk about the detectives, they are
18 Orleans Parish Sheriff's deputies that are responding.

19 I'll let Major Laughlin talk more about that. We do
20 do in-service training. The in-service training is
21 developed by our director of education. We do review
22 the PREA concerns in the in-service training as well as

1 different changes in the law and other procedures that
2 we may change in our departmental regulations and that
3 type of thing.

4 DR. WILKINSON: Has anyone ever been
5 prosecuted for sexual misconduct in --

6 COLONEL URSIN: In our facility?

7 DR. WILKINSON: Yeah.

8 COLONEL URSIN: Not only prosecuted but
9 convicted.

10 DR. WILKINSON: Staff?

11 COLONEL URSIN: I'm going to defer -- I know
12 we've prosecuted many staff members. I don't know -- I
13 can't tell you the convictions. The last one that
14 one -- someone before us talked to the Panel about, all
15 that information was developed by our Special
16 Operations Division. They moved quickly on it. The
17 deputy was missing for a couple days; we waited to
18 apprehend him; he was booked accordingly. And the case
19 will be presented to the district attorney for
20 prosecution.

21 DR. WILKINSON: That wasn't at the female
22 facility, I don't believe, but you just arrested a

1 correction officer for rape and kidnapping. That
2 person is -- was arrested. I mean, do you anticipate
3 that person will be convicted of anything?

4 MAJOR LAUGHLIN: Yes, sir, definitely.

5 DR. WILKINSON: So this one will be the only
6 one that you all will be familiar with?

7 MR. LAUGHLIN: In my eighteen years, yes, sir.

8 DR. WILKINSON: So the timing is pretty
9 interesting then, right?

10 COLONEL URSIN: Yeah, yeah, definitely. But a
11 little brief insight on that case, once the victim came
12 forward, we investigated it. The victim supplied us
13 with some evidence that's currently going through DNA
14 testing. Gave us a good statement. We interviewed the
15 employee and basically he admitted to it. So at that
16 point, we charged him.

17 DR. WILKINSON: You all sat through the
18 previous testimony. It's pretty challenging testimony.

19 Tell me what you think about the testimony? Do you
20 disagree with them, did these incidences not happen, or
21 what -- just kind of in general, tell me what your
22 thought process is about, you know, the previous

1 testimony.

2 COLONEL URSIN: Well, to say it was
3 interesting is an understatement, from our perspective.

4 And I'm not here to talk -- I'm going to let the
5 medical director speak about some of that testimony,
6 and also Major Laughlin to talk about some of them.
7 And not to steal their thunder, I think on one case, we
8 dropped the ball on, and we'll talk about that in more
9 detail. I think there's some reasons why we dropped
10 the ball, but that's not an excuse.

11 The others' testimony, I think you'll hear
12 different -- different story then. As in most things,
13 I think there's two sides to every story. I think
14 you'll be interested in hearing our side on that one.
15 I think Dr. Gore will expound at length about some of
16 the testimony that was said earlier today. And we
17 can -- we can start whenever the Commission is ready.

18 I'll turn it over to Major Laughlin if -- with
19 your permission, and let him talk about the two cases
20 that were talked about.

21 DR. WILKINSON: Sure.

22 MAJOR LAUGHLIN: The case in which they

1 discussed an inmate named Robert, white male, we did
2 have a case -- actually it was three cases involving
3 Robert, and it was in early 2011.

4 DR. CHRISTENSEN: Is that the same Robert Mr.
5 Ware referenced?

6 MAJOR LAUGHLIN: It's -- it must be, because
7 it's the only Robert that I got. And once he made the
8 claim that he went to the hospital for a sexual assault
9 exam, automatically an item number is generated. And
10 all sexual assault examinations automatically go to the
11 police department for testing. So at that point --

12 DR. CHRISTENSEN: That rape kit did not come
13 back with the correction officer, is that what you're
14 saying?

15 MAJOR LAUGHLIN: No, we would -- our
16 detectives would have went to the hospital, picked up
17 the rape kit and then forwarded it to the police
18 department, received the receipt. And at that point,
19 if prosecution is going forward, all that goes to them.

20 In this particular case with Robert, there was
21 three claims of rape. After a lengthy investigation in
22 all three cases, he finally admitted that he lied. We

1 charged him with falsifying a police report and he pled
2 guilty to all three cases.

3 The other case, with regards to the juveniles
4 at Phase Five, I am unaware of any juvenile case most
5 recently in which they are claiming a rape. And when
6 she had mentioned about his lawyer being involved, I
7 was kind of taken back by that, because I would think
8 he would have a right to come forward to us with this.

9 Recently we received calls from lawyers in
10 open court, two I can remember -- I can most recently
11 remember, in which their clients alleged sexual
12 assault. So I don't really have anything with regards
13 to that. The one Colonel Ursin was referring to in
14 which we dropped the ball on was the grievance -- there
15 was a grievance that was submitted on February the 3rd
16 of 2009 in which an inmate alleges that he was sexually
17 assaulted. On February the 16th of that same year, the
18 facility was shut down -- this was at the House of
19 Detention. It was shut down for a bed bug incident and
20 all the inmates were -- from the House of Detention
21 were transferred to the newly opened Orleans Parish
22 Prison. And the warden of HOD moved with his inmates

1 to OPP.

2 And the grievance sat in his House of
3 Detention mailbox and it went unanswered. I did some
4 research in this case, because actually it came to
5 light from a second request by the DOJ looking for
6 specific cases. And in some investigation that we did,
7 I discovered that on the twelfth, this particular
8 inmate was moved off that tier to another tier.

9 And he was moved by two of the rank at the
10 House of Detention. And that particular rank, who had
11 been with the department for a number of years -- I
12 actually interviewed one of them that is still employed
13 with us -- and at no time did he ever mention anything
14 about a rape. He was moved to actually a tier that he
15 had requested in his grievance.

16 Shortly after going to OPP, he had
17 submitted -- in total time, he had submitted ten
18 grievances during his incarceration. It was the only
19 grievance that he ever wrote regarding a sexual
20 assault, however there was two other grievances he
21 wrote about a problem he was having at OPP on the
22 A-Three tier.

1 And in those grievances, he requested to be
2 moved from the left side to the right side. And
3 basically the construction -- to understand the
4 construction of that particular tier is -- it's a open
5 dormitory, it's split in the middle by a hallway that
6 allows the deputy access to walk up and down. And on
7 each side it's basically like a metal fence wiring to
8 where you can look in.

9 He requested to be moved just to the other
10 side, not to be moved off the tier. He felt his life
11 was in danger, he just wanted to go to the other side.

12 Ultimately he was moved off that tier into another
13 tier. That's the incident -- I don't know if that's
14 the one the lady was referring to earlier, but that's
15 the one incident that we were able to discover where a
16 grievance did go unanswered.

17 DR. CHRISTENSEN: Could you pass out both
18 Exhibit A and Exhibit B to the members of the Panel?
19 One of which refers to the incident about which the
20 Major is speaking, Exhibit B specifically.

21 And when you get to Exhibit B, if you'd open
22 to the first page, third paragraph? And this -- for

1 the record, this exhibit is a interoffice memorandum
2 from the Major -- I'm sorry, Laughlin?

3 MAJOR LAUGHLIN: Correct.

4 DR. CHRISTENSEN: -- Laughlin to Sheriff
5 Gusman regarding the inmate in question, whose name
6 we'll let be private.

7 MAJOR LAUGHLIN: Correct.

8 DR. CHRISTENSEN: In the first sentence of the
9 third paragraph, it talks about a grievance history,
10 and a grievance dated February 3rd, 2009, which was
11 Inmate Blank's first grievance of being forced to have
12 sex three times.

13 So in a situation like that, when you did
14 find -- and you verified that there was a grievance to
15 that effect, what would be the facility policy to deal
16 with that grievance? Would a grievance like that be
17 handled differently than others, or would there be a
18 certain sense of urgency, given the issues?

19 MAJOR LAUGHLIN: Correct. The moment the
20 warden would have saw that grievance (sic), he would
21 have contacted me. At that point, immediately a team
22 would have been dispatched to investigate the matter.

1 Again, unfortunately, this grievance did not
2 get answered. It sat in the box, and therefore no one
3 knew anything about it.

4 DR. CHRISTENSEN: How long did grievances sit
5 in the box? Is this a box -- is it a locked box or --

6 MAJOR LAUGHLIN: No. When I say a box, it's
7 all through email or through the department system.
8 It's computer generated.

9 So when you access the computer, you go to
10 your grievance box, mailbox if you call, and it lists
11 any grievances that's associated with your facility or
12 to you personally, it would be inside that.

13 DR. CHRISTENSEN: So how does the grievance
14 that the inmate wrote get to the box?

15 MAJOR LAUGHLIN: It is entered by staff.
16 Staff goes around, picks up grievances daily, and then
17 it's entered into the system and then forwarded to the
18 boxes.

19 DR. CHRISTENSEN: So in this case, it was
20 dated February 3rd, how long did it take the grievance
21 to get from the inmate to the person who was in charge
22 of the facility?

1 MAJOR LAUGHLIN: It would have gone
2 immediately. The moment it is entered into the system,
3 it goes immediately into their box.

4 DR. CHRISTENSEN: Okay. So you're -- are you
5 testifying then that this grievance of February 3rd,
6 2009 went immediately to the box of --

7 MAJOR LAUGHLIN: It was entered in on February
8 the 3rd, 2009.

9 DR. CHRISTENSEN: And whose box did that go
10 to?

11 MAJOR LAUGHLIN: The warden of the House of
12 Detention facility.

13 DR. CHRISTENSEN: So he or she --

14 MAJOR LAUGHLIN: He.

15 DR. CHRISTENSEN: -- would have had this
16 grievance on February 3rd?

17 MAJOR LAUGHLIN: Correct.

18 DR. CHRISTENSEN: And then the facility, you
19 said that there was some kind of shut-down or move of
20 the facility. When did that occur?

21 MAJOR LAUGHLIN: February 16th.

22 DR. CHRISTENSEN: So the warden in question

1 would have had the grievance for how many days?

2 MAJOR LAUGHLIN: Thirteen days.

3 DR. CHRISTENSEN: In his box?

4 MAJOR LAUGHLIN: Correct.

5 DR. CHRISTENSEN: Explain that to me. I
6 really can't -- a grievance of that nature, and I've
7 run correctional facilities, and I know that a
8 grievance of that nature rises to the top very, very
9 quickly.

10 MAJOR LAUGHLIN: Absolutely.

11 DR. CHRISTENSEN: And certainly it wouldn't
12 have sat in my box for thirteen days, I can guarantee
13 that.

14 MAJOR LAUGHLIN: Right.

15 DR. CHRISTENSEN: So I mean, you have to
16 understand, from our perspective, here we have a
17 situation where a person put in a grievance that,
18 quote, he was forced to have sex three times, which by
19 the way also note that he talks about ten other
20 grievances or ten total grievances?

21 MAJOR LAUGHLIN: Yeah. He wrote ten total
22 grievances during his incarceration.

1 DR. CHRISTENSEN: And did you find ten
2 grievances?

3 MAJOR LAUGHLIN: Yes.

4 DR. CHRISTENSEN: And many of those grievances
5 were unanswered?

6 MAJOR LAUGHLIN: No --

7 DR. CHRISTENSEN: Six?

8 MAJOR LAUGHLIN: Yeah, I believe six.

9 DR. CHRISTENSEN: So six of the ten were
10 unanswered, including -- do you know if this was the
11 first grievance that he wrote?

12 MAJOR LAUGHLIN: That was his very first
13 grievance --

14 DR. CHRISTENSEN: Including his first
15 grievance where he was alleged to have been forced to
16 have sex three times, which --

17 MAJOR LAUGHLIN: That was his very first
18 grievance.

19 DR. CHRISTENSEN: Was there another grievance
20 within that first thirteen-day period, which this one
21 was unanswered?

22 MAJOR LAUGHLIN: Yes. Correct, February the

1 10th.

2 DR. CHRISTENSEN: February the?

3 MAJOR LAUGHLIN: Tenth.

4 DR. CHRISTENSEN: Tenth? And that grievance
5 was about what? And you have the file in front of you,
6 please feel free to refresh your recollection.

7 MAJOR LAUGHLIN: Thank you.

8 In that grievance, it was a complaint against
9 a deputy for taking the clippers, it looks like, off
10 the tier. You want me to read the whole grievance the
11 way he wrote it into the record?

12 DR. CHRISTENSEN: Sure.

13 MAJOR LAUGHLIN: Okay. His complaint is, "On
14 Sunday, Officer S. brought the clippers to us" --

15 DR. CHRISTENSEN: And try and please exclude
16 names --

17 MAJOR LAUGHLIN: Oh, I'm sorry.

18 DR. CHRISTENSEN: -- for the record.

19 MAJOR LAUGHLIN: Yes, sir.

20 "On Sunday, Officer brought the clippers to
21 us. I got in line to use them. He came back soon
22 after, when I sat down to get my hair cut. I asked him

1 to let them finish cutting my hair and he called me a
2 faggot and cracker and told me he would beat my ass.
3 He works up here every day and I fear for my life."

4 And then in the next response it asks, "What
5 action would you like taken?" And his response for
6 that is, "For him to be disciplined for his actions and
7 moved off this tier because I fear for my life."

8 DR. CHRISTENSEN: So that's the second
9 grievance after the first grievance on the 3rd?

10 MAJOR LAUGHLIN: Yes, sir.

11 DR. CHRISTENSEN: Which I'll also note,
12 included in the first grievance and omitted from your
13 memorandum, that it -- to the Sheriff is, I think
14 included in the record, is he says, "My life's in
15 danger and I'm scared?"

16 MAJOR LAUGHLIN: Yes.

17 DR. CHRISTENSEN: Which further heightens?

18 MAJOR LAUGHLIN: Oh, absolutely.

19 DR. CHRISTENSEN: So explain from your
20 investigation then what happened after the second
21 grievance?

22 MAJOR LAUGHLIN: Well, there's a third

1 grievance.

2 DR. CHRISTENSEN: So there was nothing that
3 happened after the second, except that he filed a
4 third?

5 MAJOR LAUGHLIN: Well, on February the 12th,
6 after his second grievance, is when he was transferred
7 from the floor that he was on to another floor within
8 the House of Detention. He was transferred by two of
9 the rank, and the -- I interviewed one of the rank that
10 still works here, and showed him a photograph. And the
11 rank does not -- did not remember him, and was
12 absolutely positive that he did not make a claim of
13 sexual assault.

14 When I asked him how could he be so sure, his
15 response basically was, because if he would have, I
16 would have made the proper notifications.

17 He also couldn't tell me why he was moved off
18 that tier he was on to the other tier. And the only
19 thing that's in the tier logbook is that he was
20 transferred from that floor to the other floor.

21 DR. CHRISTENSEN: So then that generated a
22 third grievance?

1 MAJOR LAUGHLIN: Well, then the facility goes
2 out, and then he writes a grievance on March the 3rd.

3 DR. CHRISTENSEN: Okay. I'm looking at it.

4 MAJOR LAUGHLIN: Okay.

5 DR. CHRISTENSEN: Go ahead.

6 MAJOR LAUGHLIN: Let me pull that one out.

7 DR. CHRISTENSEN: And is that one about the
8 clippers again?

9 MAJOR LAUGHLIN: Let's see, okay. Yes, sir.
10 He says, "I've been over here for three weeks
11 and have yet to be able to use the clippers to shave
12 with."

13 DR. CHRISTENSEN: Okay. And then the next
14 grievance?

15 MAJOR LAUGHLIN: If I can make a note on that?

16 DR. CHRISTENSEN: Sure.

17 MAJOR LAUGHLIN: At this point he's -- by this
18 time, he's already at OPP. However, the grievance,
19 evidently when he wrote it, he must have made a request
20 to HOD, because it went into the HOD liaison box. So
21 he must have, in that particular grievance, requested
22 it to HOD and not OPP.

1 DR. CHRISTENSEN: Got you.

2 MAJOR LAUGHLIN: Okay. The next grievance is
3 the very next day, which is March the 4th.

4 DR. CHRISTENSEN: And could you tell us what
5 the nature of that is, or what he wrote?

6 MAJOR LAUGHLIN: Sure. Okay. In that
7 grievance he wrote, "I got jumped by four other inmates
8 and I'm scared to be on this side." And his request of
9 action would be, "To be moved next door to the left
10 side of A-Four."

11 DR. CHRISTENSEN: And also "don't feel safe,"
12 correct?

13 MAJOR LAUGHLIN: No, he doesn't say that. In
14 a top part he states that. "Today I got jumped by four
15 inmates and I'm scared to be on this side." And then
16 the very next one, "What action do you want taken?"
17 "To be moved next door to the left side of A-Four."

18 DR. CHRISTENSEN: But then after that,
19 there's --

20 MAJOR LAUGHLIN: Yes, then he states -- they
21 offer whether it's an emergency grievance or not? He
22 states, "yes." And then he puts "don't feel safe."

1 DR. CHRISTENSEN: So did this one also go in
2 the box?

3 MAJOR LAUGHLIN: No, this one actually was
4 answered. It was answered by the warden of HOD.

5 DR. CHRISTENSEN: Okay. And what was done
6 about that?

7 MAJOR LAUGHLIN: His response was that you're
8 now being moved to D-Two. Now on D-Two.

9 DR. CHRISTENSEN: But was there any
10 investigation done about the inmates who allegedly
11 jumped him?

12 MAJOR LAUGHLIN: No, sir.

13 DR. CHRISTENSEN: I mean, certainly you can
14 see -- I'm sure, operationally, you can see a problem
15 with that?

16 MAJOR LAUGHLIN: Absolutely. I mean, there's
17 nothing in his answer. I don't know if he actually
18 brought the inmate down and interviewed him. I
19 couldn't tell you that. I know we never received a
20 call, our office.

21 DR. CHRISTENSEN: And rather than kind of drag
22 you through this thing step-by-step, as look at -- as I

1 look in the interest of the time, because we have
2 plenty of other questions. I look at another grievance
3 on the 10th of March where it states, "I'm having
4 problems with the guys here, I don't feel safe. The
5 guys are having a problem with me being a homosexual.
6 I'm scared to live over here."

7 MAJOR LAUGHLIN: Right. Same tier, A-Four.

8 DR. CHRISTENSEN: And did something happen as
9 a result of that?

10 MAJOR LAUGHLIN: Yeah, by that time, he had
11 already been moved to D-Two.

12 DR. CHRISTENSEN: No investigation about the
13 sexual harassment from the other inmates, though?
14 Alleged sexual harassment?

15 MAJOR LAUGHLIN: None that I'm aware of.

16 DR. CHRISTENSEN: Okay. And there's another
17 about commissary sheets -- I'm just looking at the ones
18 that are --

19 MAJOR LAUGHLIN: Yeah, he talks about
20 commissary, and then further down he was discussing his
21 extradition.

22 DR. CHRISTENSEN: An extradition.

1 MAJOR LAUGHLIN: Right.

2 DR. CHRISTENSEN: So -- and again, forgive us,
3 but we're really trying to learn from all this, and
4 we're trying to enhance standards so that we all have a
5 correctional system, especially a jail system within
6 this country, about which we're proud.
7 Certainly -- and you have already said that you don't
8 agree -- and I say you collectively -- don't agree with
9 the way this was handled. What has been done to
10 rectify situations to ensure that things like this
11 don't happen again?

12 COLONEL URSIN: Just to speak about it being
13 lost in the system, for lack of a better words, when
14 the inmates were moved, and electronically
15 computerized, that has been corrected. So if an inmate
16 is moved from any building, for whatever reason,
17 whatever grievance is in the system follows the inmate
18 now, as opposed to defaulting to the warden's
19 building -- box of that building.

20 Secondly, all the wardens have been trained
21 and spoke to by the Sheriff about this, that if you get
22 this kind of -- forget the sexual assault, the first

1 one -- but where he says he was beaten up, he's fearing
2 for his life, we have to do a better job of
3 documenting. That warden is not with us anymore, he is
4 retired, so we don't know if he brought him in and took
5 action and didn't document it.

6 DR. CHRISTENSEN: If "he" meaning the warden
7 brought him in, took action and didn't document it; the
8 action relative to the inmate's grievance, is that what
9 you're saying?

10 COLONEL URSIN: Yes. And we don't know that.

11 DR. CHRISTENSEN: I mean, wouldn't it be safe
12 to assume that the items that are grievable here are
13 criminal offenses?

14 COLONEL URSIN: I agree.

15 DR. CHRISTENSEN: So that -- I mean, the
16 documentation --

17 COLONEL URSIN: We have no paper trail that he
18 documented it.

19 DR. CHRISTENSEN: So the documentation would
20 be a non-issue, if it was handled properly, because
21 there would be criminal charges?

22 COLONEL URSIN: He might have taken actions.

1 I'm not saying it was the correct actions, but he might
2 have taken some action. We can't say that at all.
3 We -- as I said in the open statement, we dropped the
4 ball on this.

5 DR. CHRISTENSEN: Okay. We won't keep on with
6 this. I think we've made our point with this for
7 everyone.

8 Just going back to Exhibit A. Exhibit A is a
9 record, if I'm not mistaken, of all the grievances
10 relating to any type of sexual harassment, sexual
11 misconduct, et cetera, for a two-year period, 2008,
12 2009, for the jail in question, is that correct?

13 DR. GORE: For the South White Street, I
14 believe.

15 DR. CHRISTENSEN: So take --

16 COLONEL URSIN: I believe this is for the
17 South --

18 DR. CHRISTENSEN: Correct. For the jail in
19 question, correct. That's correct? So what you have
20 here is a full reporting for that for a two-year
21 period?

22 COLONEL URSIN: I was not there in the

1 preparation or the delivery of this document, but I'll
2 turn it over to Dr. Gore.

3 DR. GORE: I'm the one that
4 asked -- specifically asked for the computer guys to
5 pull this. And it was for the period in time where the
6 survey was being taken. So it was from October '08
7 through the end of December '09.

8 DR. CHRISTENSEN: Okay. So a little less
9 than -- a little more than a year?

10 DR. GORE: Correct.

11 DR. CHRISTENSEN: Fourteen, fifteen months?

12 DR. GORE: Correct.

13 DR. CHRISTENSEN: So these are all the
14 grievances for that period related to any type of
15 sexual misconduct, with any type of sexual allegation,
16 harassment, et cetera?

17 DR. GORE: Correct.

18 DR. CHRISTENSEN: Okay.

19 DR. GORE: I went through -- I went through
20 all the grievances myself and read through them all,
21 and these are the only two.

22 DR. CHRISTENSEN: How many grievances did you

1 go through? Estimate.

2 DR. GORE: A hundred, two hundred?

3 DR. CHRISTENSEN: So there were 100 grievances
4 for how many inmates?

5 DR. GORE: Two hundred and -- about 200 women?

6 COLONEL JOSEPH: About two hundred.

7 Approximately 200.

8 DR. CHRISTENSEN: How many inmates?

9 DR. GORE: About 200 women.

10 DR. CHRISTENSEN: So 200 inmates and 100
11 grievances over a fifteen-month period?

12 DR. GORE: Well, don't hold me to the 100
13 number, but about. I mean, it was four pages of
14 grievances, five pages of grievances.

15 DR. CHRISTENSEN: Hmm, seems like a pretty low
16 number. That's all grievances, about anything?

17 DR. GORE: Correct.

18 DR. CHRISTENSEN: Including the temperature of
19 food or they didn't like the way food tasted or the
20 standard grievances that we all see all the time?

21 DR. GORE: Correct.

22 DR. CHRISTENSEN: So in your opening

1 statement, you also talked about -- all of you talked
2 about the frailty and the methodology of the study, and
3 also alluded to the fact that perhaps -- and Sheriff
4 Gusman's letter alluded to the fact that perhaps the
5 high incidence in the female facility was due to pat
6 searches and frisk searches, is that correct?

7 COLONEL URSIN: I believe the Sheriff feels
8 that way.

9 DR. CHRISTENSEN: Do you think, in your
10 experience, you've all got a lot of experience in a
11 jail facility, do you think there would be grievances
12 related to improper pat searches and frisk searches
13 then?

14 COLONEL JOSEPH: Well, they know that it's
15 something that we have to do, but they don't
16 particularly like it.

17 DR. CHRISTENSEN: That's not what I asked. Do
18 you think, in your experience, would there be
19 grievances related to that behavior?

20 COLONEL JOSEPH: Only if they feel they
21 was -- were violated to some extent.

22 DR. CHRISTENSEN: So were there grievances

1 related to that behavior?

2 COLONEL JOSEPH: We didn't have any pulled up,
3 no, sir.

4 DR. WILKINSON: Doc is frowning.

5 DR. GORE: I'm -- well, I'm the one that read
6 them all, so no. No, because I not only -- you know,
7 some of these were just comments. If there were
8 something about groping or touching or I didn't like
9 that sort of the way he fondled me, or she fondled me,
10 or whatever, I would have pulled that. So there was
11 none, no.

12 DR. CHRISTENSEN: So there weren't.

13 DR. GORE: No.

14 DR. CHRISTENSEN: And again, in my experience
15 of running a correctional facility myself and helping
16 in many, many, many others, inmates are not shy at all
17 about putting in grievances when they don't like the
18 way they've been pat frisked. That's -- and we've seen
19 that with the prison systems, we've seen it all over,
20 that there's a very high prevalence of grievances when
21 it -- as it relates to that particular behavior,
22 especially when they're cross-gender pat frisks. Do

1 you do cross-gender pat frisks?

2 COLONEL URSIN: No.

3 MAJOR LAUGHLIN: No, sir.

4 COLONEL JOSEPH: No.

5 DR. CHRISTENSEN: No? Okay. So I mean,
6 that's curious when, on one hand you're saying that you
7 think that a high incidence of sexual misconduct within
8 your facility is related to that particular behavior,
9 yet you don't have any grievance or anything about it.

10 COLONEL JOSEPH: I don't think that's what
11 we're saying.

12 DR. CHRISTENSEN: Or any -- has anybody
13 complained to you verbally, in your experience?
14 Anybody complained to you verbally, Colonel?

15 COLONEL JOSEPH: No, sir.

16 DR. CHRISTENSEN: Never?

17 COLONEL JOSEPH: Oh, yeah, I mean, in -- when
18 it first started out, it was the thing when they first
19 came in, we had to bring them in and search them. They
20 complained then because they didn't want to be strip
21 searched. So I mean, it's -- now we have -- what we do
22 now is -- well, what we had was -- it's like a booth, a

1 dressing booth that we had. And they'll step inside
2 the dressing booth with a cover from the top of the
3 breasts to the knees. So you -- it's not a thing where
4 you can actually see them, per se, like it was before.

5 DR. CHRISTENSEN: So you're saying that there
6 are still blanket strip search policies?

7 COLONEL JOSEPH: No, what I'm saying is that
8 now we -- it's not really a blanket, sir.
9 What -- before we used to have a blanket strip search
10 policy. We strip searched everybody that came in. We
11 stopped that. That was before 2005, I can't remember
12 exactly when, and we put up a dressing booth that we
13 used for females. And what we do in the dressing -- we
14 let everybody that comes in, regardless of what the
15 charge is, go inside the dressing booth. And she's
16 covered, from the top of her breasts to her knees.

17 So once we start doing that, the complaints
18 went down.

19 DR. CHRISTENSEN: And while they're in there,
20 are they observed by an officer?

21 COLONEL JOSEPH: Well, yeah, she's still
22 standing right there. And what we initially do is have

1 them to take off their clothes, but it's behind the
2 curtain. And then after they take off their clothes
3 behind the curtain, then we'll issue them a uniform so
4 that they can put on.

5 DR. CHRISTENSEN: But they're being watched
6 when they take off their clothes?

7 COLONEL JOSEPH: They're behind the curtain.

8 DR. CHRISTENSEN: But they're being observed?

9 COLONEL JOSEPH: They're being watched, but
10 they're behind the curtain. In other words, I can't
11 see her personal areas.

12 DR. CHRISTENSEN: And are other commands given
13 to her, like you know, the classic "bend over and
14 cough" type commands?

15 COLONEL JOSEPH: No, sir.

16 DR. CHRISTENSEN: Or anything like that?

17 COLONEL JOSEPH: No, sir, we aren't allowed to
18 do that.

19 DR. CHRISTENSEN: Okay. All right.

20 COLONEL URSIN: I think -- and Sheriff
21 Gusman's not here, obviously, but I think that quote
22 that he puts in the letter is really the -- I think he

1 was showing that the doctor, that was one of his
2 disclaimers on his report that we were -- that he was
3 highlighting.

4 DR. CHRISTENSEN: All right. And that aside,
5 Dr. Gore also mentioned the fact that it was a -- that
6 you're one of the few two female facilities and
7 shouldn't be compared with male facilities. We can
8 certainly understand that, however, would you say that
9 when twelve of 138 people say that they were sexually
10 victimized within your facility, would you say that
11 that's too high, regardless of how they compare with
12 other male facilities?

13 DR. GORE: Well, if they -- if one said they
14 were, I'd say it's too high.

15 DR. CHRISTENSEN: Okay. Because that's what
16 we -- that's why we asked Dr. Beck specific questions
17 this morning regarding issues with particular
18 facilities and verified that twelve of the 138 people
19 questioned reported sexual misconduct, ten of whom were
20 inmate-on-inmate.

21 DR. GORE: I don't -- we don't want to get
22 into a back and forth about, oh, this is a good study,

1 this is a bad study. When I got a hold of the study
2 and I started looking through it, these are the things
3 that jumped right out at me.

4 DR. CHRISTENSEN: Okay.

5 DR. GORE: We -- you know, that's not our
6 focus. It really isn't.

7 DR. CHRISTENSEN: The only reason that I raise
8 it is because you raised those points in your
9 initial -- which are totally --

10 DR. GORE: Well, I think part of the reason we
11 raised it is we were singled out to come here because
12 our numbers were so high.

13 DR. CHRISTENSEN: Uh-huh.

14 DR. GORE: But had we been compared with
15 other -- with other female jails, which it couldn't be
16 done, we wouldn't have been necessarily high. Had our
17 numbers been lumped with the rest of the whole
18 Sheriff's Office as a whole, OPP as a whole, and looked
19 at our numbers that way, like all the other jails were
20 with female inmates, our numbers would have been, you
21 know, near national average. Had our numbers been
22 compared with female prisons, our numbers still would

1 have been close to national average. It would have
2 been like any of the other outliers, like the female
3 prisons.

4 So while there's some inconsistencies, I think
5 our main point is that we -- the South White Street
6 Jail is -- ironically, it's our one facility that's got
7 direct supervision. It's wide open. They have
8 complete access to nurses, they've got complete access
9 to the staff. And we haven't had any reports. Had we
10 had reports, we would have jumped on it right away, but
11 we just didn't have any. I mean, we talked to
12 everybody.

13 DR. CHRISTENSEN: Okay. Colonel, the
14 Sheriff's Office, where is it in proximity to the jail?
15 Is it at the jail or is it somewhere else, or county
16 office?

17 COLONEL URSIN: The office is -- our campus is
18 over, I guess, a full-block area, and it's not all
19 behind one wall. And the offices are in each jail,
20 each warden is in the facility, and his staff. The
21 Sheriff's Office is right next door.

22 DR. CHRISTENSEN: Yeah, I'm just a little

1 disturbed at something the Sheriff mentioned in
2 his -- in the testimony that you guys gave him -- that
3 you just gave. You said he said, I don't think there
4 is a high incidence of sexual victimization in the
5 South White building. And that "think" part is a
6 little disturbing to me. It means he doesn't know.

7 COLONEL URSIN: Well, I think before the
8 study, you wouldn't have got "I think." Since the
9 study came out and the doctor's findings, obviously
10 it's "I think." And you know, I think the Sheriff was
11 taken aback by that.

12 DR. CHRISTENSEN: But when you hear the, you
13 know, testimony and the response about the inmate in
14 Exhibit B, and how long it takes to get in and out of
15 the box, I presume there are boxes for the women as
16 well. And you know, it just seems to be kind of a
17 pattern of missing information or really not kind of
18 knowing what's going on behind the walls.

19 COLONEL JOSEPH: Well, his office is that for
20 right now, because before Katrina, we had the CCC
21 building where the Sheriff's Office was located. And
22 since Katrina, we have -- now it's like right on the

1 side of the building; it's not directly in one of the
2 facilities.

3 DR. CHRISTENSEN: Well, yeah, but my point is,
4 you know, kind of there are gaps in --

5 COLONEL URSIN: Well, I think there's no
6 question -- and I said that, I think, pretty clearly,
7 we dropped the ball on that case as an organization.

8 DR. CHRISTENSEN: Well but, I mean, it just
9 leads me to think that, are there other cases that you
10 know, that you can tell us that you dropped the ball
11 on?

12 COLONEL URSIN: I think in our findings, no.
13 And certainly if the Justice Department would have
14 found something, I think they would have asked
15 specifically for those cases as they did on this case.

16 So no, I don't think there's a pattern there.

17 We certainly looked to see if we dropped the ball on
18 other things. We haven't seen it; we can't find it.
19 Is there one out there? Yeah, there could be. I'm not
20 here to tell you that there's not. But to say that
21 there's a pattern of losing things, or them getting
22 lost in the system, I'd have to disagree with that.

1 DR. GORE: We've been investigated, visited by
2 multiple people over this same time span. The NCCAC
3 came out, they had five people out there interviewing
4 inmates. You know that's a whole lot better way of
5 getting information than a survey. Interviewing
6 inmates.

7 They came out a couple times. Department of
8 Justice came out three times. The -- we've had -- but
9 during that timeframe, all the exit interviews, the
10 reports, no one ever said anything, hey, you know what,
11 the inmates tell us they're getting raped or getting
12 sexually -- there's - you know, they're getting
13 sexually violated or assaulted. So I think that's
14 where a lot of our skepticism comes from, is all of our
15 people said they don't know of any of it.

16 All these visitors, independent people who are
17 coming to be critical of us didn't come to me -- you
18 know, they came to me and said, you know, there's a guy
19 I saw that I had a question about his TB medicine. But
20 there's nothing about, I've got a guy who told me he'd
21 been sexually assaulted.

22 DR. CHRISTENSEN: The data was collected from

1 2008 and 2009. Tell me the three or four things that
2 you've done differently or that you've improved since
3 then?

4 COLONEL URSIN: Well, I think we've done
5 better in our in-service training that we talked about
6 earlier on, with the PREA guidelines and the video that
7 we show. We purchased the VANTOS system, I don't know
8 if the board is -- Panel is familiar with that?

9 DR. WILKINSON: Say that again? What is --

10 COLONEL URSIN: The VANTOS system? It's a
11 case management system. Not only does it work with
12 investigations, it also works with our medical
13 department. When an inmate comes in, we give that
14 inmate a new folder number and start the process.

15 Now with the VANTOS system, any incident that
16 he had, we can pull up in the system. And Mike
17 Laughlin could talk more about what he uses it for.
18 And also the same thing with medical. We can -- before
19 when he came in, we don't know if he had a past psych
20 history with us, now we can -- we can retrieve that at
21 intake.

22 I think that's another thing. We've -- the

1 Sheriff has done some research on best practices.
2 We're adopting Louisiana Department of Corrections,
3 some of their guidelines for PREA that they've
4 instituted. So we are trying to move forward. We are
5 waiting for some of the standards that this Commission
6 I think --

7 DR. GORE: Staff. Yeah, he's assigning it to
8 a staff member.

9 COLONEL URSIN: We're bringing in
10 additional -- Major Laughlin is our PREA coordinator,
11 but he is also our Special Operations Division
12 commander. So we're bringing in another person on
13 staff to assist him with the PREA requirements and the
14 training and making sure we're on top of the guidelines
15 and all. So we are trying to move forward.

16 DR. CHRISTENSEN: Are you familiar with the
17 National Institute of Corrections eLearning training
18 for first responders?

19 COLONEL URSIN: No, sir, not personally. No.

20 DR. CHRISTENSEN: Okay. It's a free --

21 DR. GORE: They're one of the folks who came
22 to visit us that I couldn't think of their name.

1 DR. CHRISTENSEN: Who did?

2 DR. GORE: The National Institute of
3 Corrections. But it's E --

4 DR. CHRISTENSEN: eLearning. It's a free tool
5 on their web site specifically related to PREA.

6 COLONEL URSIN: Is that a self --

7 DR. CHRISTENSEN: It's a self course. It's an
8 examination almost. It teaches you how to respond.
9 And the issue is that it's free, you know, and anybody
10 who wants to take it, you know, literally 100,000
11 people around this country have taken this course.

12 COLONEL URSIN: I believe riding here in the
13 cab, that was brought to our attention. I was not
14 aware of it.

15 DR. CHRISTENSEN: Yeah. You mentioned -- say
16 a little bit more about the classification piece. I
17 asked about that earlier, and the information that
18 we've gotten was that your classification -- you don't
19 have an internal classification system. The
20 classification system you use is based on the bond you
21 got. Is that --

22 COLONEL URSIN: That's one of the factors that

1 we look at, the bond --

2 DR. CHRISTENSEN: And so the person becomes,
3 with some of the issues that Mr. Ware brought up about,
4 you know, you can be in for murder and you're
5 transgender and you can be in for murder and you're a
6 300-pound, you know, bully. But if you come in on, you
7 know, the same status, you know, what do you do to
8 protect, you know, that person who's, you know,
9 six-foot-one and weighs 130 pounds?

10 COLONEL URSIN: When you initially come into
11 our facility and you're processed, you're booked; our
12 jail-management system gives an initial classification.
13 That's strictly based on your charges, your history
14 with us. You may have never been arrested anywhere
15 else, but just your history with us, and your -- we
16 don't know your bond then. You have -- you know, you
17 have to go to court, first appearance, it has to be
18 set.

19 If it looks like you're going to be going to
20 housing, you're not going to be able to make bond, then
21 our Communications Division reviews the initial
22 classification that the jail-management system gave

1 that individual. And they look into the history of
2 specifics of were you a victim in our possession? Were
3 you a troublemaker? Were you suicidal? All the
4 reports in your history, and they may change that and
5 then do -- again, do a classification and send you to
6 housing.

7 Once you get to housing, the staff there, the
8 rank, the watch commander -- and I don't know how
9 scientific it is, but we're fortunate we do have a
10 veteran staff. They'll look over the people as they
11 come in for housing, and they'll see that this guy is
12 not going to make it in that facility, or not on the
13 tier that communications has assigned him. They'll
14 take him or her out; they'll contact communications and
15 say we can't put him or her there; and that guy's
16 moving.

17 Now you ask what we're doing; that's part of
18 the best practices that we're trying to upgrade and
19 change our classification system to make it a more
20 effective tool for us.

21 DR. CHRISTENSEN: Objective. An objective
22 classification, because right now it doesn't sound

1 objective.

2 COLONEL URSIN: I would agree with that.

3 DR. WILKINSON: And I presume there are sample
4 classification systems that are easily replicable?

5 COLONEL URSIN: There are. We are -- we were
6 looking at the Department of Corrections. We looked at
7 our neighboring parish, Jefferson Parish. The Sheriff
8 has also looked at a couple other ones that I couldn't
9 tell you. As opposed to just getting one off the
10 shelf, so to speak, we're trying to see which one, the
11 pros and cons, see which one seems to work best.

12 DR. CHRISTENSEN: But you have yet to
13 institute any --

14 COLONEL URSIN: We've made a couple internal
15 changes to the one we have now, but we have not yet
16 instituted a new system.

17 DR. CHRISTENSEN: I mean, in terms of best
18 practice, certainly folks that have been in the
19 business a long time, you know best practice for
20 jail -- for institutional classification has been
21 around for a long time.

22 COLONEL URSIN: A long time, yes, sir.

1 DR. CHRISTENSEN: A very long time.

2 And speaking about specific classification, in
3 one of the testimonies, we were told or read about that
4 at one time sexual orientation was taken into account.

5 And we heard Dr. Beck's testimony that said that a
6 person who was non-heterosexual is six to seven times
7 more likely to be victimized.

8 Is it correct that at one time, you did use
9 sexual orientation --

10 COLONEL URSIN: Yes, we did.

11 DR. CHRISTENSEN: -- as part of
12 classification?

13 COLONEL URSIN: Yes, we did.

14 DR. CHRISTENSEN: And is it also correct that
15 you do not use that now?

16 COLONEL URSIN: Since Katrina, yes, we don't.

17 And we're somewhat guided, the Louisiana Department of
18 Corrections really doesn't use it anymore, and a couple
19 other neighboring parishes. We are revisiting that as
20 we speak.

21 DR. CHRISTENSEN: Despite the fact, though, do
22 you -- do any of you doubt the fact, and what Dr. Beck

1 reported, that a non-heterosexual inmate is six to
2 seven times more likely to be victimized within a jail
3 or prison setting? Do you doubt that?

4 COLONEL URSIN: No, I don't.

5 COLONEL JOSEPH: No.

6 DR. CHRISTENSEN: So then it becomes very
7 difficult for me to understand why, at one point you
8 had that, and now you just don't.

9 COLONEL URSIN: Why they stopped it is before
10 I arrived on the scene. I don't know if I'm in the
11 right position to comment on that.

12 DR. CHRISTENSEN: So do you know how long it's
13 been -- I'm sorry, I didn't know if you were finished.

14 COLONEL URSIN: I understand it was stopped at
15 the point of Hurricane Katrina, 2005, September of
16 2005. I don't know if you're familiar with Hurricane
17 Katrina and the effects it had on the city, as well as
18 the Sheriff's office.

19 DR. CHRISTENSEN: Yes. Yes. I am familiar.
20 I've actually seen Sheriff Gusman's presentation on
21 Hurricane Katrina.

22 COLONEL URSIN: It was very devastating to us.

1 We're in buildings that we certainly wouldn't be in if
2 it wasn't for Hurricane Katrina; they're very outdated,
3 very inefficient.

4 DR. CHRISTENSEN: Except there's nothing
5 saying that within -- so what is your jail capacity
6 right now?

7 COLONEL URSIN: We have 3,563 beds.

8 DR. CHRISTENSEN: And any idea how many
9 housing units in that area, to how many
10 housing -- different housing units you have, distinct
11 housing units?

12 COLONEL URSIN: I couldn't answer that.

13 DR. CHRISTENSEN: Many, right?

14 COLONEL URSIN: Many, yes.

15 DR. CHRISTENSEN: So it wouldn't really be a
16 lot within your same jail classification to take these
17 people who are at risk and put them at least together
18 and away from the rest of the population. It is
19 something that could be done?

20 COLONEL URSIN: It could be done, yes, sir.

21 DR. CHRISTENSEN: But it isn't, and hasn't
22 been since Katrina?

1 COLONEL URSIN: That's correct, yes, sir.

2 DR. CHRISTENSEN: Any thoughts of changing
3 that practice?

4 COLONEL URSIN: I think I said that earlier,
5 the Sheriff is looking at that with his staff.

6 DR. CHRISTENSEN: No, I meant that specific
7 practice. I didn't hear you say -- if you did, I
8 missed it.

9 COLONEL URSIN: I'm sorry, I thought I did --

10 DR. CHRISTENSEN: Okay.

11 COLONEL URSIN: -- that he is looking at maybe
12 bringing that back.

13 DR. CHRISTENSEN: Okay. You mentioned a lot
14 about training. It was noted -- and I unfortunately
15 couldn't be there for the on-site visit, but it was
16 noted by our colleague that nobody saw a curriculum
17 relative to that training.

18 MAJOR LAUGHLIN: I'll supply that to you right
19 now.

20 DR. CHRISTENSEN: Okay. That would be great.

21 MAJOR LAUGHLIN: I thought we sent it to Ms.
22 Seymour after the visit.

1 DR. CHRISTENSEN: I didn't see -- I might have
2 missed it, but I didn't see it.

3 MAJOR LAUGHLIN: But I can give it to you,
4 certainly. I have a copy of it.

5 DR. CHRISTENSEN: Okay.

6 MAJOR LAUGHLIN: I don't have a copy of the
7 video, but I could send a -- was this staff or inmate?

8 DR. CHRISTENSEN: Correct, staff training.

9 MAJOR LAUGHLIN: Just the staff, yes, sir.

10 DR. CHRISTENSEN: Okay. And is it documented
11 that people received curricula, how are they evaluated?
12 Can you ensure that they, in fact, did get that
13 training?

14 MAJOR LAUGHLIN: The staff, academy staff does
15 document that they attended this class on this date,
16 and this is what was covered.

17 DR. CHRISTENSEN: Okay, yeah, that would
18 be -- I think we would like to see that. So if you
19 have that --

20 MAJOR LAUGHLIN: Now the inmate video that
21 we -- what we play every day has been provided to
22 staff, I believe.

1 DR. CHRISTENSEN: Yes.

2 MAJOR LAUGHLIN: And if it's not --

3 DR. CHRISTENSEN: I was talking --

4 MAJOR LAUGHLIN: -- I can get it again.

5 DR. CHRISTENSEN: Thank you. I was talking
6 specifically about staff.

7 Can you describe just generally -- we've gone
8 over a specific case related grievance, but generally
9 what the grievance procedures are in the facility?

10 MAJOR LAUGHLIN: Basically the inmate fills
11 out a grievance. That grievance is then picked up by
12 hand. It is then entered into the system. And as I
13 said earlier, it then immediately goes
14 into -- depending on what type of grievance, what kind
15 of complaint it is, it goes into those boxes.

16 Grievances are then reviewed, answers, they'll
17 type in an answer to the grievance, and then the
18 grievance goes back to the inmate with the answer. In
19 a lot of cases, they may, dependent on what type of
20 grievance, they may have seen the inmate in person. I
21 know in ours, when we get some, we do it visibly; we
22 actually go and meet with the inmate. In some cases

1 regarding like commissary or different variety of
2 things, they may answer it without seeing the inmate
3 physically.

4 At that point, if he isn't satisfied with the
5 grievance, he then can get stepped up and go to a
6 higher chain, ultimately to the chief deputy or the
7 sheriff.

8 DR. CHRISTENSEN: So you said they are picked
9 up. Picked up by whom?

10 MAJOR LAUGHLIN: Yeah. We have a grievance
11 staff that's assigned to the mail room. When they pass
12 out the mail on a daily basis, they then pick up the
13 grievances, if there are any.

14 DR. CHRISTENSEN: So it goes into the mailbox?

15 MAJOR LAUGHLIN: I want to say it's -- I think
16 with grievances, they cannot go in the mailbox, they've
17 got to be hand given, very similar to like sick calls.

18 DR. CHRISTENSEN: Hand -- all right. So just
19 to guide me, so the inmate -- an inmate has a
20 grievance. He or she hands it to whom?

21 MAJOR LAUGHLIN: Blank grievances will be on
22 the tier.

1 DR. CHRISTENSEN: Right. No, I mean, I'm
2 sorry. I mean a completed grievance.

3 MAJOR LAUGHLIN: Okay. Once an inmate
4 completes a grievance, when the mail room comes around
5 to pass out the mail, they'll ask them, do y'all have
6 any grievances? At that point, they hand deliver or
7 hand give the grievances. And then when they get back
8 to the building, they're entered in.

9 DR. CHRISTENSEN: Okay. And is there a
10 specific grievance policy?

11 MAJOR LAUGHLIN: There is a grievance policy.

12 DR. CHRISTENSEN: Is there a written grievance
13 policy?

14 MAJOR LAUGHLIN: Yes.

15 COLONEL URSIN: Yes, sir.

16 DR. CHRISTENSEN: Could we get a copy of that
17 also? I don't believe that we've got that.

18 COLONEL URSIN: Yes, sir, I apologize you
19 don't have one.

20 DR. CHRISTENSEN: That would be helpful. And
21 within that policy, are there specific timeframes
22 related to response to grievance?

1 MAJOR LAUGHLIN: I think we have the policy
2 here.

3 DR. CHRISTENSEN: Well actually, it's even
4 better if you don't look at the policy and you tell me
5 what the timeframes are relative to grievance response.

6 MAJOR LAUGHLIN: Well again, I'm not a warden
7 of a building.

8 DR. CHRISTENSEN: Well can anybody tell me
9 what the timeframes are without looking at the policy?

10 COLONEL URSIN: I've never worked in -- I'm
11 not a warden also, but I believe it's either forty-
12 eight or seventy-two hours.

13 DR. CHRISTENSEN: So you don't know?

14 COLONEL URSIN: No, I do not. I know -- the
15 only thing I can tell you with regards to that is, I
16 know that the moment the grievances are entered in by
17 the staff, the grievance staff, they
18 immediately -- it's not delayed, it immediately goes
19 into those people's boxes. So --

20 DR. CHRISTENSEN: Do you know how long -- I'm
21 sorry, I didn't mean to cut you off.

22 COLONEL URSIN: No, and I was just going to

1 add that, in my case, because I look at all of ours,
2 sometimes I'll do that four or five times a day, just
3 to see if any have popped up.

4 DR. CHRISTENSEN: Okay. And do you know how
5 long from the time -- so an inmate hands it out, he
6 hands it -- he or she hands it to the people, the mail
7 staff, how long it takes? Is there any parameter or
8 any direction that the mail staff meet -- or the mail
9 staff needs to enter this directly, immediately, or --

10 COLONEL URSIN: Yes. I'm sure it's in here.

11 DR. CHRISTENSEN: Are there timeframes?

12 COLONEL URSIN: Yes.

13 DR. CHRISTENSEN: Do you know what they are?

14 COLONEL URSIN: No, I do not.

15 DR. CHRISTENSEN: Okay. I mean, you can see
16 why we're asking these questions?

17 COLONEL URSIN: Yes, sir.

18 MAJOR LAUGHLIN: Certainly.

19 DR. CHRISTENSEN: And again, in the interest
20 of improving your facility and the facility at large,
21 grievances are -- even though they're a pain in the
22 you-know-what --

1 COLONEL URSIN: They're a key component,
2 though.

3 DR. GORE: I'd like to add something about the
4 grievances, specifically to -- in regards to maybe some
5 of your questions and some of the testimony that was
6 given earlier. We get lots of grievances. I
7 can -- all I know about is the medical ones, but I know
8 we get a lot.

9 Now the grievance process is a multi-step
10 process. It gets reviewed, entered, screened,
11 forwarded to the appropriate person. When it comes to
12 medical, I think we've got a ten- or fourteen-day
13 turnaround before we have to respond on the medical
14 side.

15 But to say that we're not doing grievances, I
16 think my health services administrator would adamantly
17 argue against that fact, because --

18 DR. CHRISTENSEN: I don't think anybody said
19 that.

20 DR. GORE: Well, one of the testimony people
21 said that we don't have a grievance system that
22 is -- that is effective, because --

1 DR. CHRISTENSEN: Well, that's a completely
2 different -- that's a completely different piece of
3 testimony.

4 DR. GORE: Which brings me to, I think the
5 other point is, if someone has claims of sexual
6 assault, we don't want it to go to the grievance
7 system. That's slow. We want to know right away.
8 It's like suicidal ideation. I don't want someone to
9 write a grievance that they're suicidal. I want
10 someone to tell a deputy, tell a nurse, right then,
11 right now.

12 DR. CHRISTENSEN: What if there's no deputy to
13 tell?

14 DR. GORE: Well, tell a cellmate. Tell a
15 nurse.

16 DR. CHRISTENSEN: What if the cellmate's the
17 one doing the deed?

18 DR. GORE: There's nurses that go to the tiers
19 every single day. I can talk to the -- I can speak to
20 the medical side. But the nurses go to the tiers every
21 single day. So if there's something that's urgent like
22 that, the point I'm trying to make is, we don't want it

1 to wait to the grievance system. That's kind
2 of -- that's -- we want to act on it much sooner than
3 that.

4 DR. CHRISTENSEN: So when you're told
5 specifically from a medical perspective something's
6 going on, and you're told that there is something awry
7 in security practice. Because one of the allegations
8 and part of the testimony is that you or your staff was
9 told about specific instances, and you said, look, I'm
10 here to deal with the medical issues, I can't deal with
11 security issues.

12 DR. GORE: Well, I'm glad you brought that up.
13 I'm really glad you brought that up. Because I have a
14 very good relationship with Liz Cumming. She has my
15 email, she has my phone number, I see her -- she used
16 to come to my monthly HIV and sexually transmitted
17 disease testing and treatment meetings that we have in
18 the community. She knows how to get a hold of me.

19 DR. CHRISTENSEN: Well, she said that she
20 had --

21 DR. GORE: She's gotten a hold of me about
22 medical issues, about nurses coming to the tiers.

1 She's had about medications, she's never said anything
2 about sexual assault. She knows how to get a hold of
3 me.

4 DR. CHRISTENSEN: I also -- I mean if --

5 DR. GORE: If I get -- if I get notified about
6 sexual assault, the first thing I'm going to do is call
7 Mike Laughlin, because I know he's going to jump right
8 on it.

9 DR. CHRISTENSEN: Okay. And have you done
10 that before?

11 DR. GORE: To be honest with you, usually he
12 calls me. He says, hey, we've got a claim that this is
13 what's going on, we talk about --

14 DR. CHRISTENSEN: But I'm asking, have you
15 done that before?

16 DR. GORE: Yes. Yes, I have. I can't -- I
17 don't think I would be able to pull a medical record or
18 the name, but I do remember calling him about specific
19 cases.

20 DR. CHRISTENSEN: How many?

21 DR. GORE: One or two. Can you remember how
22 many I've talked to you about?

1 MAJOR LAUGHLIN: Several.

2 DR. CHRISTENSEN: So you don't -- it's one or
3 two cases where there's sexual assault, but you don't
4 remember what the case was?

5 DR. GORE: No, no, no, don't misinterpret
6 that.

7 DR. CHRISTENSEN: Well, I'm just listening to
8 what you said.

9 DR. GORE: That's where I'm the first
10 person --

11 DR. CHRISTENSEN: Enlighten me.

12 DR. GORE: That's where I have gotten the
13 impression that I'm the first person to have heard
14 about it. If there's an assault, usually the Special
15 Operations Division has already started an
16 investigation. They contact me; we make sure the
17 medical stuff gets done. I know about it.

18 If I hear about one that isn't part of that,
19 that I didn't already know about, I call him right
20 away. That hasn't happened that -- very often.

21 DR. CHRISTENSEN: Didn't you say before that
22 you didn't hear about things like this, or had never

1 heard about things like this?

2 DR. GORE: Not from Liz Cumming.

3 DR. CHRISTENSEN: No, I'm talking in general.

4 I'm talking you know -- I'm not --

5 DR. GORE: Not from all the defense

6 attorneys --

7 DR. CHRISTENSEN: Let's let Elizabeth Cumming

8 go right now.

9 DR. GORE: She brought up some pretty damning
10 comments.

11 DR. CHRISTENSEN: Excuse me, hold on one
12 second.

13 DR. GORE: Sorry.

14 DR. CHRISTENSEN: Forget about Elizabeth
15 Cumming.

16 DR. GORE: Okay.

17 DR. CHRISTENSEN: I'm talking about what you
18 said initially, both you and the Colonel, that you had
19 never seen nor heard about incidents of sexual
20 misconduct in your facility.

21 DR. GORE: In the South White Street building.

22 DR. CHRISTENSEN: Right.

1 DR. GORE: We were --

2 DR. CHRISTENSEN: So you haven't -- you said
3 you had never heard about it, but you were referring
4 specifically to the South White building --

5 DR. GORE: Yes.

6 DR. CHRISTENSEN: -- not the rest of the --

7 DR. GORE: Yes.

8 DR. CHRISTENSEN: Okay.

9 DR. GORE: Because we certainly have heard of
10 them in other buildings.

11 DR. CHRISTENSEN: All right. Just to be
12 clear.

13 DR. GORE: Just not the females.

14 DR. CHRISTENSEN: Dr. Gore, while we're with
15 you, I want to go to mental health issues. You know,
16 we've received testimony that there was one social
17 worker. It may not be necessarily related to mental
18 health, but it could be helpful in terms of referring
19 people to psychiatric treatment --

20 DR. GORE: Certainly.

21 DR. CHRISTENSEN: -- when they're -- so
22 describe kind of -- so any of these incidents, if

1 they're half true, you know, could precipitate suicidal
2 behavior, PTSD, you know, depression, you name it.

3 DR. GORE: Sure.

4 DR. CHRISTENSEN: What do you have in place in
5 order to deal with people -- and I know because it's a
6 jail system, people come and go quickly. Are there
7 community resources for persons who leave the jail?
8 What do you do with them while they're in the jail,
9 while they're still there? So kind of walk us through
10 how you deal with people in the various levels,
11 including you know, the SMI people, the seriously
12 mentally ill, as opposed to, you know, those persons
13 with borderline issues and so forth? So you know, what
14 does the circle of mental health treatment look like
15 for the persons who come in and out of the Orleans
16 Parish Jail?

17 DR. GORE: You opened -- I mean, it's a pretty
18 broad question, and I'll try to touch on the key
19 components without dragging it out too long, as I tend
20 to do.

21 DR. CHRISTENSEN: Sure.

22 DR. GORE: But we have an intake screening

1 process where there's multiple questions on our intake
2 screening done right up front, done by a nurse, not by
3 a security officer. A lot of it deals with mental
4 health issues, suicidal ideation, as well as infectious
5 diseases and so forth. Those folks are referred that
6 day to have the case reviewed by the psychiatrist. In
7 fact, one of the things that we have recently done is
8 we've automated that process where it's a computerized
9 thing, so if they answer yes to certain questions, the
10 referrals and so forth get automatically referred to
11 different folks.

12 DR. CHRISTENSEN: This is the test that they
13 take themselves or --

14 DR. GORE: They stand in front of the nurse in
15 a private booth in the intake booth and the nurse asks
16 them various question about various things.

17 DR. CHRISTENSEN: Okay. So if they need -- or
18 don't understand something, the nurse can help them
19 interpret that?

20 DR. GORE: Oh, certainly.

21 DR. CHRISTENSEN: Okay.

22 DR. GORE: Certainly. We have social a

1 worker; we have a substance abuse counselor; we have
2 psychiatrists. A psychiatrist is there seven
3 days -- well, six days a week now. We have -- you talk
4 about the community. We have -- I meet on a regular
5 basis with the community mental health department. We
6 have ties with case managers from the community mental
7 health, their forensic, aggressive, ACT and FACT teams,
8 the acronyms that I think are pretty standard in the
9 mental health community. Intensive case management.

10 We have an automated referral system for when
11 someone gets released, and they have a mental health
12 diagnosis, that they get an automatic referral to the
13 community mental health center.

14 If there are cases of sexual assault, the
15 victim is -- goes to the psychiatric -- it was outlined
16 in there. The victim goes to the psychiatric ward upon
17 coming back from the hospital, to make sure they're
18 stable, to make sure they're not suicidal. If the
19 person is in need of continuous, long-term treatment or
20 counseling, treatment will get started, medications if
21 necessary, counseling. If it needs to get done by the
22 psychiatrist, it will happen. If it needs to get done

1 by the social worker, it will happen.

2 I've -- reviewing cases for this Panel,
3 there's a case where the social worker's seeing a guy
4 every week and, you know, being documented. It's being
5 done. If that person needs to go back and see the
6 psychiatrist, because there are issues that are beyond
7 that they needed counseling, then that will happen.

8 DR. CHRISTENSEN: Have you had suicides in the
9 last few years?

10 DR. GORE: Yes, we have.

11 DR. CHRISTENSEN: How many?

12 DR. GORE: We've had three or four in the
13 last, I think, three years. We've had -- I don't know
14 how much detail we need or want to go into that, but
15 we've -- I can assure you that each one -- each of
16 those people were screened by a nurse, asked
17 specifically where they -- if they were suicidal. The
18 most recent case, you know, we had a security lapse
19 that, again, is an open case. But yes, we have had
20 suicide.

21 DR. CHRISTENSEN: Major, tell us about
22 surveillance? I understand that you have very few

1 cameras in your housing units.

2 MAJOR LAUGHLIN: Yes. The Tent facility,
3 which is our temporary detention center, which was put
4 together from FEMA, that has cameras in it. The House
5 of Detention facility has cameras on the maximum
6 security tier only, as well as like outside. The
7 Templeman Phase Five facility has cameras inside and
8 out. Conchetta facility does not. The South White
9 Street, prior to it being evacuated, did. And our work
10 release facility does not.

11 DR. CHRISTENSEN: Is there a plan to add more
12 surveillance?

13 MAJOR LAUGHLIN: Not that I'm aware of.

14 COLONEL URSIN: I think the plan is to build
15 new, modern, accredited facilities. We broke ground
16 two weeks ago on a new 1,400 bed facility, all direct
17 supervision. A new intake -- a permanent intake and
18 processing center and an administrative, all-in-one
19 complex.

20 DR. CHRISTENSEN: Are the other ones going to
21 remain open?

22 COLONEL URSIN: The tents will be closed and

1 House of Detention will be closed when that facility is
2 finished.

3 COLONEL JOSEPH: And South White Street.

4 COLONEL URSIN: I'm sorry, and South White
5 Street, which is already closed because of the
6 construction. It has to be demolished.

7 DR. CHRISTENSEN: I wanted to ask you
8 generally about the special litigation findings, the
9 CRIPA findings, but more specifically -- and it's
10 outlined within that report as well, but we've heard
11 from the BAT report, the MIC report and the testimony
12 about your levels of staffing. So you can -- so for
13 instance, you can have the best suicide screening in
14 the world, and if you don't have staffing there to do
15 their job, or there's not enough staffing to adequately
16 do their job, obviously that's something that's beyond
17 a medical director's control.

18 So I wanted to just hear your perspective on
19 staffing in general. And I'm talking about security
20 staffing now.

21 COLONEL URSIN: Staffing is a -- is an ongoing
22 struggle for us. I think the pay that we offer

1 certainly is a problem. Our turnover rate is about
2 thirty percent of our staff every year.

3 Right now we're -- as of August 24th, we're
4 6.2 inmates to every security deputy. I think some of
5 these older buildings we're in since the storm, that we
6 had to go back in and use, like HOD has all the
7 electronic gizmos so it was easy to reopen. That
8 facility, it is not a good facility; it is not labor
9 friendly; it's not direct supervision. But staffing is
10 an ongoing thing that we fight. Not only in retaining
11 them, recruiting them and then of course, there's
12 always budget concerns.

13 DR. CHRISTENSEN: In your estimation, assuming
14 that you're at whatever you say the staffing level
15 should be, is the staffing level very high or is it
16 adequate, even if you're at full staffing?

17 COLONEL URSIN: I think right now we're
18 adequate, but it's not -- it's far from ideal.

19 DR. CHRISTENSEN: Any other comments in
20 general regarding the current CRIPA litigation
21 findings? Any progress in resolving some of those
22 issues?

1 COLONEL URSIN: I know the Sheriff is working
2 on those issues, and he's made some changes, but I
3 don't think I'm in a position to comment on that.

4 DR. WILKINSON: We're going to close here in a
5 second. But I want to give you an opportunity to, you
6 know, kind of make some closing statements. You know,
7 we know these things aren't easy, and you know, part of
8 our concern is not just the facilities who will be
9 represented here today but how can any of these -- you
10 mentioned best practices that the Sheriff was
11 interested in.

12 But how can what we've learned here transpose
13 itself to best practices kind of data that can be
14 shared with the rest of, you know, the country? Not
15 that we want to single out, you know, any one facility,
16 but we do generate a report at the end of these
17 hearings to, you know, kind of share what we've learned
18 about what's happened in the field.

19 You heard Director Wallenstein mention earlier
20 that there's been nothing new. Well, we want there to
21 be something new. We want there to be new information;
22 we want there to be new data that can be in turn used

1 to help improve, whether you have a lot of money or
2 not, the operations of, you know, the correction
3 facilities who are faced with issues such as sexual
4 misconduct.

5 So I want to leave you with the opportunity to
6 maybe make some closing statements or any comments that
7 you might have, particularly if you have a plan going
8 forward about what might you institute to help your
9 operations.

10 DR. GORE: Well, thank you for the
11 opportunity. And Dr. Christensen, I'm sorry I got
12 short. I got -- I feel defensive. I mean, we heard
13 some very moving testimony before us, and while a lot
14 of it -- I mean, I took a whole bunch of notes to
15 things to -- ideas and so forth to work on, and it also
16 is a lot of -- you know, there's some criticisms that I
17 just felt I just needed to address. And I apologize
18 for getting a little emotionally carried away with
19 that.

20 But the thing that I would like to
21 re-emphasize is that, we do want to improve. I mean,
22 that's what I do. Just being involved in this process,

1 going to the web sites, identifying the proposed
2 standards that we're -- that we found, I mean, I
3 learned a lot from that. I've already -- I have it
4 right here in front of me, I've got a whole educational
5 session that I've already done to the medical staff.

6 Just seeing that and saying, hey, this is the
7 direction it needs to go, this is the things that need
8 to be occurring. And so we've already started doing
9 that in the medical staff, while we're waiting for the
10 Commission to come with some final standards, and it
11 gets finalized.

12 In the process, you know, we've learned a lot.
13 We continue to -- and you know, we're trying to take
14 this information, trying to take what you tell us, what
15 you give us, and we're trying to make improvements. I
16 just want to make sure that that's clearly understood.

17 DR. CHRISTENSEN: And Dr. Gore, we understand
18 that you've taken on a role voluntarily, I understand,
19 to work with PREA issues well beyond just what might be
20 the impact of what happens in the medical area, and
21 kind of been the self-prescribed statistician and some
22 other things for helping to coordinate this. And we do

1 appreciate that; we need a person like you to continue
2 this work.

3 DR. GORE: And I think the Sheriff felt bad
4 that he wasn't going to be here, and that's why he kind
5 of dragged me along, because I had been helping him
6 kind of put some numbers together, or feed him some
7 ideas. Because you know, we talk about this as a
8 group, you know. Just not medical in my own little
9 cave, I meet with the Sheriff regularly; I meet with
10 the rank regularly; we're a team.

11 So you know, I -- if I see something to work
12 on, I'll work on it and try to improve as a team.

13 DR. WILKINSON: Colonel?

14 COLONEL URSIN: What Dr. Gore said, certainly
15 the Sheriff wishes he could be here today. I can't say
16 that enough. Unfortunately, he couldn't. I'm the new
17 guy in the Sheriff's office, I've only been here about
18 four years, but I do tell you what: Sheriff Gusman, he
19 has a different style from Sheriff Fogerty. And that's
20 not a knock on Sheriff Fogerty; he was a long-time
21 Sheriff in our facility, thirty-four years. He was the
22 longest sitting sheriff in the state when he decided to

1 go for Attorney General.

2 But Sheriff Fogerty is a open guy. I think if
3 you talked to these guys who have been here, that the
4 news cameras that the sheriff has brought in to the
5 prison, the people he's brought in, that was unheard of
6 before 2005. I think he is a visionary, that he wants
7 to go forward and make changes.

8 This was not a chore, to come up here to this.

9 He wanted his story said, and he wants to learn from
10 it. I think the devastation from Katrina we're all
11 suffering, not only the jail in the city, the city
12 itself. We have a new mayor, he's very energetic going
13 forward.

14 But the mental health situation of the city
15 itself, we refer people but they're overcrowded, you
16 know, when they get released. I mean, it's -- the city
17 itself is in bad shape, in my opinion, but we're all
18 moving forward, just like the jail's moving forward. I
19 think the new construction of these buildings and the
20 changes that we make in between now and those
21 buildings, I would think that if you came back or if
22 the doctor came back and revisited us sometime in 2015,

1 I think you'd see a model for the country. And I
2 really believe that.

3 DR. CHRISTENSEN: That's great to hear. And
4 we appreciate your openness and honesty, and certainly
5 no offense taken. There's nothing like a -- and no
6 offense intended, either. There's certainly nothing
7 like a spirited discussion to really kind of drill down
8 on some of these things to get a better understanding
9 about how to move forward. And nobody doubts your
10 commitment to do that as you move forward, from your
11 testimony.

12 COLONEL URSIN: I think I speak for everybody.
13 We wouldn't be part of this organization if it wasn't
14 moving forward. I certainly wouldn't be.

15 DR. WILKINSON: Yeah. And just for your
16 information, you know, none of us operate facilities in
17 a vacuum. You know, if you need assistance from
18 outside -- and I know you're reaching out to the
19 Department of Correction and Public Safety in Baton
20 Rouge, you know. But you know, there are other
21 resources as well, and sometimes it's just a matter of
22 asking for them if you need them.

1 So I'm a big believer in not having unfunded
2 mandates for folks, but at the same time, you've got to
3 take some initiative to find out what some of those
4 are. It just isn't going to happen by osmosis.

5 But thank you all so very much for being here.

6 And you know, best of luck to you in the future in
7 dealing with some of these issues. But also build on
8 those things that you do well. So thank you very much.

9 COLONEL URSIN: Thank you.

10 COLONEL JOSEPH: Thank you.

11 DR. GORE: Thank you.

12 DR. WILKINSON: We will adjourn until about
13 1:35 for lunch, and then we will resume with Clallum
14 County.

15 (The proceeding was recessed for lunch and
16 scheduled to resume at 1:35 p.m.)

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1 A F T E R N O O N S E S S I O N

2 DR. WILKINSON: For the record, we did not
3 adjourn after the last meeting, we just kind of stopped
4 for a minute, recess -- I'm not sure what we called it,
5 because we're still in session for the hearings of the
6 high prevalence institutions.

7 Sheriff, thank you so much for being here. We
8 know you have a lot to say and we're going to give you
9 an opportunity to say it. But before we do that, I
10 need to swear you in twice, if that's okay.

11 Whereupon,

12 SHERIFF WILLIAM L. BENEDICT

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

16 DR. WILKINSON: To the best of your knowledge,
17 can you attest to the accuracy and truthfulness of the
18 written response of the Clallum County Sheriff's Office
19 to the data request that the Review Panel on Prison
20 Rape sent to your agency in preparation for today's
21 hearing, as well as to the accuracy and truthfulness of
22 other documentation that your agency gave to the Panel

1 in the interim?

2 SHERIFF BENEDICT: I can, I do, and I reviewed
3 it personally.

4 DR. WILKINSON: Thank you, sir.

5 Sheriff, you're welcome to provide testimony.

6 You know, you're here alone, so all the testimony will
7 come from you.

8 TESTIMONY OF SHERIFF WILLIAM L. BENEDICT

9 SHERIFF BENEDICT: Wonderful, thank you.

10 I am accompanied by two representatives from
11 the National Sheriff's Association, Fred Wilson and
12 Stephania Garlach, they are immediately behind me. I
13 understand that they're not going to be asked to
14 testify, nor will they be able to, but they are here to
15 listen to the proceedings.

16 DR. WILKINSON: Sure.

17 SHERIFF BENEDICT: For the record, I am here
18 because I was subpoenaed, or under threat of subpoena.

19 It was -- I felt like it was not a wise use of tax
20 dollars for me to be here. Nonetheless, I am here, and
21 I would like to start out by approaching this from, my
22 jail did come up as one of the highest -- I think the

1 third highest in overall abuse and the highest in
2 staff-on-inmate sexual victimization.

3 And I'd like to start out by telling the Panel
4 what I did when I received that information. I was
5 aware the survey was going down. I volunteered to do
6 it: I felt like it was the right thing to do when they
7 came. But when we got the notification of it,
8 which -- actually, it came in and it kind of escaped me
9 and it went to my jail superintendent. And I was
10 furious when I saw it because I took it on its face
11 value. And I felt like that I have been running a very
12 good organization and that sexual abuse by inmate on
13 inmate or staff on inmate was -- we didn't have any.

14 So I called the FBI, the local FBI, and I
15 said, "I want a full investigation." I notified the
16 U.S. Attorney that our jail had been thusly identified.

17 I also went to the media -- I'll admit I was somewhat
18 defensive -- but I went to the media, and I said that
19 this is -- and after talking to my staff, I believe
20 that the numbers were a little high, if not
21 outrageously high.

22 I went on the radio and -- with a local radio

1 show, and it was picked up by the Seattle media about
2 how terrible the Clallum County jail was. And what I
3 was asking for were victims to come forward, because I
4 wanted -- and by the way, I did talk with Dr. Beck, but
5 I respected the confidentiality of those taking the
6 survey.

7 I made no attempt whatsoever to find out who
8 took the survey, nor for that matter, as you'll see,
9 there were some people that came forward that took the
10 survey. Did I personally even meet with them? I said,
11 "Hey, this is anonymous and we'll do it."

12 The -- in addition to that, the people who
13 were in the jail at the time get the local newspaper,
14 and the staff talked to it. So every inmate that was
15 in my jail when this came out, and probably from that
16 day forward, knew where we were; and every inmate had
17 the opportunity, if they had been victimized, to come
18 forward.

19 Well, here is the -- here is the results.
20 There were no calls to the -- also we gave out the PREA
21 hotline number that you could call to report an abuse.

22 We had no calls to that. No calls to the FBI, no

1 calls to my office, no calls to the public defender, or
2 any attorney for that matter. And by the way, I went
3 to all the public defenders and explained it to them
4 and said, "Hey, would you canvas your clients and see
5 if we can find some victims?"

6 I did get one call to the PREA hotline during
7 that period, and that was an unrelated issue; and I'll
8 very briefly go into it. An attorney for one of my
9 inmates was exposing himself and masturbating in front
10 of his client in the sealed attorney-client
11 booth -- which I cannot -- neither I can't surveille
12 it, I can't -- I can't even look into it while an
13 inmate's with the attorney.

14 The action I took on that was to immediately
15 suspend the attorney from my jail, and I took measures
16 to have him disbarred. And he's in the middle of that
17 disbarment procedure.

18 I did get a letter from the head of the public
19 defenders that was sent to both me and the local
20 newspaper that disputed that and said if there's any
21 abuse going on in that jail, he'd know about it because
22 he interviews every inmate. And the public defenders,

1 by the way, handle about ninety percent of our cases.
2 And the first thing they ask is if there's any staff
3 misconduct or if there's any misconduct by inmates, if
4 they've been assaulted, injured or otherwise bothered.

5 And this attorney told me, by the way, if it
6 had gone on, I would have sued you, you can be sure of
7 that.

8 Clallum County jail has not been sued for any
9 sexual impropriety, either inmate-on-inmate or
10 staff-on-inmate since I have been Sheriff, and that's
11 been five-and-a-half years.

12 Okay. Having said that, when -- that
13 surprised me, that -- and frankly, it surprised me that
14 I didn't even have one victim come forward. And as you
15 can see, I'm here by myself; there are no victims.
16 Just Cause International was interviewed by the
17 newspaper. And I would invite them, if they want to
18 come to Clallum County, find me a victim, and I would
19 be -- I would act upon that information immediately.

20 What I'd like to go into now is -- oh, and by
21 the way, I spent three years as the chair of the
22 Corrections Committee for WAPCS, which is the

1 Washington Association of Police Chiefs and Sheriffs.
2 And you could not find probably a better advocate for
3 PREA than me. Our jail is fully PREA compliant; we
4 train with it. In fact, Dr. Christensen came and gave
5 us a visit for two hours about a month ago; and at
6 least he didn't tell me other than, he says, "I see
7 where it could have happened." But I don't think he
8 saw any evidence that anything had happened.

9 Well, I'll close that off. And what I would
10 like to offer is the discussion on the survey itself.
11 And I did talk with Dr. Beck, and I'm going to have
12 some questions that he'll probably be better able to
13 answer than anyone else. And I also talked to the RTI
14 personnel. And I will apologize. I think that I came
15 across somewhat confrontational, but I was frustrated.

16 Because on the one hand, I'm told, well, we're ninety-
17 five percent sure it happened; but you know, there
18 could be an inaccuracy. It's -- there's a lot of
19 wiggle room. But on the other hand, I'm being accused
20 of something that is very specific, and has a very
21 specific number attached to it.

22 I would like to throw out at this point what

1 my sense is of the survey, and perhaps something that
2 can be done with that survey to make it more accurate.

3 I am very, very -- as I said, I'm very concerned
4 that -- I get it. You're not going to sit up here and
5 convince me that prison rape doesn't happen, nor that
6 it needs to be eliminated. I absolutely get that.

7 But envision, if you will, the spectrum. On
8 my left, your right, would be what is reported. And
9 there are -- Dr. Beck handles those statistics, and I
10 believe for the year either 2008 or 2009, his latest
11 one, showed that there were 7,444 claims or allegations
12 of sexual victimization, either inmate-on-inmate or
13 staff-on-inmate. Of those, 950 were sustained, which
14 is about one-seventh or, I don't know about twenty
15 percent.

16 On the other end of the spectrum, you have
17 four percent of 2.2 million, which is 88,000 and a few
18 of the allegations, or I'll call it the model. This is
19 the model that the survey that was created by Dr. Beck,
20 his associates has -- would predict. When you expect
21 what they found on their surveys of X number of jails
22 and prisons. Well, as you can see, that is one order

1 of magnitude. Actually, it's a factor of about eleven
2 or twelve difference between the allegations that
3 are -- that he's aware of that have come through
4 channels, if you will, and then the allegations that
5 you have in the -- as a result, your model.

6 And if you look at it in terms of sustained
7 complaints, opposed to allegations, you throw in
8 another order of magnitude. You have a difference of,
9 say, for every founded instance of abuse here, you have
10 eighty-eight over here.

11 Okay, full disclosure. I have a masters
12 degree in physics. It's mathematical based, I
13 understand statistics quite well. But you know, I
14 would not be satisfied with an instrument that
15 have -- the closest thing you have to reality is here,
16 and here is what your model predicts (indicating).
17 Somewhere in the middle is the truth, clearly.

18 And I would submit to you that I think what's
19 happening with your survey is that you're measuring
20 sexual misconduct, but you're also measuring something
21 else. And they're adding it together -- and it isn't
22 mischief, I certainly -- I fully agree that it would be

1 hard to confound this survey. I did take a look at it
2 from the computer based one, and if your idea was
3 mischief, it would be difficult.

4 Now I've got to jump back. I did have two
5 inmates come forward and indicate that it was mischief,
6 where they were females, that they had engaged in
7 mischief on the survey. I didn't personally talk to
8 them to find out how they did it, I didn't really care,
9 but they said it was there. I don't know, frankly it
10 would be hard to prove or disprove that, and I'm not
11 offering that anything other than to say it came up.

12 I think that there is, for lack of a better
13 term -- and I've done some research on this -- there is
14 a factor that I'll call cultural delusion. And it is
15 very prevalent in our society, and I'll give you an
16 example. You may think it's far off, but it is very
17 true.

18 Many surveys have been done, and it shows that
19 between fifty and seventy percent of our population
20 believe in UFOs. Okay, that -- who cares? Does that
21 prove that they exist? No. But there is a subset of
22 that which says two percent of the general population

1 that believe -- and survey after survey concludes
2 this -- that believe that they have been abducted by
3 aliens, have gone to the mother ship. Some of them
4 have been sexually abused in the mother ship.

5 Now we laugh and joke, but the fact is, if you
6 take the numbers that you have, and the -- there was a
7 Roper Survey that was done, it's scientific. You look
8 at that, that means that there's four to six million
9 Americans every year that are beamed up to the mother
10 ship, and something happens to them.

11 Well, I'm not going to say that it didn't
12 happen. On the other hand, I am going to say it's
13 pretty unlikely. We may have mother ships circling
14 around sexually abusing our citizens, but I don't think
15 they're doing it six million times a year.

16 I suggest to you that maybe there should be
17 some kind of look. The population that we're dealing
18 with has been -- suffers from PTSD. There's a lot of
19 mental illness, and I would like to suggest that maybe,
20 of that 88,000 victims, or the four percent, that some
21 of them believe they have been the victim of sexual
22 misconduct by either another inmate or a staff member.

1 And maybe we owe it to ourselves to try to filter them
2 out. And you're not going to filter them out by
3 looking for inconsistencies, because it's a fantasy
4 that they believe in, and it will fool them through
5 anything.

6 I'll also throw this in. I did my own
7 informal survey at my jail, and I found out, contrary
8 to what anything said, forty percent of inmates say
9 they are not guilty of the crime that they were
10 arrested for. Now I realize that some of that is
11 self-serving, but if I'm truly arresting -- that's what
12 they believe. If I'm truly arresting forty percent of
13 the population of my jail that aren't guilty of what
14 they are doing, that's a civil rights issue.

15 So I would just ask that within the parameters
16 of your survey, to take a look and make sure that
17 you're measuring what you think you're measuring. I
18 don't doubt the statistics: it's very accurate. But
19 there's a saying, garbage in, garbage out. And
20 statistics will not filter out garbage. It will only
21 filter -- it will only say that your methods are
22 correct.

1 And one final thing on the victimization. I
2 looked at this and I said, "Holy cow, eight percent?
3 Eight percent of my jail -- or my inmate population has
4 been abused." And prior to this, during a break, I
5 asked Paige how the eight percent -- was that eight
6 percent of my average daily population? Was that eight
7 percent of everybody that's been in the jail? And she
8 said, "No, that is eight percent of your -- " I guess
9 of your population that was surveyed, accounting for
10 sample size.

11 In other words, there was no factor put in for
12 what I would call exposure time or contact time. Well,
13 this is really scary, because if -- and the conclusion
14 is, is that on any given day in a year, you would have
15 ninety-five percent of the time the same results of
16 that survey. In other words, eight percent of the
17 people in the jail had been abused by staff.

18 Well, do you know what kind of a turnover I
19 have in my jail? I don't have just 122 people there
20 all year long. I have turnover. In fact, I have 3,900
21 bookings a year. And when you add the numbers on that,
22 that's at least 3,900 people in the jail. Now I

1 acknowledge that there are probably a good half of
2 those, possibly more, are repeat offenders or repeat
3 customers, if you will. But nonetheless, that shows
4 that I've got a population of, let's say, 2,000. Eight
5 percent of 2,000 is 160.

6 And that's showing that my staff,
7 mostly -- and I can conclude it's my females, and I
8 only have five female corrections officers -- they are
9 busy abusing 160 different victims year in and year
10 out, which would make for 800 victims since I've been
11 in office.

12 Now surely one of them would have come forward
13 to say, "I'm one of those victims." I didn't get that.

14 So my point that I'm saying is that, I think we can
15 work on that survey; I'd be more than willing to help
16 on that. But I have to question the results and the
17 conclusions. And I stand before you basically unbowed.

18 Bring me a victim of sexual victimization in my jail.

19 Once again, though, if you did, it would make for
20 anecdotal discussion, but it's not going to prove or
21 disprove anything that I've said, nor is it going to
22 validate your survey.

1 Thank you. That's my opening remarks.

2 DR. WILKINSON: Thank you, Sheriff, for your
3 testimony.

4 I think that the results we got were based on
5 the interviews that were, you know, conducted,
6 obviously. But is it possible -- I know you say you
7 don't have proof, but is it possible that these inmates
8 who, at this particular point in time when the survey
9 was conducted, that it wasn't fantasy, that they were
10 sexually -- do you have proof that it didn't happen?

11 SHERIFF BENEDICT: You know, I think let's
12 talk about -- because we're in statistics, let's talk
13 about probabilities and let's talk about possibilities.

14 Anything is possible. As I've indicated, I might have
15 inmates who might possibly were abducted and taken up
16 to the mother ship. I mean, really and truly, you
17 can't rule that out as a possibility. Of course it's
18 possible that that happened.

19 But you would think -- you would think that
20 with 800 victims, and you would think with all of this
21 publicity -- and by the way, this got big publicity in
22 the Seattle market. And that's an area of five million

1 people. And in addition, it was the constant
2 discussion in my county.

3 Because, by the way, my jail and my Sheriff's
4 Office have a very, very good reputation. We're one of
5 only seven counties that's fully accredited. I have
6 one of the best jail administrators in the state; it's
7 recognized. My office has been frequently recognized.

8 The point is, there's no smoking guns. You've got to
9 at least find a victim.

10 Now you can go back twelve years -- and that's
11 shortly after I started working for the -- for the
12 Office, we did have a case where a staff member
13 sexually abused an inmate. And that happened, as I
14 said, twelve years ago. His name was S.F. It happened
15 once.

16 DR. CHRISTENSEN: Sheriff, no names on the
17 record, please.

18 SHERIFF BENEDICT: Okay. Well,
19 he -- nonetheless, it was -- it happened. The
20 corrections officer that did it, it was -- he was
21 ratted out essentially by the other cellmates of the
22 victim, if you will. It happened once. He was

1 immediately suspended; there was a quick investigation;
2 he was arrested; he spent six months in jail. And that
3 is the last instance -- and as I said, not even any
4 lawsuits, no claims have been come forward on this.

5 So the direct answer to you is, Dr. Wilkinson,
6 is yes, it is possible. But if we're going to talk
7 possible, how probable is it, that that happened, when
8 I can't find a victim, and the survey says I should
9 have 800 or 900? And believe me, my inmates will
10 complain about anything. I get 400 complaints a year.

11 They were submitted to you. None of them deal with
12 even -- even sexual harassment. I agree with that, we
13 investigated that. I don't even have any allegations
14 of that.

15 And I want to tell you this: when I took over
16 sheriff five years ago, I met with every single one of
17 my officers, my deputies, and corrections officers, and
18 I let them know there was zero-tolerance, absolute
19 zero-tolerance. And I still feel that way.

20 DR. WILKINSON: Dr. Christensen had an
21 opportunity to visit your facility, so I'll let him
22 proceed with his thoughts.

1 DR. CHRISTENSEN: So moving forward rather
2 than spar on my statistical expertise as versus yours.
3 When we were out in the facility, we observed things
4 within the facility. One of the things that you asked
5 me -- and you just alluded to -- is you don't -- you
6 didn't even think that there was a place within the
7 facility where that could happen. You asked me to look
8 for that, and I did. And there were numerous places
9 where it could have happened.

10 One of the things that I saw that were -- and
11 I thought it was quite unique, frankly. I've been in,
12 I have no idea how many jails, but many, is that each
13 and every window was covered, preventing correction
14 officers, as they're passing by a unit, to be able to
15 look in and observe what was going on in a unit. And
16 the explanation given to me was that the reason that
17 those magnetic covers were put on the windows was to
18 stop the staff -- stop the inmates from seeing what the
19 staff was doing. And I said, "Yeah, but at the same
20 time then, the officers don't see what the inmates are
21 doing."

22 So we talked about that issue. And again, in

1 keeping with everything Dr. Wilkinson has said and
2 everything that we've said about moving this process
3 forward, I would just like to ask you about some of the
4 recommendations that we made. I mean, that's an easy
5 fix, unless there's a reason not to fix something like
6 that; and just talk about some of those recommendations
7 -- so we could start with that one.

8 SHERIFF BENEDICT: Certainly. Okay, well, I
9 did take that to heart. And by the way, it is not that
10 unusual in the State of Washington. My jail
11 administrator -- I got a little pushback on that
12 because he viewed it as an officer-safety issue.
13 However, I did prevail; I'm the sheriff, and we
14 are -- we are getting one-way coatings to put on there
15 so that we can see in but they can't see out.

16 We found that in the neighboring five counties
17 that are immediately around us, all five of us limit
18 that. And unfortunately, as you saw, our jail is a
19 poor design for observation. It's not a direct-
20 observation-type facility. But nonetheless, your
21 recommendation was taken, and I expect -- I just got a
22 bid for the coatings. I expect that we will have that

1 probably by the end of the month.

2 DR. CHRISTENSEN: Great. And we talked a
3 little bit about -- in that vein, we talked a little
4 bit about surveillance cameras.

5 SHERIFF BENEDICT: Yes, we did.

6 DR. CHRISTENSEN: And I believe, if I'm not
7 mistaken, one of the issues discussed by the jail
8 administrator, was that he didn't want to have a DVR
9 system because the records then --

10 SHERIFF BENEDICT: That's the records issues.

11 DR. CHRISTENSEN: -- to keep the records
12 indefinitely, which again I've never heard of that.

13 SHERIFF BENEDICT: No, it's a ninety-day. We
14 know that.

15 DR. CHRISTENSEN: Okay.

16 SHERIFF BENEDICT: I think he was --

17 DR. CHRISTENSEN: So he was mistaken --

18 SHERIFF BENEDICT: Yes.

19 DR. CHRISTENSEN: -- as far as release to that
20 particular issue.

21 So have you -- so given the fact that that's
22 found not to be true, have you figured out, or have

1 you --

2 SHERIFF BENEDICT: Yes, I have. It's -- we're
3 in real difficult budgetary times. I think I'm looking
4 at a couple hundred thousand dollars to get the
5 increased cameras and recording equipment. But I'm
6 pushing for that. I don't have the money to do that
7 this year, but we're in the budget season now. I
8 expect I'll get it, and I expect I'll get those -- the
9 cameras and the recording system sometime in the
10 spring.

11 DR. CHRISTENSEN: And integrating it with the
12 system?

13 SHERIFF BENEDICT: Actually, I would say this.
14 I appreciate our outbrief, because you were able to
15 meet with our county administrator and our -- one of
16 our county commissioners. And I had been pushing for
17 this for several years. My view, I'll tell you right
18 now, if I had it, if it was up to me, I would put
19 cameras on every square inch of that jail. Everywhere.
20 And if there is ever an allegation, or if we would
21 review the footing and find something, I would deal
22 with that.

1 But we are -- we're going to go certainly for
2 the common areas in the -- in the pods, if you will;
3 we're going to have cameras for all of them.

4 DR. CHRISTENSEN: Okay, great. And to be
5 integrated, because you have cameras and DVR system on
6 various --

7 SHERIFF BENEDICT: I do. I have them in the
8 hallways. It's -- no, unfortunately my -- none of my
9 cameras are recorded. They're -- the DVR will be new.
10 The only recording I have is for coming in and out of
11 the jail entrance.

12 DR. CHRISTENSEN: Right.

13 SHERIFF BENEDICT: So this will be all new.

14 DR. CHRISTENSEN: Okay, great. Sheriff, tell
15 me a little bit about your classification process for
16 inmates as they come into the correctional facility.

17 SHERIFF BENEDICT: It can --

18 DR. CHRISTENSEN: All inmates.

19 SHERIFF BENEDICT: It basically conforms to
20 best practices for the State of Washington, which is
21 inmates are -- if we have -- and keep in mind, this is
22 a small jail. If we've got four or five people that

1 are booked all at once, they're put in isolation cells
2 and then brought out when there's enough time.

3 But there's essentially a medical screening
4 that is done. There is a questionnaire that's given
5 to -- along with their prior histories. We pull up
6 their -- both their history in our jail and just their
7 entire criminal record. And then they're
8 classified -- I can't tell you the exact levels of
9 them, but I think there's five or six different levels.
10 And then they're housed accordingly.

11 And I should also add too, is that depending
12 on the nature of the crime, a lot of our arrestees are
13 not put into general population until after they've
14 either been arraigned or they've been brought before a
15 magistrate.

16 DR. CHRISTENSEN: Are the non-heterosexual
17 population given -- has the non-heterosexual population
18 been given special consideration and classification?

19 SHERIFF BENEDICT: They are given a
20 consideration and classification; however, we do not
21 have the ability to isolate them. If someone were to
22 present a case where victimization was highly probable

1 or possible, then they could possibly be put -- and you
2 were in there, they could be kept into ad seg or into,
3 you know, a private cell.

4 But by and large, unless there's some severe
5 mitigating factors, they're housed in general
6 population.

7 DR. CHRISTENSEN: Is it possible that, given
8 the fact that they're not separated and they're
9 in -- they're involved in the general population, that
10 they could be -- and I won't even say a victim
11 of -- but they could be involved in consensual acts
12 with other inmates that wouldn't be reported as a
13 victimization?

14 SHERIFF BENEDICT: Certainly possible.
15 Certainly possible. And that's a concern. But once
16 again, I have to fall back on, I would like to at least
17 get one -- one victim to come forward to --

18 DR. CHRISTENSEN: Well, they might not -- I
19 mean, they probably think they're doing something
20 wrong, so they're not going to come in and tell on
21 themselves.

22 SHERIFF BENEDICT: Well, let me put it in a

1 category, though, and I certainly don't approve of that
2 because the rule is no sex in jail. But I would find
3 consensual acts more acceptable than I would find
4 either staff-on-inmate, consensual or not, or
5 inmate-on-inmate, forced. So yes, it is possible. Now
6 is it probable? We just don't know. I mean, really
7 and truly, it would be -- it would be nice if we could
8 have a -- you know, someone telling me how it happened,
9 or what shift it happened, other than --

10 DR. CHRISTENSEN: But we agree that the
11 removal of those things, and the one-way glass plus
12 cameras would greatly decrease the likelihood?

13 SHERIFF BENEDICT: Well, it certainly wouldn't
14 hurt. I mean, we can argue and spar over the
15 likelihood; but yes, I'd certainly stipulate to that.

16 DR. CHRISTENSEN: You could certainly cut down
17 the possibilities of where things might happen?

18 SHERIFF BENEDICT: And we are.

19 DR. CHRISTENSEN: Good.

20 DR. WILKINSON: I just -- you know, if you
21 could describe -- if you could describe what kind of
22 training your staff goes through to, you know,

1 prevent -- I know you said you talk to everybody when
2 they first come in. But is that part of a formal
3 training? Is it part of in-service training? Is there
4 an academy where this takes place? I mean, how do
5 you --

6 SHERIFF BENEDICT: Okay. First of all, I
7 don't do PREA training, okay? I don't receive PREA
8 training. I'm the chief executive officer, the
9 sheriff.

10 Now new hires get the PREA modules that we
11 have. Most of our training is online training for
12 that.

13 DR. WILKINSON: Well, I didn't mean you
14 personally. I mean, you know, the staff.

15 SHERIFF BENEDICT: Yes, they get it. Every
16 one of my staff members, even the part-timers, within a
17 month of being hired, has to go through our academy.
18 Our academy is done at the Criminal Justice Training
19 Center in Burien, Washington. It is a four-week
20 curriculum, and the PREA training is covered as well
21 as -- when we say PREA training, the fact is is that
22 there are PREA standards that aren't yet fully adopted,

1 but those that are out there that are considered best
2 practices, we train to. We also conduct supervisor
3 training on that.

4 I have a policy that mirrors PREA,
5 essentially. And some of the policies that I have that
6 I very strictly enforce are, an inmate is rarely,
7 rarely alone with a corrections officer. That's for
8 their own safety, and it's for protection from this
9 very issue. All of the floor checks are done with two
10 officers. All of them, without exception.

11 Movement of prisoners from the jail area up to
12 the courts, which is two -- or one floor above, is done
13 with one officer escorted. However, the prisoners are,
14 you know, otherwise restrained, and I would find it
15 really hard to believe that there is, you know, sexual
16 activity with, you know, four or five prisoners and one
17 of my -- one of my guards. But that's just the way it
18 works.

19 The -- there is absolute zero-tolerance for,
20 as I said -- and Gary was there -- I think that we
21 certainly meet any and all PREA standards, and I have
22 here what we submitted. And I -- we submitted volumes

1 of information on it, and I assume that your staff
2 looked at it. But I feel like we are fully -- have
3 been and are fully PREA compliant.

4 DR. WILKINSON: I know in the smaller
5 sheriff's departments around the country, participate
6 in training that's part of a statewide offer, you know,
7 training program; and some of the larger cities and
8 counties can do that on their own. I presume that's
9 the case, I mean, Sea-Tac probably have their own
10 academy or something?

11 SHERIFF BENEDICT: No. No, Washington State
12 is -- we have one academy for all corrections officers
13 that is run by the state. We have one academy that is
14 for all peace officers that is run by the state. So
15 this is not -- this is state-approved training that is
16 -- as I indicated, the curriculum is done in compliance
17 with PREA.

18 DR. WILKINSON: And is it a specific PREA
19 training course, or is it part of another one like
20 unusual incidents or something like that?

21 SHERIFF BENEDICT: Well, it's part of that
22 four-week academy. And there are -- there are specific

1 modules for supervisors in the jail to get -- they
2 require, if you promote someone to a supervisor, within
3 six months they have to go through advanced training,
4 which would cover sexual assaults and this kind of --

5 DR. WILKINSON: Do you have access to that
6 training curricula personally, or can get it?

7 SHERIFF BENEDICT: Oh, I -- yeah. I think
8 that it was submitted to you.

9 DR. WILKINSON: I'd love to have that for the
10 record, if we could --

11 SHERIFF BENEDICT: Well, we can certainly look
12 to see what it is.

13 DR. WILKINSON: -- get a copy.

14 SHERIFF BENEDICT: Sure, yeah.

15 DR. WILKINSON: Interested in what you said
16 about consensual sex acts. You know, one of the big
17 reasons that we frown on that is because of sexually
18 transmitted diseases, you know, and infectious and
19 communicable diseases and so forth.

20 SHERIFF BENEDICT: Excuse me, Doctor. I did
21 not condone that. I said that on a level of what is
22 more egregious, you would have to agree that consensual

1 would be the lowest. I do not condone it whatsoever.
2 And I agree, it is a source of sexually transmitted
3 diseases and all that. But I'm just saying that I
4 think that, if you are going to view it as a crime, you
5 would probably have a harsher penalty for a forcible
6 act than a consensual act.

7 DR. WILKINSON: Well, sure. But there are
8 other gradations of that as well such as --

9 SHERIFF BENEDICT: I don't see them.

10 DR. WILKINSON: -- pat downs, you know,
11 cross-gender pat-downs and so forth.

12 SHERIFF BENEDICT: We don't do them.

13 DR. WILKINSON: Okay. Well --

14 SHERIFF BENEDICT: It costs me a lot of money,
15 because every time I have a female prisoner brought
16 into my jail, I have to -- if I don't have a female on
17 staff, I have to pay someone three hours overtime to
18 come shake that person down.

19 DR. WILKINSON: Yeah, and it is a little
20 unusual. We've heard testimony from the National
21 Sheriff's Association that there are a lot of jails
22 that, in some cases, have predominantly women on third

1 shifts and second shifts and that, you know, they can't
2 do it any other way than to have, you know,
3 cross-gender frisk searches and pat-downs. And I don't
4 have an opinion about that. I think if that's all they
5 have, that's all they have.

6 SHERIFF BENEDICT: Well then, that's other
7 jails. I don't have that problem, and it doesn't
8 happen.

9 DR. WILKINSON: Okay.

10 SHERIFF BENEDICT: There are no -- within that
11 jail, there are no cross-gender pat-downs, there are no
12 cross-gender strip searches, unequivocally, flat out.

13 DR. WILKINSON: So your positions are all bona
14 fide occupational qualifications for male or female
15 only?

16 SHERIFF BENEDICT: Absolutely.

17 DR. WILKINSON: Including transportation?

18 SHERIFF BENEDICT: No, no, let's -- oh,
19 transportation to and from the --

20 DR. WILKINSON: Right.

21 SHERIFF BENEDICT: No. Because transportation
22 to and from court is, as I indicated, it's up an

1 elevator.

2 DR. WILKINSON: Well, what if you've got to
3 take somebody to hospital, you know, or the state
4 prison?

5 SHERIFF BENEDICT: Generally, those are
6 two-man transports.

7 DR. WILKINSON: And they transport women?

8 SHERIFF BENEDICT: Yes, we do transport women.

9 DR. WILKINSON: So all your positions aren't
10 BFOQ?

11 SHERIFF BENEDICT: That's true. That -- well,
12 that's within the jail. Now if -- very frequently a
13 man is arrested by one of my female deputies or -- you
14 know, in the field, we don't -- I don't say, you know,
15 if you arrest a woman, you have to bring a woman to
16 arrest her.

17 DR. WILKINSON: But you have an inmate in your
18 jail, just been charged, convicted, and now sent off to
19 Walla Walla. Can --

20 SHERIFF BENEDICT: Actually, what I do with
21 those is, we use the inmate transport, the cooperative
22 issue. So anyone going to either another jail is a

1 cooperative extension, where either other sheriffs or
2 the state will come pick them up.

3 DR. WILKINSON: Okay.

4 SHERIFF BENEDICT: And they're usually
5 transported in huge buses where they're --

6 DR. WILKINSON: Operated by the county or the
7 state?

8 SHERIFF BENEDICT: For when they're going to
9 the state prison, it's the state operates them.

10 DR. WILKINSON: Okay. So the state
11 comes -- that's a little unusual, because we never went
12 to get them. The sheriffs always brought them to state
13 prison.

14 SHERIFF BENEDICT: No, we -- for a prisoner
15 that's going to the state, we will call usually right
16 after sentencing, and they'll either show up with a big
17 bus or they'll show up with a van, and usually within
18 hours, they're off to prison.

19 DR. WILKINSON: What about -- I'm just curious
20 about the kind of culture of the facility. What about
21 programs, you know, GED, substance abuse, those kinds
22 of things. Do you have those programs at your --

1 SHERIFF BENEDICT: Absolutely. I have the
2 most wide-open jail you'll ever see. I work real hard
3 to eliminate or to reduce recidivism. I have churches
4 that come in; I grant access to homeless programs. We
5 work real hard at placement for sentenced prisoners
6 when they get out. They meet -- I have a huge -- one
7 of my biggest issues is mental health. In fact, I
8 spend an inordinate amount of money on psychotropic
9 drugs because of the mental health problems, but it is
10 very open.

11 And Dr. Christensen was there; I invite anyone
12 to come look at the culture there. It is not a culture
13 of abusing inmates in any way, shape or form.

14 DR. WILKINSON: Yeah, and I didn't mean
15 culture of abuse, but you know, correctional facilities
16 generally kind of assume over the course of time a
17 climate or a certain kind of culture. And generally
18 it's related to personalities and leadership. And
19 so --

20 SHERIFF BENEDICT: Well, I think that you
21 would find -- and I'm speaking for myself -- I think
22 that you would find that the culture there is an

1 incredibly professional staff that is generally
2 responsive to the needs of the inmates. There -- as I
3 said, there certainly is going to be complaints.

4 A lot of people aren't there -- one thing I
5 would like to offer, and that is that with an email
6 that I got back from Dr. Beck was talking about some
7 more breakdowns on victimization, and indicated the
8 model -- I believe it was the model, or at least the
9 majority of the assaults, occurred within the first
10 twenty-four hours of being in jail.

11 And as I viewed that, unfortunately because of
12 case law, we strip search every prisoner that goes into
13 general population. I would like to be more selective
14 with that, but if I am selective with who I strip
15 search, that's profiling, so I can't do that.

16 And now strip searching is always done
17 same-gender. And I realize that the survey attempted
18 to pull out strip searching as a sexual violation, but
19 I've got to tell you, being strip searched is no fun.
20 I've never had it happen to me, and I've observed it a
21 couple times. And I can certainly see where you take
22 somebody that's already traumatized, maybe never been

1 in jail, that can be viewed as a sexual assault.

2 Look what's happening with the TSA right now.

3 You've got people that are being -- you know, the
4 enhanced pat-down, and they're claiming sexual assault.

5 So I realize that there was an effort to do that, but
6 the -- you know, separate that out. But in my view, I
7 think the strip search as your introduction to the jail
8 can be a very traumatizing event. And I think it may
9 skew the results.

10 DR. WILKINSON: Do you strip search persons
11 coming in for, let's say, DUI?

12 SHERIFF BENEDICT: I just told you,
13 unfortunately Washington State law -- now on a DUI, if
14 we're going to -- a lot of times we'll hold them in an
15 isolation cell, in their own cell, if you will, until
16 arraignment. And for a lot of DUIs, they're PR'd or
17 they post bail. So if we think that someone is going
18 to be out in a short period of time, we don't strip
19 search them, because then we're not going to put them
20 in the general population.

21 The trigger for a strip search in the Clallum
22 County, or in the State of Washington is introduction

1 into general population.

2 DR. WILKINSON: Okay.

3 SHERIFF BENEDICT: If someone is not going to
4 be introduced into the general population, we don't
5 strip search.

6 DR. WILKINSON: So how do you know that? If
7 they make bail, or --

8 SHERIFF BENEDICT: That's -- it's essentially
9 the call of the supervisor, that it's a small
10 community. And as I indicated, we have a lot of repeat
11 offenders. We know, for example, on a warrant, a lot
12 of our activity is warrant activity. If it's a \$150
13 pay or appear warrant, we're virtually assured that
14 they are going to be bailed out by a friend or someone.

15 So at that time, we usually hold them out of
16 general population, and so we don't have to strip
17 search them.

18 DR. WILKINSON: Yeah, there's major, you know,
19 federal litigation going on out of a case in Essex
20 County, New Jersey, that was contending that persons
21 who come to jail for minor offenses need not be strip
22 searched. And so that's going to be an interesting --

1 SHERIFF BENEDICT: I agree.

2 DR. WILKINSON: -- case law at some point.

3 SHERIFF BENEDICT: I would probably -- I would
4 probably agree with that. Unfortunately though, we
5 have found -- we have found when we have conducted
6 strip searches, we found cell phones, drugs,
7 contraband, weapons. And it is -- it is a big problem.

8 And if you do have contraband, drugs, or weapons
9 introduced into your jail, that's a huge multiplier in
10 the problems that you're going to face.

11 DR. CHRISTENSEN: They can be pat-frisked, and
12 they can -- there's nothing saying they can't be
13 pat-frisked and have electronics, some of electronic
14 metal detection surveillance. So that's -- the statute
15 is for blank strip search policy.

16 SHERIFF BENEDICT: Well, I understand that.
17 But I am no different than any other Washington sheriff
18 or jail administrator with regards of the strip
19 searching with the standards we have. I am not ready
20 yet to go out on a limb and risk a lawsuit or
21 introduction of contraband to go against what is
22 considered best practices for Washington State.

1 So I hear what you're saying, if there's a
2 federal decision that comes in and says if you're in
3 for a misdemeanor, you don't get strip searched,
4 obviously I'll abide by it.

5 DR. CHRISTENSEN: It's all over. I'm amazed,
6 frankly I think you'd be a lot more subject or a target
7 for lawsuit for blanket strip searching policy. Not
8 you, I'm just talking generally for the -- I hadn't
9 heard that the State of Washington has a blanket strip
10 search policy.

11 SHERIFF BENEDICT: That is -- well, it is for
12 being introduced into general population. And if
13 someone is not in general population or in some cases
14 there are larger facilities that have, for example, a
15 DUI tank or something. I doubt that they strip search
16 them -- or a warrant tank. But with us, it's either an
17 individual isolated cell or it's general population.

18 DR. CHRISTENSEN: Well, what does general
19 population mean? Does that mean they stay overnight
20 or --

21 SHERIFF BENEDICT: General population are
22 pods --

1 DR. CHRISTENSEN: -- they're just the areas?

2 SHERIFF BENEDICT: No. It's --

3 DR. CHRISTENSEN: Is there areas?

4 SHERIFF BENEDICT: No, they're pods. There
5 are generally eight- to sixteen-man bunk rooms, if you
6 will, where there -- it's, you know, communal bathrooms
7 and the dormitory, if you will. That's what we call
8 general population. And most of our inmates are in one
9 form or another of a general population.

10 DR. WILKINSON: Sheriff, could you tell us a
11 little bit about your grievance procedure? We made a
12 few suggestions about that as well.

13 SHERIFF BENEDICT: Well, the --

14 DR. WILKINSON: Tell us how it goes.

15 SHERIFF BENEDICT: I'm a little bit -- the
16 grievance procedure, I don't know what -- I don't
17 recall what suggestions you made. But the grievance
18 procedure is essentially -- if it's allegation of a
19 crime, if a -- if we kite saying so-and-so raped me,
20 abused me, assaulted me, or whatever, is immediately
21 turned over to the law enforcement side of my office.
22 In other words, I do not have corrections officers

1 investigating crimes in the jail, whether it's a
2 misdemeanor, whatever, it is turned over either to my
3 detectives or a patrol officer immediately for being
4 dealt with.

5 DR. CHRISTENSEN: So is a kite a grievance or
6 is a kite a request for a grievance?

7 SHERIFF BENEDICT: It's both. I mean,
8 essentially a kite can -- if it started out as a kite,
9 "Hey, I didn't like this, that or the other thing",
10 they would be afforded to either fill out a more formal
11 statement, in terms of what the grievance is. Because
12 we do have a form, you know, so-and-so did what. And
13 we have the investigation.

14 If it is a non-criminal matter, non-criminal
15 matters are handled within the jail, usually by a
16 supervisor.

17 DR. CHRISTENSEN: By a grievance procedure?

18 SHERIFF BENEDICT: Yes.

19 DR. CHRISTENSEN: So what you're saying is, if
20 I'm understanding correctly, if it's a criminal matter,
21 then it wouldn't be a grievance, then it would
22 automatically go to a criminal investigation?

1 SHERIFF BENEDICT: Well, it would -- right.
2 It wouldn't stay a grievance. I mean, it would
3 be -- it's something, an event would bring -- brought
4 to our attention, and it would have to be dealt with.
5 And then it would be called a crime. And if it's an
6 allegation it's a crime; and the outcome can be either
7 that there's an arrest, it's unfounded, or it's closed.
8 Those are the three options.

9 DR. CHRISTENSEN: One of the things we talked
10 about when we were there is the lack of privacy related
11 to those forms. In the housing units, they were like
12 half cardboard boxes kind of stuck to the wall, open
13 cardboard boxes for grievances, and thought that that
14 might be -- well, there's certainly a lack of
15 confidentiality there. And for -- obviously, that
16 would be a problem for an inmate wanting to put in a
17 grievance about a --

18 SHERIFF BENEDICT: That certainly could be.
19 And what you're saying to me, the first time that it
20 registered with me, and we can certainly address it.

21 But in a broader context, I need to tell you
22 this is a rural county. The population of the county

1 is 72,000. And it's a small community, it's isolated,
2 it's on the Olympic Peninsula. Most of the issues that
3 we have with inmates that are being either picked on or
4 assaulted we hear from other inmates. And in other
5 words, there aren't a lot of secrets.

6 And you know, I heard the example of gang
7 rapes going on from earlier testimony. That would
8 truly, truly astound me, because in our jail,
9 folks -- they just don't tolerate that. I think
10 there's a level of behavior. The most we'll have is
11 usually an assault, and when an assault happens, it's
12 usually two inmates that go at each other; and there's
13 no shortage of witnesses that are willing to, you know,
14 tell what happened.

15 So I'm not trying to minimize that
16 possibility, but -- oh, I should also add this, I
17 didn't -- all of our inmate phone calls are monitored,
18 and they know it. And they know we listen. But it
19 amazes me is, it doesn't stop them from talking. And
20 we regularly monitor -- in fact, my undersheriff and
21 the chief criminal deputy listen to a lot of phone
22 calls. And we have, on the basis of these phone calls,

1 done things to protect people or to investigate
2 criminal behavior.

3 And I want to add that, in all these phone
4 calls, we have never heard an allegation or a
5 discussion of either consensual, non-consensual, or
6 staff abuse. And I open that to anybody. You want to
7 come listen to them? And by the way, that was offered
8 up to the FBI when they came in and looked at what we
9 were doing.

10 And if I didn't mention it, the FBI gave me a
11 complete bill of health. They said, you know, "There
12 is nothing that we can see here that would indicate
13 that your staff is abusing inmates, number one. And
14 number two, until we can find a victim, there's nothing
15 we can do."

16 DR. CHRISTENSEN: I thought the FBI said that
17 they just weren't going to investigate? I mean, I read
18 the newspaper accounts as well. I thought -- did they
19 do some investigation?

20 SHERIFF BENEDICT: Special Agent Gann actually
21 came, and I talked with him and met with him, and he
22 talked to some folks and concluded that was -- that

1 there was no -- he couldn't go any further.

2 DR. CHRISTENSEN: No cause for investigation?

3 SHERIFF BENEDICT: Right, no cause. And at
4 first, he was reluctant. He actually had to get
5 clearance from higher headquarters to even get involved
6 in this. And they said, "Yeah, go ahead."

7 DR. CHRISTENSEN: Another thing we mentioned
8 to you when we were there, as you did -- you do -- you
9 are correct, in that you had the PREA message on the
10 telephone for anyone who picks up the telephone. But
11 there were no PREA placards displayed to advise inmates
12 of a PREA policy.

13 SHERIFF BENEDICT: We are certainly working on
14 that. I would just say that I don't think that a lack
15 of PREA placards is going to take an otherwise good
16 institution and turn it into a hotbed for sexual
17 activity.

18 DR. CHRISTENSEN: I didn't say that.

19 SHERIFF BENEDICT: Yeah, well --

20 DR. CHRISTENSEN: I didn't say that. Just
21 that you said that you were fully PREA compliant, and
22 we just wanted to -- again, in the interest of

1 advancing practice, and the interest --

2 SHERIFF BENEDICT: Certainly.

3 DR. CHRISTENSEN: -- we talked about that all
4 inmates don't pick up the telephone, especially when
5 it's a collect telephone system, which many facilities
6 have these days. So --

7 SHERIFF BENEDICT: Well, I would like -- I see
8 where my time is almost up, but I do want to get back,
9 because we've -- we've spent a lot of time talking
10 about my jail and what could have happened, and what is
11 possible to happen.

12 I still extend that out to any group, Just
13 Detention, RTI, Allen Beck, anybody, come look at it.
14 Find a victim or two and let's talk and go from there.

15 But I want to get back to my original
16 contention, and I think it is a -- it is something that
17 we should discuss. You have to admit that, if you have
18 a spectrum of 950 in 88,000, you have to admit that
19 that isn't very darn precise. And if we're going to
20 operate -- and by the way, there's never been one of
21 these 7,000 a year complaints that have ever come from
22 Clallum County jail, ever. Well, I shouldn't say

1 ever -- going back twelve years.

2 But when you're going to take the 88,500
3 victims that you're postulating and actually, if you do
4 the math, because as an earlier person testified, your
5 jails -- he was saying it was seventeen million a year.

6 That would -- that would indicate a retention time or
7 exposure time of probably less than three days to get
8 that high from 770,000. But nonetheless, if you're
9 accepting the four percent or 3.1 percent in the jail,
10 you're really looking at not 29,000 victims in the
11 jails per year, you're looking at several hundred
12 thousand.

13 And I just have to say, where are they? You
14 know, the -- particularly for the brutal violent
15 assaults. These things, they -- if they're being
16 covered up, it is an incredibly good conspiracy. It's
17 like the aliens being able to abduct six million people
18 in the U.S. a year and nobody notice. There has got to
19 be more notice of that.

20 And I'm telling you, in my jail, we haven't
21 established anything, other than we agree to disagree.

22 I don't believe that I have an eight percent abuse

1 rate. I don't know what you think I have, but
2 I'm -- it's clear that I'm not going to convince you
3 that I don't, even though everything that I can
4 articulate shows that we run a good jail.

5 And probably the main reason why I'm here,
6 because one of the things I wanted to ask is, why am I
7 here? Why am I here? There are no victims, there are
8 no victims' advocates that can come and complain. You
9 tell me; I mean, I showed up high on an instrument
10 which my argument is, it needs to be worked on really,
11 really hard, and it needs to find something.

12 Because I don't doubt -- in fact, you know, if
13 I just had to guess, and I can only speak for my own
14 jail, but a two percent overall abuse rate, or a
15 percent or percent-and-a-half is probably within the
16 bounds of reason. But a four percent, when you look at
17 that, and then you multiply the number of victims that
18 you have in the jail system, you have well over 100 to
19 one in terms of what is -- I mean, what is proven, and
20 what is alleged on a survey.

21 So I don't know what another term is, and I
22 don't know if Dr. Beck and his group tried to look and

1 see if what -- they didn't really have a process that's
2 additive. I would offer, just on the victimization
3 rate, if you're saying that it's a straight eight
4 percent every day, and you apply my rate of prisoners
5 that come in and out of that jail with the exposure
6 time, the victimization -- my staff isn't doing
7 anything but victimizing people.

8 I mean, come on, think about it; three or four
9 hundred victims over a four- or five-year period? And
10 considering that most of them on the survey said that
11 there were multiple attacks on them? So I
12 really -- the message I want to leave with this is
13 that, yes, I do believe there's sexual assaults in
14 jails; and yes, I believe that we need something like
15 PREA standards -- I'm not altogether convinced we need
16 them from the federal government, but they're here,
17 I'll buy that. But I think we need to have a little
18 bit more precision on this end and find out what our
19 real problem is.

20 And I would also indicate, I've spoken with
21 Dr. Beck and with Paige, and I appreciate his
22 professionalism, and as I did, I've apologized -- I'll

1 apologize again if I come across too strong. But where
2 is the skepticism? You're a scientist. You need to be
3 skeptical of those results, and you need to say, "Wait
4 a minute: I've got two orders of magnitude between
5 what is observed and what my instrument is telling me."

6 I know, as a physicist, that there is no
7 physical process on earth that you can suffer two
8 orders of magnitude difference between what you observe
9 and what you think you should observe.

10 So let's be a little more skeptical; let's
11 tune that up and I don't know that -- I'm not a social
12 worker, although I do have a bachelor degree in
13 psychology, let's look at some way of saying, are there
14 other cultural influences? And by the way, cultural
15 influences can have great variation between
16 institutions and even localities. Are there cultural
17 things that are at play here that are changing the
18 abuse rate?

19 And you'll notice, I'm not standing up here
20 and denying and saying nothing happened, and I'm not
21 standing here and questioning the veracity of inmates.

22 I think by and large, the instrument, viewing it

1 myself, that it was designed that it can -- it can get
2 the liars out. But I really think you've got
3 believers, believers over here who may not have been
4 the victim of -- or who have not been victimized.

5 DR. CHRISTENSEN: Well, and you would also
6 agree that cultural perception also influences
7 dramatically reporting? And the rate at which --

8 SHERIFF BENEDICT: Absolutely.

9 DR. CHRISTENSEN: And the rate at which things
10 are reported and perceptions about what they're
11 reporting? So --

12 SHERIFF BENEDICT: There are. And these are
13 things that need to be acknowledged. And I also think
14 that one of the things that would have helped the
15 survey -- and I acknowledged to Dr. Beck, he did give
16 me that information to find out how many were reported,
17 and of those reported, how many were actually founded.

18 I think that the survey should have
19 acknowledged in the front that we do have a -- at least
20 one order of magnitude difference between what's
21 reported and what's predicted. And acknowledge that
22 there -- that that has to say that, even though the

1 instrument is precise statistically, it -- there may be
2 things in there that we don't see.

3 And I see Dr. Beck is listening. And if he
4 just listens to what I said and applies it, I would be
5 more than happy.

6 DR. CHRISTENSEN: We will not invite Dr. Beck
7 back up to testify. But I'm sure he's taking copious
8 notes, mentally, about what you've said. And feel free
9 to pass on to him your thoughts about what you think
10 might be, you know, errors in the sampling process
11 or --

12 SHERIFF BENEDICT: No, I never -- keep in
13 mind, I am not talking about errors in sampling
14 processes. Please, please, the sampling process is
15 valid. Everything Dr. Beck did statistically is
16 dead-on. I would never argue with a professional, or
17 someone who has a doctorate in statistics or along
18 those lines.

19 I'm only arguing what is the input? What are
20 we looking at? And I'll give you another example. Do
21 people recall the repressed memories? The business of
22 about twenty or thirty years ago, where we had a

1 number -- a number of innocent people put in prison for
2 life for so-called abusing people in day care.

3 I guarantee you that if you'd have done a
4 survey of those victims, that -- the children or teens
5 or whatever, you would have found a high rate of abuse.

6 They actually testified in court that they had been
7 abused. Now, were they? That -- so my point is is
8 that the survey would be very accurate. But is
9 it -- is it really getting to the underlying fact? And
10 the fact is, with human beings, belief is often as
11 powerful as experience. And I certainly don't have to
12 tell that to Dr. Beck.

13 You're dealing with a belief, and the belief
14 has every bit of validity, and it will show up on your
15 instrument. But it is not -- a belief in something
16 does not establish it as having happened.

17 DR. WILKINSON: Well, Sheriff, I mean, the
18 bottom line for the Panel is that, you know, we had to
19 pick from those agencies where there was statistical
20 high prevalence. And Clallum County showed up on it,
21 and therefore your invitation. And we realize that you
22 are here against your will, more or less.

1 And you know -- but despite that, you know, I
2 think because of this process, you've already
3 self-admitted several changes that you want to make.
4 Let's say it is true, that you know, you have these
5 incidents, whether they are as high as what's reported
6 or not. You know, the mission would be to even
7 improve. I think any jail, prison, juvenile facility
8 in the country has got room to add new additions to
9 prevent any kind of misconduct, be it sexual or
10 otherwise. So --

11 SHERIFF BENEDICT: Your point is well taken.
12 But with all due respect, you're going from one realm
13 to another. Yes, I can always improve my jail, and I
14 certain will improve it. But the fact that I'm
15 improving it does not prove that it's -- that there was
16 any violation whatsoever. And that's where I'm sorry,
17 but I just have to stand here unbowed on that.

18 I honestly think that -- now I will say this.
19 These improvements make me feel better about going
20 forward, because who knows, I might have -- I might
21 hire a corrections officer that is a sexual predator.
22 So you're darn right: I don't want to have that

1 opportunity. Now whether it's luck or whether it's
2 leadership or what we have is, I am very comfortable
3 with what has gone on in my jail in the last five
4 years.

5 And I stand before you basically unbowed. I
6 stand before you saying that Clallum County's sexual
7 victimization rate is not eight percent. It is nowhere
8 near that. And I am -- I would ask somebody to show me
9 with at least one victim where it could be.

10 So yes, I get it, and I understand that. But
11 the -- to the citizens of my county, to the
12 hard-working corrections staff that I have, many of
13 whom have worked there for over twenty years, I cannot
14 come before you and say, "Oh, yes, it's very possible
15 or probable that it happened, but we're not going to
16 let it happen again." No, I'm not saying that. I'm
17 saying I'm going to improve the -- just like if I had
18 any kind of a visit from an organization to assist, I'd
19 be a fool not to take their advice. But I don't think
20 taking that advice proves that I had a problem.

21 DR. CHRISTENSEN: But it doesn't prove that
22 you didn't. So maybe it's not eight percent, and maybe

1 it's not -- and it's probably not zero percent. So the
2 point is, I'm sure we can all agree, if it's .05
3 percent, then there is improvements like Dr. Wilkinson
4 talked about that can --

5 SHERIFF BENEDICT: Well, you know, I -- that
6 is --

7 DR. CHRISTENSEN: -- try and mitigate --

8 SHERIFF BENEDICT: Once again, Dr.
9 Christensen, with all due respect, you're engaging in
10 pure speculation.

11 DR. CHRISTENSEN: So were you.

12 SHERIFF BENEDICT: Pure -- no, I'm not. I
13 have the evidence to show nothing has happened. And
14 I'm before you to say, before you can say that I have
15 .05, 005, 00005, you have to at least produce one
16 victim. And I haven't seen it. And believe me, I have
17 been exhaustive. I have been on the radio, I
18 have -- actually the defense attorneys and attorneys in
19 Clallum County, I met with them. And I said, "Go find
20 me a victim." And they couldn't find me a victim.

21 So no, I can't accept that. I can accept the
22 probability in the future; but for that period of time

1 that I'm talking about, other than a survey, which I
2 have identified, which I think are valid, some cultural
3 issues, an anonymous survey is the only thing; and it's
4 the only reason I'm here today.

5 DR. CHRISTENSEN: And the only thing I can say
6 about that, and then I'll stop sparring with you,
7 is -- and the issues and prevalence of split between
8 inmates and staff is real within a correctional
9 facility. That inmates don't necessarily trust staff,
10 and certainly your facility is no exception. As a
11 matter of fact, that's one of the things, when we were
12 walking through, that the inmate population pulled us
13 aside, myself and Mr. Swiderski, to talk about -- and
14 again, in their opinion -- to talk about racist
15 practices within the facility and different things like
16 that.

17 So -- and we did talk to them, and we did talk
18 with you about that. So the point is that when there's
19 that level of -- and it's inherent in any correctional
20 facility. That level of distrust between staff, there
21 are certainly -- and/or the possibility of consensual
22 sex between inmates in areas that are not readily

1 observed by corrections staff, there is a possibility.

2 SHERIFF BENEDICT: Certainly there's a
3 possibility.

4 DR. CHRISTENSEN: And all we're looking at
5 doing is moving -- again the possibility -- the whole
6 purpose of this whole exercise is to move the practice
7 of criminal justice forward and to make positive
8 changes within the correctional milieu. And we
9 certainly appreciate your input as it relates to that.

10 But to say that there is no possible -- you
11 haven't said that. But to say that there's very little
12 possibility of that happening is -- you just can't say
13 that, nor can we say for sure that any survey says --

14 SHERIFF BENEDICT: Well, what I can say is is
15 that there has not been any --

16 DR. CHRISTENSEN: You can say --

17 SHERIFF BENEDICT: -- accusations. There has
18 not been any allegations.

19 DR. CHRISTENSEN: Well, there have. I mean
20 you --

21 SHERIFF BENEDICT: No, no --

22 DR. CHRISTENSEN: Well, there was a use of

1 your PREA hotline, wasn't there? You didn't talk
2 about --

3 SHERIFF BENEDICT: I told you about that, that
4 that was an attorney. That was the man's attorney.
5 That is not my staff.

6 DR. CHRISTENSEN: Except that it's easy enough
7 to believe that an inmate would look at that as a
8 person -- as a part of staff, right?

9 SHERIFF BENEDICT: I understand that. But I
10 have no control over defense attorneys. I have
11 absolutely no control over them, other than to not
12 allow them in my jail.

13 DR. CHRISTENSEN: And you've done that, and
14 you've done that well. And when we were out there,
15 you've actually said one when we were out there. And I
16 did check with Joe, by the way. When we were out
17 there, the county manager said there were three
18 instances with --

19 SHERIFF BENEDICT: I think --

20 DR. CHRISTENSEN: He might be mistaken, but he
21 did say that.

22 SHERIFF BENEDICT: -- he thought so.

1 But -- no.

2 DR. CHRISTENSEN: So I mean, that would -- and
3 if there were three instances, and they mistook the
4 lawyer for staff, then it starts to bring a lot more
5 credence to the possibility that the survey is correct.

6 SHERIFF BENEDICT: Wait, wait -- well, yeah.
7 No, the survey is not accurate. Because an attorney is
8 not staff.

9 DR. CHRISTENSEN: Except that that --

10 SHERIFF BENEDICT: That is not staff.

11 DR. CHRISTENSEN: You're the one that talked
12 about perception.

13 SHERIFF BENEDICT: Well, I know. And I
14 apologize, I don't want to --

15 DR. CHRISTENSEN: And I said I would stop the
16 sparring, so why don't we cut the sparring. Why
17 don't --

18 DR. WILKINSON: Yeah, we're beginning to
19 repeat ourselves here just a little bit.

20 SHERIFF BENEDICT: Okay. I'm sorry.

21 DR. WILKINSON: But I -- you know, for us this
22 was a helpful exercise in the hearing itself, because

1 you know, we don't expect for everybody to agree with,
2 you know, the process and testimony given and so forth.

3 But you know, we're hoping that you see our side that,
4 you know, we have an obligation to follow through with
5 the information that's supplied to us. And you know,
6 we have an awful lot of confidence in the process.

7 You know, whether or not it was skewed, no
8 intentions because of anything that anybody did, we
9 can't control that. If you happen to be among the
10 jurisdiction where it was a skewed reporting process,
11 you know, we'll never know. The only thing we can do
12 is go by the process that, you know, has been put
13 before us. And I know how much time and hard work has
14 gone into that process.

15 We're just hoping, you know, you don't throw
16 the baby out with the bathwater and think that, you
17 know, there are some things that maybe you can do. One
18 of the things that's true about the reporting, if let's
19 say the prisoners did lie. Well, sometimes there's a
20 reason why they lie, you know, because of a culture in
21 the facility, for whatever reason. And I'm not sure
22 that's the case either.

1 But you know, it might be at least cause for
2 some introspection above and beyond maybe what you've
3 looked at, and I know you've looked at a lot. And it
4 seems like you have a great handle on the jail out
5 there, and you said you had one of the best jail
6 administrators in the county -- in the state. So
7 that's saying an awful lot for the person you have
8 looking out for your, you know, detention facility.

9 So I will let you have the last word.

10 SHERIFF BENEDICT: Okay, here's my last word.

11 DR. CHRISTENSEN: Oh, one more thing, and I
12 just want to make sure and recognize one thing for
13 sure.

14 I can speak for Mr. Swiderski and myself, we
15 were out there. There is absolutely zero doubt in our
16 mind that you have all intention of running the best
17 possible correctional facility that you can. As well
18 as your jail administrator and well as your
19 undersheriff, with whom we met pretty extensively over
20 a period of a morning, as well as your corrections
21 staff. And I -- we have absolutely no preconceived
22 notions, other than that you want to do the absolute

1 best that you can do for the citizens of your county.
2 There's just no question about that. So I want to make
3 sure that we say that.

4 SHERIFF BENEDICT: Thank you, I appreciate
5 that.

6 And my last words are going to be a take from
7 Dr. Wilkinson. I'm not going to throw the baby out
8 with the bathwater, and I would request that you not
9 throw the baby out with the bathwater, and look at what
10 I've said.

11 And truly look at it. I am more than willing
12 to discuss it with Dr. Beck or his staff. But I really
13 and truly think that you need to take a real hard look
14 at this survey instrument. Forget my experiences, but
15 you've just got such a gap between observation and
16 prediction that -- so with that, I thank you. I think
17 you treated me fairly, and I do appreciate that you
18 gave me the opportunity to talk.

19 Thank you.

20 DR. CHRISTENSEN: Thank you.

21 DR. WILKINSON: Sheriff, thank you so much for
22 coming cross country to join us. It was very

1 informative. Thank you.

2 SHERIFF BENEDICT: Thank you.

3 DR. WILKINSON: We will invite Miami-Dade
4 about five minutes after 3:00. So, we're good.

5 (A short recess was taken.)

6 DR. WILKINSON: I think the Miami-Dade Panel
7 is here. So if it's okay, then we will, you know,
8 proceed.

9 Thank you Miami-Dade for being here. You've
10 had the distinction of having heard everybody who went
11 before you today, not that that would change anything
12 that you would provide testimony for this afternoon.

13 And let me thank you for having me at the
14 facility several weeks ago. I enjoyed my visit to
15 Miami-Dade. I even found out how to get there,
16 so -- amongst all the Miami traffic.

17 Whereupon,

18 DIRECTOR TIMOTHY P. RYAN,

19 CAPTAIN JOHN W. JOHNSON,

20 DIVISION CHIEF SHEILA SIDDIQUI,

21 EXECUTIVE OFFICER WYNNIE TESTAMARK-SAMUELS,

22 CAPTAIN WENDY MAYES,

1 MENTAL HEALTH SERVICES MANAGER ELOUISA C. MONTOYA,

2 DR. MERCY MARY GONZALEZ,

3 and

4 LIEUTENANT ERIC GARCIA

5 appeared as witnesses herein and, having been
6 first duly sworn to tell the truth, were examined and
7 testified as follows:

8 DR. WILKINSON: Thank you.

9 Director Ryan, if I could ask you to swear to
10 this, or to acknowledge it: To the best of your
11 knowledge, can you attest to the accuracy and
12 truthfulness of the written response of the Miami-Dade
13 Pre-Trial Detention Center to the data request that the
14 Review Panel on Prison Rape sent to your agency in
15 preparation for today's hearing, as well as to the
16 accuracy and truthfulness of other documentation your
17 agency gave to the Panel in the interim?

18 DIRECTOR RYAN: Yes, I can.

19 DR. WILKINSON: Thank you.

20 And a lot of documentation you did supply, so
21 thank you very much. We won't probably have a need to
22 ask you to send much else, because we have a lot of

1 information from Miami-Dade Pre-Trial, or
2 affectionately known as PTDC with all of you.

3 So Director Ryan, if it's okay, I will let you
4 provide the opening testimony. And by the way, just
5 for the sake of the audience and the record, Miami-Dade
6 does not have a sheriff, and so there was no sheriff to
7 invite. The buck stops with Director Ryan since we
8 didn't invite the executive Mayor of Miami-Dade County.

9 So with that in mind, Tim, do you mind?

10 TESTIMONY OF DIRECTOR TIMOTHY P. RYAN

11 DIRECTOR RYAN: Thank you, Dr. Wilkinson.

12 On behalf of the Mayor of Miami-Dade County,
13 Florida, Carlos Gimenez and its 2.5 million residents,
14 I am Tim Ryan, Director. And I thank you for the
15 opportunity to speak today about the Miami-Dade
16 Corrections and Rehabilitation Department and our
17 response to the concerns that surfaced from the
18 national inmates survey.

19 In so doing, like my colleagues and other
20 jails, prisons, correctional environments and
21 institutions in America, MDCR has zero-tolerance for
22 any sexual abuse, misconduct, or criminality occurring

1 in its facilities. There is absolutely no acceptable
2 form of these behaviors in our jails, and as such, we
3 treat every allegation with the most serious of
4 actions, responses, and professionalism.

5 As I come forth today, I would like the Panel
6 to be aware that I am unaware of any jail in America
7 that has undergone the level of scrutiny from the
8 Department of Justice as MDCR. We have been reviewed
9 by the Civil Rights of Institutionalized Persons Act,
10 CRIPA, in 2008, as well as Limited English Proficiency,
11 LEP rules at the same time. Further, just a couple of
12 weeks ago, on August 30th, we were assessed by the U.S.
13 Government's Accountability Office relative to our
14 participation in secure communities program. And the
15 day after that, the Census Bureau came through to do
16 another study of the Pre-Trial Detention Center. So
17 we're part of DOJ in lots of different ways.

18 But rather than seeing these as intrusions in
19 our realm, we have embraced each of these reviews as a
20 means of improving our business. We want to be the
21 best, and we believe we must be open and transparent as
22 possible to achieve this. The Panel's review is

1 something we see as helpful, positive, and encouraging
2 in an extremely challenging and difficult time. We
3 thank you for the opportunity to tell our story.

4 As we recognize this, I also note that there
5 is no perfect institutional environment that could
6 absolutely ensure that improper behavior does not occur
7 within its facilities. Now in my forty-second year in
8 the jails of America and as a past jail administrator
9 in other counties and states, and now the present
10 leader of the eighth largest jail in America, I know
11 that the culture of our jails may lead to improprieties
12 of which you must be constantly vigilant.

13 Our business involves people and not widgets
14 on an assembly line, and with it comes the
15 multi-variable behaviors which, thank goodness, are
16 mostly positive but every so often negative and
17 intolerable. Given this, I'd like to share some basic
18 information about our jail system.

19 As you mentioned, first we are not a system
20 overseen by a sheriff. Our department reports to the
21 Miami-Dade County Mayor in concert with the Board of
22 County Commissioners. Miami-Dade County is the largest

1 of these systems in Florida, one of the seven counties
2 out of sixty-seven not overseen by a sheriff and the
3 eighth largest of all the jail systems in America.

4 Secondly, this -- given this organizational
5 arrangement, MDCR staff is governed under the State of
6 Florida rules that involve correctional certification,
7 not law enforcement certification. This means that we
8 utilize the Miami-Dade police department, the county's
9 law enforcement agency, as our partner in investigating
10 criminal actions surrounding PREA and any other
11 criminal allegation.

12 MDCR is not just a single jail facility at one
13 site. Rather, it is comprised of six housing
14 facilities and one hospital unit. It is a jail system
15 today of nearly 6,000 inmates with a significant
16 reduction from the 7,400 in 2008 during this survey
17 period. This also includes 500 under house arrest and
18 monitored release, and another 2,500 inmates under
19 Pre-Trial Services oversight.

20 We have a budget of nearly \$300 million, and
21 are governed by the county charter, county
22 administrative orders, internal policies and

1 procedures, as well as collective bargaining
2 agreements. Our jail population is eight percent
3 female and ninety-two percent male. At the same time,
4 our custodial staff is fifty-three percent female and
5 forty-seven percent male; thus a significant number of
6 our housing units are overseen by more female than male
7 staff. And this has unique implications, particularly
8 in the male inmate housing areas.

9 Additionally, to be a certified correctional
10 officer, our staff is selected after a rigorous written
11 examination, background assessment, a dual
12 psychological review, polygraph, and medical
13 examination. Our last recruitment effort resulted in
14 1,700 applicants of which only 150 were offered
15 employment.

16 Once selected, the recruit must successfully
17 pass a twenty-two-week academy in which much
18 information presented, including PREA components, like
19 victimization, predatory behaviors, and much more.
20 Upon completion, there is a state examination that must
21 be successfully passed, thirty days of intensive site
22 orientation, and a one-year probationary period.

1 Also throughout an officer's career, they must
2 be recertified every four years for the retraining of
3 continuing issues, as well as any new topics of
4 importance, such as PREA.

5 On an annual basis, our staff must reaffirm
6 their knowledge of our policies and procedures.
7 Further, at any time, these policies and procedures are
8 readily accessible on our internal web site. At any
9 time that we recognize the need for specialized
10 training, we initiate it at the earliest opportunity.
11 For example, the recent National Institute of
12 Corrections online training regarding PREA has been
13 initiated for all staff now.

14 Lastly, our supervisors and managers are given
15 special training at the time of promotion and continual
16 in-service training throughout their careers. This
17 training incorporates many areas, including PREA
18 information from a leader's perspective.

19 My intention of sharing this perspective is to
20 assist the Panel in recognizing the unique challenges
21 in the operation of one of the largest urban jail
22 systems in the United States. On August twenty-ninth,

1 Dr. Wilkinson and staff from the Panel had the
2 opportunity to visit one component of our correctional
3 world in Miami. This was the Pre-Trial Detention
4 Center, one of our six jail facilities, also called the
5 Dade County Main Jail.

6 This high-rise facility was opened in 1961.
7 It was designed to process through its receiving area
8 only eighty arrestees a day, or about 30,000 a year.
9 Today it processes through the same area as designed an
10 average of 300 arrestees a day, or 110,000 a year. The
11 system receives arrestees from thirty-seven different
12 jurisdictions at a rate of one every four minutes. Of
13 these arrestees, one in five is considered mentally
14 ill.

15 At the present time, our system has eighty-
16 four percent of its population as pre-sens, meaning
17 only sixteen percent are sentenced. Additionally, we
18 average fifty to 100 juveniles who have been
19 adjudicated for processing as adults. Over 120 of our
20 inmates have been in custody for over four years, with
21 the longest inmate in custody now at 13.5 years
22 awaiting adjudication on a murder case. We process the

1 first-time offender who will never return to our
2 custody to those on death row appealing their cases.

3 This facility is considered a first-generation
4 jail with indirect supervision as its model, which
5 means that inmates are not under constant observation
6 by staff. PTDC only houses male inmates who are some
7 of the most violent offenders in the system, classified
8 as maximum one and two. Like most of the urban jails
9 designed and built in the 1950s and 1960s, it was not
10 anticipated that it would incarcerate the numbers and
11 types of violent inmates it has been called upon to
12 house today.

13 I offer all of this, and much more if desired,
14 not as an excuse, but to hopefully help the Panel
15 recognize the diversity of issues our local jail must
16 face as we come to grips with the importance of also
17 addressing the issues of sexual misconduct as well.

18 Since taking a leadership role in Miami-Dade
19 County, I did discover that, even though there had long
20 been policies and procedures addressing sexual
21 misconduct, the PREA initiative had not been fully
22 embraced. Upon recognizing this, we initiated the

1 following:

2 In February of 2007, I distributed my
3 professional expectations video which addresses my
4 zero-tolerance for staff-inmate fraternization and the
5 potential for termination as a consequence. This was
6 followed up in April of 2011 with another departmental
7 video regarding the impropriety and inappropriateness
8 of staff and inmate fraternization.

9 In December of 2007, we developed and
10 published the updated policy addressing PREA entitled
11 *Inmate Sexual Assault Battery Prevention*, affirming our
12 zero-tolerance for sexual assault and battery, whether
13 inmate-on-inmate or staff-on-inmate, and identified the
14 protocols to respond to sexual assault and battery
15 allegations.

16 The inmate handbook was updated in September
17 of 2007 to include reference to our intolerance of
18 sexual misconduct. This is provided to each inmate
19 along with a pamphlet entitled *Sexual Assault Awareness*
20 in three languages, English, Spanish, and Creole.

21 MDCR has also displayed PREA posters in the
22 three languages throughout the housing units in our six

1 detention facilities since 2007. We have also
2 incorporated PREA into our annual training classes, as
3 well as PREA updates and departmental expectations and
4 responsibilities of all staff in our ongoing in-service
5 training.

6 PREA information is now included during our
7 new employee work-site orientation as well. As with
8 the training noted above, it includes the impact of
9 victimization, zero-tolerance to sexual misconduct of
10 any sort, the requirement of reporting, and the general
11 sensitivity to these types of occurrences in an
12 institutional environment.

13 We have updated our intake screening, medical
14 assessments, and classification processes for the
15 inclusion of information gathered to identify victims
16 and/or predators. Upon either determination, immediate
17 supervisory review is conducted to make sure the inmate
18 is appropriately housed.

19 We initiated a rape-crisis hotline that is
20 available from any inmate phone, as well as the
21 domestic-and-sexual-violence hotlines, where sexual
22 abuse can be reported directly to outside agencies. We

1 required staff to view the initial NIC videos that were
2 first available several years ago and now are utilizing
3 the NIC online training course entitled *Prison Rape*
4 *Elimination Act: Your Role in Responding to Sexual*
5 *Abuse*. At this point, nearly 2,800 employees have
6 successfully participated, leaving less than five
7 percent to complete the training in the next sixty
8 days.

9 We have actively pursued assistance from
10 outside entities as well to enhance our operations.
11 This has included the Just Detention International
12 staff, which has been assessing our needs and has been
13 working with us since the fall of 2010. NIC in
14 conjunction with the Moss Group just conducted
15 specialized training for investigators of sexual
16 assaults in confinement settings to not only our
17 internal affairs staff but also our criminal justice
18 partners, including the rape-treatment center,
19 Miami-Dade police department, and the state attorney's
20 office.

21 Relative to facility upgrades, we have
22 initiated at the PTDC the installation of seventy-eight

1 surveillance cameras in several housing units and wings
2 A and B on the fourth, fifth, and sixth floors, which
3 was recently completed to increase the ability of
4 officers to visibly observe inmates. An additional
5 twenty-four cameras are in the process of being
6 installed in the C wings of those same three floors. A
7 surveillance room has been established where there will
8 be a twenty-four-hour monitoring, seven days a week.
9 These cameras' footage will be recorded and activated
10 for periods of thirty to forty-five days.

11 MDCR has implemented word recognition software
12 to identify any sexually related language on an
13 incident report. The software will forward an email
14 notification to our internal affairs unit, the
15 accreditation inspection bureau, as well as the
16 facility supervisor. This is in an effort to ensure
17 that any possible sexually related incident is
18 immediately evaluated and investigated, should it
19 somehow be overlooked through other means.

20 And finally, we strongly believe in the
21 achievement of national standards as a means to help
22 create best practices in the correctional environment.

1 As such, we've achieved accreditation by the American
2 Correctional Association for the women's detention
3 center, the boot camp program and central office. Our
4 next ACA goal is the accreditation of our training
5 unit. Additionally, our accreditation efforts are
6 further augmented with the state accreditation and the
7 Florida Corrections Accreditation Commission for the
8 Metro West Detention Facility, the Turner Gilford
9 Knight detention facility and our pre-trial services
10 program.

11 Our next special accreditation efforts will be
12 to achieve accreditation for PTDC under the core jail's
13 standards of the ACA, as well as the -- in eighteen
14 months, the accreditation of our county medical and
15 mental health services provider under the National
16 Commission on Correctional Healthcare. Even though we
17 believe we have many components in place to prevent
18 sexual misconduct and other issues in our environment,
19 we recognize that prevention will most likely not
20 completely eliminate such issues in our jails. As
21 such, we will continue to enhance our current efforts
22 by assessing recommendations from Just Detention

1 International in their work with us, as well as the
2 results of your Panel's review.

3 We will continue to seriously assess any
4 events that occur, as well as hold staff strictly
5 accountable for their actions. This includes close
6 collaboration with the state attorney's office to
7 prosecute individuals who violate provisions of our
8 criminal statutes and discipline appropriately when
9 deemed necessary.

10 In addition to continual improvements and
11 collaboration efforts with our criminal justice
12 partners, we strongly believe in openness and
13 transparency to identify not only areas of sexual
14 impropriety but other areas that might be missed
15 through other means. For example, in 2007 through
16 2010, we requested the VERA Institute to assess our
17 operations regarding openness and community awareness,
18 and we have implemented many of their recommendations.

19 As part of the continual efforts toward
20 transparency in the MDCR jail operations, we accepted a
21 request from the British Broadcasting Corporation, BBC,
22 to interview our inmates on their incarceration

1 experience. Upon viewing the experiences they
2 documented, we were absolutely troubled by the
3 undercurrents that were clearly evident. The BBC
4 documentary brought face to face that age-old problem
5 between policy and practice once again.

6 We immediately reinforced not only our
7 expectations but requirements of supervisory staff,
8 assessed incident reports and conducted follow-ups,
9 examined discipline, and increased our communication
10 with the inmates. What we actually found, even though
11 what the BBC story presented was different, was that
12 since 2007, the incidence of inmate-on-inmate violence
13 has been reduced by fifty-four percent.

14 For example, in March of 2007, there were 162
15 incidents, however in March of 2011, there were a total
16 of seventy-five incidents, or a fifty-four percent
17 reduction, with the majority of these being more of
18 pushing and much less violent in nature.

19 In 2008, the staff-to-inmate response to
20 resistance or use of force reports has dropped by
21 seventy-eight percent. Example, in March of '08, there
22 were fifty-four events; in March of this year, there

1 were only twelve.

2 In addition, the story also identified another
3 troubling area for staff, especially female staff, and
4 that is inmate-exposed masturbation, or "gunning" as
5 the inmates call it. This is certainly not a problem
6 unique to our facilities, but experienced throughout
7 the correctional community nationwide. This is an area
8 where we are still seeking answers, and as the Panel
9 does its work, perhaps these answers will emerge.

10 We have been unsuccessful in our efforts to
11 have the state attorney's office prosecute such
12 behaviors, leaving our only available action as an
13 inmate discipline and segregation approach. We have,
14 however, recently offered staff counseling services
15 with our in-house psychologists, should that be deemed
16 necessary.

17 Clearly we have -- we would hope that none of
18 these events would have to occur, but they do. Yet
19 they have been significantly reduced, and we are
20 constantly working to reduce them further. These
21 efforts are ongoing, and we fully expect more progress
22 to come.

1 Like my colleagues in this business, we take
2 the care and custody of inmates very seriously. We,
3 like others, have had some events of which we all wish
4 had not occurred. But when made aware of these events,
5 we respond quickly, appropriately, professionally, and
6 responsibly. As I mentioned in the beginning, MDCR is
7 an agency that attempts to be as open and transparent
8 as possible. Although no one encourages the DOJ to
9 investigate them, we believe that we can only get
10 better through examination. As such, your Panel's
11 review is another step in that process.

12 In conclusion, I hope that I have provided a
13 meaningful overview of the varied approaches we have
14 taken: the prevention, detection, and investigation of
15 sexual misconduct in our facilities. We remain firmly
16 committed to a zero-tolerance against sexual misconduct
17 and any other aggressive violent behavior towards
18 inmates. MDCR's personnel join me as correctional
19 professionals in saying we take care -- the care and
20 custody of inmates in our facilities very seriously and
21 will continue to improve daily operations while
22 providing safe and secure environment for them all.

1 I would like to thank the members of this
2 Panel for taking on this challenge and welcome your
3 recommendations. This concludes my prepared testimony.

4 I now look forward to your questions in the
5 forthcoming discussion. Thanks again for the
6 opportunity to formally address this Panel.

7 DR. WILKINSON: Thank you, Director Ryan. If
8 we could have everybody introduce themselves? So Ms.
9 Siddiqui, you want to start?

10 CHIEF SIDDIQUI: Good afternoon. I am Sheila
11 Siddiqui, Miami-Dade County Corrections. I am
12 currently the division chief over professional
13 compliance. I've been with the department over
14 thirty-one years, hallelujah.

15 DR. WILKINSON: And you're retiring in
16 December, right?

17 CHIEF SIDDIQUI: In December. I currently
18 oversee professional compliance, which includes all
19 internal affairs investigations, inspections,
20 accreditation, fire safety, canine, and security
21 operations. Thank you.

22 DR. WILKINSON: Thank you. Captain?

1 CAPTAIN JOHNSON: Good afternoon. I am
2 Captain John Johnson, and I'm the facility supervisor
3 for the Pre-Trial Detention Center.

4 DR. WILKINSON: Great, thank you.

5 CAPTAIN MAYES: Good afternoon, Captain Wendy
6 Mayes, and I manage the intake and release bureau.

7 DR. WILKINSON: All right, thank you.

8 LIEUTENANT TESTAMARK-SAMUELS: Good afternoon.
9 Wynnie Testamark-Samuels, Lieutenant, twenty-four
10 years in the agency. And I'm accreditation manager,
11 accreditation and inspections bureau.

12 DR. GONZALEZ: Good afternoon. My name is Dr.
13 Mercy Gonzalez. I'm employed by Jackson Health System,
14 and it's a county hospital in Miami-Dade County. And
15 more specifically, I work for corrections health
16 services, which is the subdivision of Jackson Health
17 System. I've been in Dade County jails working for
18 approximately three years now. I'm interim associate
19 medical director for four months.

20 DR. WILKINSON: Okay.

21 DR. MONTOYA: Good afternoon, I am Dr. Eloisa
22 Montoya. I am the mental health services manager in

1 the department of corrections and rehabilitation.

2 DR. WILKINSON: And you're a psychologist?

3 DR. MONTOYA: I am a clinical psychologist.

4 DR. WILKINSON: Yes, sir?

5 LIEUTENANT GARCIA: My name is Eric Garcia,
6 I'm employed with Miami-Dade police department.

7 DR. WILKINSON: Can you turn into the
8 microphone there, please? Thanks.

9 LIEUTENANT GARCIA: My name is Eric Garcia,
10 and I'm employed with the Miami-Dade police department
11 and currently assigned to the special victims bureau.

12 DR. WILKINSON: Great, thank you.

13 Well, Tim, a lot of what we're going to ask
14 you are your -- about all the things that you've
15 already said you're going to do. So we'll just go to
16 those things and kind of drill down a little bit
17 deeper, if that's okay.

18 DIRECTOR RYAN: Yes, sir.

19 DR. WILKINSON: And I will admit that, you
20 know, I did watch the BBC video prior to going there,
21 and I expected something totally different than what I
22 saw, especially the infamous sixth floor, you know,

1 where you have these massive cells that hold, I
2 believe, anywhere from sixteen to twenty-four persons.

3 But at the time, they didn't have cameras in them, and
4 a number of things are different about them.

5 If I could get, you know, maybe Captain
6 Johnson to describe that. But the one thing that was a
7 little bit troubling, as we went through those, were
8 the -- the black sheets over the shower areas; and
9 hopefully you're looking at remediating that issue?

10 CAPTAIN JOHNSON: Absolutely we are. I don't
11 know if the microphone is on, but as a result of your
12 walk-through and review, we have talked to one of our
13 vendors and we have -- currently have an invoice on my
14 desk to be signed off to install opaque shower curtains
15 to resolve that issue that you saw on that day.

16 DR. WILKINSON: Can you just kind of describe
17 some of the changes that you've made? And not just the
18 sixth floor but, you know, with your camera system to
19 abate -- just to maybe set the stage a little bit more.

20 There was a lot of accusations of sexual misconduct,
21 assaults, and those kind of things in the sixth floor,
22 because you had to fight for your bunk, you had to, you

1 know, do a number of things in order to prevent, you
2 know, not being labeled a snitch, not, you know, being
3 able to -- you would lose your commissary if you were
4 weak, so those kind of things.

5 So tell me what you've done to kind of -- and
6 that was all around the time when the survey was done?

7 CAPTAIN JOHNSON: Yes. Yes, it was.

8 DR. WILKINSON: So --

9 CAPTAIN JOHNSON: Well, if I can, I'd like to
10 say something, not that I did, but we did, as we were
11 operating under the direction of the director. But
12 what we can say is that I did see the BBC video, we
13 watched it as command staff, and I was appalled by what
14 I saw. We did go in, we -- as management of the
15 facility and do our own informal investigation as to
16 what it is and what was going on; and we realized
17 that -- I would say that the video could possibly have
18 been edited for effect.

19 So with that being said, we still looked at it
20 and realized that we were still vulnerable in a lot of
21 places. Therefore, we went forward, moved forward in a
22 more expedient pace with the cameras and so forth.

1 Because I would love to say that the cameras were a
2 result of the BBC's documentary, but the truth be told,
3 the cameras were already ordered and encumbered prior
4 to us even seeing the video.

5 So what we have now that we didn't have at the
6 time of the survey, and the time of the BBC video is,
7 we have three cameras within the inmate housing area,
8 which covers most of the cell. We still have some
9 blind spots. And we get a more real-time view into
10 what's going on inside. And as the director said, we
11 have a twenty-four-hour, seven days a week surveillance
12 room where we have a correctional employee there paying
13 attention to what's going on, so we can try to get in
14 front of things as opposed to always being reactive to
15 what we've heard.

16 The difference between today and say '08 and
17 '09 is, as we talked when you were there, is that the
18 population is down. The ratio I think there, we had a
19 ratio of one to twenty-six, one officer to twenty-six
20 inmates in '08, '09, with a 1,700-bed
21 population -- well, inmate jail population. Well,
22 today it's down to as little as one in nineteen,

1 because our population is only -- ADP of 1,200.

2 So though I can sit here and I know that we're
3 going in the right direction, but a lot of things are
4 just by -- I don't want to say lull, but just by the
5 design of the lull of the jail operations -- jail
6 population, I'm sorry, the decrease in our jail
7 population, which has given us an opportunity to do a
8 lot more things.

9 I hope I've answered your question.

10 DR. WILKINSON: Sure. Let's talk about the
11 cameras for a moment. You're to be commended for
12 adding as many cameras as you did. I think you said
13 ninety, when I was there --

14 CAPTAIN JOHNSON: Yes.

15 DR. WILKINSON: -- and you're adding twenty
16 more or -- you know, in the different locations.

17 I was a little bit concerned in the
18 surveillance room, however, that the staff had not been
19 trained on how to actually work the camera system. You
20 had three large monitors with about thirty pictures on
21 each one of them and, you know, I was -- the staff
22 person there couldn't answer a lot of the questions

1 about how to zoom and pan and enlarge and those kind of
2 things. I presume that's something you've, you know,
3 taken care of as well?

4 CAPTAIN JOHNSON: We've addressed it. I want
5 to say it's not totally taken care of, but the post
6 does have a post order, and it tells what their
7 responsibilities are. As far as the inner workings of
8 the exact -- of the system itself, we still have some
9 trouble because we rotate in every two hours, because
10 we want to keep the officers fresh as to what they're
11 looking at. So we're getting there, we're not totally
12 there yet, but we are in the process of remedying that
13 issue.

14 DR. WILKINSON: Yeah, I think that can be a
15 great tool along with the voice recognition piece of,
16 you know, through your telephone system as well. So I
17 think that's all very, very commendable.

18 If I could go to Drs. Montoya and Dr.
19 Gonzales, your mental health unit concerned me a little
20 bit. I mean, I think you're doing an awful lot there.
21 It seemed to be awful busy, you know, a lot of stuff
22 going on in there, and yet a number of staff walking

1 around monitoring the mental health unit.

2 There's only one thing that really bothered
3 me, but -- and that was the cell with the naked inmates
4 in there. And I know the answer given was, you know,
5 clothing could be potentially used as an implement to
6 harm themselves or whatever. But you have so many
7 staff monitoring that, I'm not sure they'll really have
8 time, you know, to do something dastardly.

9 So I'd just like for you all to kind of see
10 that, because it was the first time I've seen that in
11 any, you know, correctional facility that way. So
12 could you all tell me kind of what that means in terms
13 of why you do that?

14 DR. MONTOYA: I just -- Dr. Wilkinson, I
15 believe there was a nude inmate, but I think he had
16 taken his Ferguson gown off. He actually had a
17 Ferguson gown, you know, the quilted gown --

18 DR. WILKINSON: He did?

19 DR. MONTOYA: Yes, he did have it. Prior to
20 your arriving on the facility, he had taken -- it was
21 wrapped around his waist and just before you walked in,
22 he actually took it off and started walking around.

1 DR. WILKINSON: He took it off because I was
2 coming or --

3 DR. MONTOYA: I don't know. But yeah, he
4 actually did have a Ferguson gown, and he had disrobed.

5 DR. WILKINSON: So then the practice is to
6 have them clothed, of some sort?

7 DR. MONTOYA: Yes.

8 DR. GONZALEZ: Yes, I'd like to clarify that
9 every inmate is afforded a Ferguson gown and a blanket.
10 That's part of our protocol. With the typical
11 break-away tabs so they don't hurt themselves.

12 Unfortunately some individuals that are
13 psychotic might disrobe, either if they're psychotic
14 and also sometimes for manipulative purposes or for
15 intimidation. So I don't know if it's because you were
16 there, but that may occur on occasion. And of course,
17 they're always encouraged to put their gown back
18 on -- back on by the medical and security staff.

19 DR. WILKINSON: Yeah, and I think why the area
20 is important, and I think I asked you all this question
21 is, you know, how many of the inmates there might be
22 manipulative so that they won't have to live elsewhere.

1 I mean, are they using it as a form of protective
2 control, for example?

3 DR. GONZALEZ: Yes, absolutely, Doctor, that
4 is an issue, and it's a challenge for us on a daily
5 basis to try to tease out, as we spoke about the mad
6 versus bad.

7 DR. WILKINSON: Right.

8 DR. GONZALEZ: And so we do look at that. And
9 I think part of ensuring that we only have those with
10 seriously chronic and acute mental health issues on the
11 psychiatric floor, as we don't want predators in our
12 mental health units that don't have mental illness. So
13 it's part of our evaluation. They're seen every day by
14 the psychiatrist, six days per week, and mental health
15 professionals on the one day the psychiatrist is not
16 there, to try to triage, if you would, and assure that
17 they're not in there for housing reasons.

18 DR. WILKINSON: Ms. Testamark-Samuels, I
19 noticed an awful lot of posters and so forth
20 everywhere, inside cells, outside cells, anywhere that
21 inmates would gather. As the PREA coordinator, you
22 help to ensure that that continues and that everybody

1 there has access to not just the posted materials but
2 the hotline and -- which there's a phone inside the
3 cell itself. So you don't have to get permission to
4 leave the cell to make a call; you can do it right from
5 inside the cell. So I presume a lot of that are some
6 new developments, but some of it may be some ongoing
7 practices?

8 LIEUTENANT TESTAMARK-SAMUELS: That is
9 correct. That is correct. The telephone numbers are
10 there for the inmates to use throughout the housing
11 areas, or even in the red lobby. When they come into
12 intake, if they have an issue or concern, they could
13 pick up the phone and dial and reach out to the
14 treatment center.

15 DR. WILKINSON: And how many calls do you get?

16 LIEUTENANT TESTAMARK-SAMUELS: How many calls?

17 DR. WILKINSON: How many calls to the rape
18 hotline?

19 LIEUTENANT TESTAMARK-SAMUELS: It varies.
20 Once the rape treatment center receives a call, then
21 they will notify the shift commander in the Pre-Trial
22 Detention Center.

1 DR. WILKINSON: The numbers on there, do you
2 know exactly how many calls you may have gotten in,
3 say, the last year?

4 LIEUTENANT TESTAMARK-SAMUELS: Within the last
5 year?

6 DR. WILKINSON: Yeah.

7 LIEUTENANT TESTAMARK-SAMUELS: No, I don't
8 have those numbers on me.

9 DR. WILKINSON: Okay. But you've gotten
10 calls?

11 LIEUTENANT TESTAMARK-SAMUELS: Yes.

12 DR. WILKINSON: Because somebody has
13 complained of a sexual assault?

14 LIEUTENANT TESTAMARK-SAMUELS: Sometimes they
15 do so, and sometimes they just make it a prank, and
16 that's the -- that's the most calls that we've had,
17 that they've made a -- they've just called just to talk
18 to the other person on the other end, prank calls.

19 DR. WILKINSON: And they will tell you it's a
20 prank at some point, or how do you know that it's a
21 prank? Just because they'll say something crazy that
22 doesn't make sense or --

1 LIEUTENANT TESTAMARK-SAMUELS: Yes, they will
2 call because they want to just talk to the particular
3 person.

4 DR. WILKINSON: So once you've distilled all
5 that and gotten through the pranks, you know, do you
6 keep numbers on ones that might be legitimate and worth
7 investigating?

8 LIEUTENANT TESTAMARK-SAMUELS: Yes.

9 DR. WILKINSON: And who does the
10 investigation? Who do you -- who does that information
11 go to? What's kind of the chain of occurrences there?

12 LIEUTENANT TESTAMARK-SAMUELS: That's done
13 through our Internal Affairs Unit, and Chief Siddiqui
14 could comment on that.

15 DR. WILKINSON: Okay.

16 CHIEF SIDDIQUI: Good afternoon.

17 DR. WILKINSON: Chief Siddiqui.

18 CHIEF SIDDIQUI: Hi. When the rape-treatment
19 center gets a call they believe is somebody
20 asking -- actually asking for help, they will
21 automatically call the shirt commander, and that will
22 begin our events where the inmate will be pulled from

1 the housing area, being taken to the clinic. And we
2 institute what we call our major-incident notification,
3 and we also have a checklist for any sexual assaults.
4 And we implement those two things.

5 MDPD is notified; the inmate is transported to
6 the rape treatment center, which is the same facility
7 that's used for all the citizens of Miami-Dade County.

8 And an internal affairs investigator also responds,
9 and begins that process. But the rape treatment center
10 will only call us when they have a call they believe is
11 sufficient and needs to be followed up on.

12 They do occasionally do contact us and tell us
13 they get prank calls, but that's -- you know, they've
14 basically been able to work on that, and basically
15 educate their staff on the questions to ask, so they
16 don't get so many prank calls as they did initially
17 when we started it.

18 DR. WILKINSON: Director Ryan, let me ask you
19 one other question before turning it over to Gary, and
20 then I have some others.

21 The -- you mentioned in your testimony that
22 you either didn't get a lot of cooperation, or the

1 state attorneys don't prosecute for different kinds of
2 what could be criminal activity, because probably they
3 were saying, they're already in jail, we don't have the
4 staff resources to prosecute people who are already in
5 jail.

6 But can you -- so can you maybe say a little
7 bit more about that and kind of your efforts to get
8 them to really kind of file charges against some of
9 these folks?

10 DIRECTOR RYAN: That has been difficult over
11 the last couple of years, as we've taken a look at it.
12 We started really kind of focusing on the masturbation
13 issue where that seemed to be a rash of that. And we
14 believe now that we're going to get some direction from
15 the state attorney's office because Broward County just
16 north of us is pursuing it as well.

17 And so there's a belief at this point that
18 they're moving ahead. And I think that part of that
19 has been because of just the recent training that we've
20 had with the Moss Group. The state attorney was part
21 of that group, and I think that's probably been very
22 recently the biggest impetus to make a change in how

1 they're going to take a look at things.

2 We've had some difficulty, in fact no
3 prosecutions that I'm aware of, unless someone else
4 knows about it, regarding staff. We have had some
5 staff incidents: we believe we had had sufficient
6 information; but they felt there was insufficient
7 information to move ahead for an actual trial and chose
8 for us to administratively deal with that.

9 I have been concerned, because sometimes I
10 think we need to send a message of how seriously we
11 take these types of things. I do believe there's like
12 maybe a new vision, a new mission, a new idea coming
13 out of the state attorney's office over the last couple
14 of weeks, really. So I'm optimistic that not only our
15 testimony here today, but the CRIPA report and others
16 are going to be kind of an impetus and a catalyst for
17 taking a new look at helping us with this particular
18 issue.

19 So I think I'm going to look to the future for
20 that. In the past, we've had some difficulties. I
21 think the future is going to be different.

22 DR. WILKINSON: But it's not because you all

1 haven't taken the cases to --

2 DIRECTOR RYAN: No.

3 DR. WILKINSON: -- the -- I think you had a
4 cellphone incident and some other stuff that you really
5 kind of have zero-tolerance for as well?

6 DIRECTOR RYAN: That's correct. We have
7 taken -- we've done the investigations; we believe we
8 had sufficient information to move ahead; but that's
9 not our choice. State attorney has to make a decision
10 about whether they have someone that they believe would
11 be credible. And I think unfortunately, in the
12 environment that we have, the person that they're going
13 to have to testify would not only be our law
14 enforcement side, but the inmate, if we can identify
15 the inmate involved. And the credibility there is
16 going to be in question, and they would much rather
17 have us take an administrative approach than a criminal
18 approach.

19 CHIEF SIDDIQUI: Dr. Wilkinson, we do contact
20 the state attorney for those cases. And even if they
21 do not proceed with filing charges, the department
22 proceeds with administrative action. And I believe

1 we've had seven, eight separations in the last two
2 years.

3 DR. WILKINSON: Okay. Involuntary?

4 CHIEF SIDDIQUI: Yes, sir.

5 DR. WILKINSON: Okay, good. Gary?

6 DR. CHRISTENSEN: Yeah. Tim, from your
7 perspective, you've run a number of large urban jails,
8 and one of the largest urban jails now. What -- from
9 your perspective, what do you think is the most
10 difficult aspect of implementation of PREA standards
11 and practices associated with PREA standards?

12 DIRECTOR RYAN: Well, I'd like to throw out
13 actually a couple of things. One is I think leadership
14 from the top is important. That it's got to be a
15 commitment from leadership. Art Wallenstein was here
16 this morning and talked about that. I think it's
17 important that the leaders of the organization
18 understand how important it is and that they're
19 committed to making those changes.

20 I think -- I believe it's critical to have
21 good policies in place, that those are -- everyone
22 understands those, they recognize the zero-tolerance

1 for those, that it permeates the organization that it's
2 not tolerable to have any of those types of things
3 going on.

4 There's the training component, that you not
5 only start and have your leadership folks trained in
6 what the expectations are, but that goes all the way
7 down to the line level officer and includes everybody
8 from your volunteers to your contractors to your
9 teachers that come in. All of those folks
10 understand -- your medical staff, your mental health
11 staff. All of those folks understand how important it
12 is, how sensitive this issue is, and that you
13 critically involve everybody in that component of it.
14 So the training is an important part of supervision,
15 and management is a critical component of it.

16 I also have another area -- well, actually two
17 more areas. One is, I think -- and I'm troubled by the
18 fact that our culture in America tends to make comment
19 about jails and prisons and inappropriate behavior like
20 sexual misconduct.

21 I was recently at a comedy club where the
22 comedian made comments about what could happen to you

1 when you go into jail or prison. I think that
2 unfortunately permeates some of the thinking. There
3 may be television programs that -- we have a cultural
4 change to make as well, to recognize that our jails and
5 prisons should not have these types of things going on;
6 that, as a profession, we do not tolerate those things.

7 And that message, I don't think, has gotten
8 out, that we have not done a good job of marketing
9 ourselves as to what we really believe in. And I've
10 not run across a single administrator, manager, leader,
11 secretary of prisons who doesn't say this is
12 intolerable, we don't want this to happen. You should
13 never want to have anybody go into that. Somehow that
14 message doesn't get out that we all believe in that.

15 So I think probably just kind of a rethinking
16 of our correctional environment, that we are all
17 professionals in this, we don't want this to happen,
18 and we're going to do everything we possibly can to
19 ensure that it's the very smallest opportunity for it.

20 DR. CHRISTENSEN: Thank you.

21 DIRECTOR RYAN: I'm sorry, there -- one more
22 thing.

1 You mentioned the state attorney's office or
2 district attorney's office and so forth. I would like
3 to see, whether it's NIC, BJS, BJA, one of those, kind
4 of put together a pilot project in which they really
5 focus on a large urban jail, and bring together a
6 collaborative of law enforcement, state attorney,
7 corrections, to put together a team to really go in.
8 And it's kind of been my thought that we need,
9 unfortunately, to have some examples. That we have to
10 go in and seriously put the whole team together.

11 So I would suggest that, if there's one area
12 where maybe DOJ and others could maybe help, we could
13 find some resources. Let's do some pilot projects and
14 really focus on the criminality side of this and make
15 that -- whatever effort they may need.

16 As we begin to put together video cameras and
17 the evidence and the DNA and all of that type of stuff
18 that may be possible today that wasn't possible ten,
19 fifteen years ago. That when we have that type of
20 evidence and that type of information available to us,
21 that we pursue it in an aggressive manner so that the
22 message does get out that this is intolerable, and

1 we're not going to accept it.

2 DR. WILKINSON: Thank you. I love the fact
3 that you have these publications. But I read them and
4 I have some concerns with them, with the language in
5 them. This one in particular. You've got -- you know,
6 PREA has the last inclusion in this one. And the
7 wording is kind of small, sometimes -- you know, if I
8 get to this, if I've read the whole thing, I may not
9 get to the end of it.

10 In some places I've seen have had separate
11 kind of PREA, you know, handbook kind of pieces instead
12 of having it in a larger book. I would look at the
13 language as well. You know, for example, I mean,
14 you've got to -- you look at this from the population
15 of the people that you have in your custody, you know,
16 rather than it appearing academic.

17 There's one piece in here in the handbook that
18 says, "The term rape means the carnal knowledge
19 of" -- I mean, it goes on. I didn't even know what
20 carnal meant, other than, you know, there was a movie
21 called *Carnal Knowledge* once upon a time, so I had to
22 look it up in the dictionary.

1 And so I'm sure prisoners aren't going to know
2 what it means. So I would, you know, use sixth-grade
3 language to kind of describe, you know, not just this
4 passage, but everything else. You know, make it as
5 simple as possible, because believe me -- and I'm not
6 saying I know everything that, you know, prisoners know
7 or don't know, but that would be confusing.

8 So I mean -- and that's just kind of
9 a -- maybe a bit of advice for the whole handbook, and
10 the wording is kind of small, too. I would -- you
11 know, I always like the full sizes, so you know, there
12 would be no doubt about, you know, its legibility and
13 so forth.

14 This one I had big problems with, only because
15 of the language. I know what it was trying to get at,
16 but a lot of is not even grammatically correct, you
17 know, that I think you can work on, you know -- and I'm
18 not even sure I agree with the premise of some of it.
19 For example, if you have family, this will affect them
20 and/or how will it affect their ability to visit you.
21 You know, I mean, I just don't know the relevance of
22 some of what's included in this piece.

1 I'll just read you one sentence that says,
2 "The days ahead can be traumatic, and it can help you
3 to have people who care about you supporting you."
4 That is the exact, you know, reading of that; and it
5 doesn't make sense, you know, quite frankly. So I
6 would really have some people take a look at this and
7 rewrite it because as it is prepared now, it needs a
8 lot of help.

9 It's a great thing to have, but you know,
10 going forward, I would really kind of look at, you
11 know, the legibility of it and kind of, you know, how
12 it makes sense, you know, to the inmates. You know,
13 put together a committee and let them kind of wordsmith
14 it a little bit, because I think it's important. But
15 the way it's put together now, I think it needs just a
16 little bit of help.

17 DIRECTOR RYAN: Dr. Wilkinson?

18 DR. WILKINSON: Yes.

19 DIRECTOR RYAN: You know, one of the
20 thoughts -- and I had an opportunity to talk to Just
21 Detention a little bit about what's going on in
22 California. And one of the things -- and I hope I

1 don't get it incorrectly -- they have put together some
2 inmate teams to take a look at some of the things as
3 well. And that may be an area where we need to step
4 in -- we stole that from somebody else.

5 DR. WILKINSON: Yeah, it looked like it was
6 adapted from somebody else.

7 DIRECTOR RYAN: Yeah. And so it is good to
8 take a look at those and see what might be changed.
9 But I kind of liked what they had to say about the
10 inmate group that they had put together to kind of look
11 at what's going on out there, because I believe there's
12 a whole culture in jails, and different language and
13 all kinds of things that go on, that even the line
14 officer is not that attuned to on a daily basis.

15 So the more we can do to connect to that and
16 communicate in the language they understand is
17 absolutely appropriate.

18 DR. WILKINSON: Mr. Garcia, thanks for being
19 here. I didn't get a chance to meet you in Florida. I
20 understand you're with the -- some of Miami's finest.
21 So tell me what you do? I know you're -- it's related
22 to investigating improprieties in the jail itself, but

1 kind of tell me what kind of activities, when you're
2 engaged in these things, exactly what you do?

3 LIEUTENANT GARCIA: I can -- basically what
4 I'm in charge of and what I oversee within the bureau
5 I'm assigned to is all sexual assaults or sexual rapes,
6 if you may, that occur within Dade County. And not
7 only within the community, but as well as the
8 correctional facilities. So if there is an allegation
9 that is brought to our attention, we immediately
10 initiate an investigation.

11 We'll go out and conduct a thorough
12 investigation, which will entail collecting evidence,
13 collecting statements from both victims, witnesses,
14 interviewing the subject as well. And ultimately the
15 goal would be to compile all the information in which
16 we work collaboratively with the state attorneys to
17 ensure a successful prosecution. That would be our
18 ultimate goal, as well as provide all the services that
19 we can possibly to that victim.

20 DR. WILKINSON: So Lieutenant, what's your
21 training? Are you a detective, for example, or what's
22 your training?

1 LIEUTENANT GARCIA: Yes. Currently I work for
2 special victims bureau, which we conduct
3 investigations, yes.

4 DR. WILKINSON: All right. So do you work
5 with training the corrections staff at all on how to
6 conduct or respond to issues if PD's not immediately
7 available? And I know the PD's right across the
8 street, the headquarters is. But what do you do in
9 conjunction with working with line staff at the jails
10 itself?

11 LIEUTENANT GARCIA: Well, we're currently
12 working with the supervision in which we conduct a
13 training component or module for correctional staff,
14 for the supervisors as well. And we conduct training
15 in scenarios as to what we're looking for and what to
16 expect when we respond out to the scene, such as
17 securing a crime scene -- exactly what to do with the
18 victim, what to do with the subject.

19 DR. WILKINSON: Great. What have you found?

20 LIEUTENANT GARCIA: In reference to?

21 DR. WILKINSON: Any -- just tell us about some
22 of the improprieties you've investigated --

1 LIEUTENANT GARCIA: Sexual assaults?

2 DR. WILKINSON: -- or helped investigate.

3 LIEUTENANT GARCIA: I don't understand the
4 question clearly.

5 DR. WILKINSON: Okay. Have you had -- have
6 you been involved with any kind of sexual assaults or
7 do you not do that personally?

8 LIEUTENANT GARCIA: I don't do it personally,
9 but I do supervise that --

10 DR. WILKINSON: Do you get reports?

11 LIEUTENANT GARCIA: Well, yes. I can -- if
12 you want me to speak specifically about '08 and '09, I
13 can give you the numbers that we have.

14 DR. WILKINSON: Yeah, just in general, tell me
15 a little bit about what you've done and what you've
16 seen, and what you've done about it.

17 LIEUTENANT GARCIA: Okay. In '08 and '09, we
18 had a total of eleven investigations that my unit
19 conducted, in which they responded out to --

20 DR. WILKINSON: For sexual misconduct? What?

21 LIEUTENANT GARCIA: For sexual assault.

22 DR. WILKINSON: Okay.

1 LIEUTENANT GARCIA: At least, that's the way
2 that it was received, and we will conduct an
3 investigation. So in those particular cases, we had
4 eleven. Out of eleven, one was closed by arrest in
5 which we were able to work with the state attorney's
6 office. And we charged a subject successfully. And
7 out of those eleven, one was unfounded, which the
8 victim recanted and withdrew their statement.

9 And the other -- the others, which was a total
10 of nine, they were either the victim did not want to
11 continue with the investigation, and give us the name,
12 for example, of the subject. And some of the other
13 ones we presented to the state attorney's office, and
14 there wasn't sufficient evidence or at least they
15 couldn't prove their case in the trial arena. And that
16 was the outcome of those.

17 DR. WILKINSON: Any -- what's happened since
18 2008 and 2009 in terms of the number of filings that
19 you've -- you said you had --

20 LIEUTENANT GARCIA: We had eleven total, and I
21 believe this year to date, as of two days ago, we had a
22 total of four. And out of those --

1 DR. WILKINSON: In what time period?

2 LIEUTENANT GARCIA: For 2011.

3 DR. WILKINSON: Okay.

4 LIEUTENANT GARCIA: From January 1st to about
5 two days ago.

6 DR. WILKINSON: Okay.

7 LIEUTENANT GARCIA: And out of those four, we
8 had I believe, two were unfounded; and one was open
9 pending, suspending, in which the
10 defendant -- correction, the victim did not want to
11 proceed.

12 DR. WILKINSON: Okay, good. So the number of
13 incidences that you guys have investigated has
14 diminished?

15 LIEUTENANT GARCIA: From '08, and looking at
16 the numbers, they've continued to go down, which is a
17 good sign.

18 DR. WILKINSON: Okay. We need to take a
19 five-minute break, because the technical system needs
20 to reboot itself or something. So if you could
21 just -- you know, if you want to stay and take a break,
22 that's fine, but we'll be back here -- don't leave the

1 room.

2 (A short recess was taken.)

3 DR. WILKINSON: Okay, I think we can
4 reconvene, if that's okay.

5 And let me tell you, we're -- we won't need to
6 have you until 5:00 o'clock, because -- or even close
7 to it, because I think we are getting to the point
8 where we have a lot of what we need to have from all of
9 you. Because of all the documentation and your
10 testimonies.

11 So Lieutenant, anything else you want to
12 mention about the investigations from the Miami Police
13 Department that would be helpful for us to understand
14 what you do?

15 LIEUTENANT GARCIA: What I can tell is, and
16 what we take pride in is our victims, first and
17 foremost. Whether it's a victim that's an inmate or a
18 victim from the community. And what we try to do is we
19 go out and try to get that victim to feel comfortable,
20 whatever setting they may be in. In this particular
21 situation, it's a difficult situation for them because
22 they're in jail. So we try to get them to open up and

1 talk to us because we want them to cooperate, so we can
2 get as much information as possible.

3 But that being said, each victim of a rape is
4 totally different. Some open up right away, some may
5 take weeks, some may take years. So that's a challenge
6 that we have, and we try to overcome each and every
7 time we deal with a victim of a sexual assault.

8 DR. WILKINSON: And we appreciate that,
9 because not everybody will admit when an inmate is
10 sexually assaulted that they are a victim. And so
11 you're to be commended, you know, for taking that
12 particular approach. And I think that's the way we
13 need to go, really across the country. We instituted
14 that in Ohio with our ten-point plan many years ago.

15 One of the other things we don't tolerate are
16 inmates lying about what's happened, and we know that
17 can happen. We say unsubstantiated, but there should
18 be consequences to, you know, prisoners who give false
19 information as well. And I'm sure -- Captain, you're
20 shaking your head; is that something you follow through
21 with?

22 CAPTAIN JOHNSON: That's something I'm in

1 total agreement with you about. The fact of the matter
2 is that right now, we don't follow through because we
3 want them to be able to come forward without any
4 remnants of any type of repercussion if they false
5 report. When you say false report, we want them to
6 feel comfortable with coming forward and talking to
7 correctional staff and talking about these issues.
8 Therefore, we haven't current -- we haven't sought out
9 any type of sanctions for those who are proven to have
10 lied. So that's -- that's the checks and balances, I
11 guess you can say, we're trying to weigh out, which is
12 the better way of going at that.

13 But in short, we have not -- we have not did
14 any type of administrative actions on the inmate that
15 we have found to have lied about their -- those type of
16 allegations.

17 DR. CHRISTENSEN: Captain Mayes, kind of tell
18 us a little bit about what you do?

19 CAPTAIN MAYES: I manage the intake and
20 release bureau. And basically that bureau is
21 responsible for an inmate's processing from his initial
22 arrival to our intake facility through his release from

1 custody.

2 DR. WILKINSON: Okay. So one of the things I
3 noticed at intake, when they first get off the bus,
4 they may be even still handcuffed or, you know, have
5 the flex cuffs on, you have a form that asks questions
6 to them about, have they ever been involved in a sexual
7 assault. More or less, have you ever been a
8 perpetrator or have you been the recipient of an
9 assault, is that correct?

10 CAPTAIN MAYES: That's correct.

11 DR. WILKINSON: Okay. And what do you do with
12 that?

13 CAPTAIN MAYES: Once we get the information
14 from the new arrestee, that person, if they answer yes,
15 they are immediately referred to medical staff.

16 DR. WILKINSON: I can't imagine that an inmate
17 would actually answer yes to "have you been a
18 perpetrator of sexual assault," unless they were
19 charged with it.

20 CAPTAIN MAYES: And that's possibly true. I
21 can honestly say that we have not had anyone that
22 answered yes that I'm aware of.

1 DR. WILKINSON: Yeah, I don't think they
2 would.

3 CAPTAIN MAYES: But we are making the effort
4 to identify potential predators.

5 DR. WILKINSON: No, I agree. Maybe there's
6 another way you can get to that, that you know,
7 might -- you know, might get them to answer, you know,
8 or at least give you a hint of what may have been their
9 history.

10 CAPTAIN MAYES: Well, that's not the only tool
11 that we use --

12 DR. WILKINSON: Okay.

13 CAPTAIN MAYES: Within the classification
14 process, if they stay after their first appearance, we
15 actually have a face-to-face, one-on-one interview with
16 them, and there is an additional assessment. We look
17 at their current charges, the severity of them; we look
18 at their past charges. We ask them if -- have they
19 ever been victimized? Again, that question is asked.
20 So there are various factors that we look at in order
21 to help us in identifying those potential predators as
22 well as victims.

1 DR. WILKINSON: So you have a whole team of
2 correctional staff doing intake, particularly
3 classification kinds of things. Can you describe that,
4 and tell us how you -- how your classification system
5 works?

6 CAPTAIN MAYES: Yes, I do. We have a intake
7 unit which is separate from the classification unit.
8 The classification unit is staffed twenty-four hours a
9 day, seven days a week, so we have staff readily
10 available to assist with classification matters. Not
11 only the initial classification, but if someone in
12 custody has a problem and staff needs a location for
13 them, we have that staff there and available to provide
14 that location.

15 Now our classification system that we have
16 adopted is the objective jail classification system, as
17 recognized by the National Institute of Corrections.
18 And we've been doing that for quite some time. And
19 with that tool, we are able to look at factors and
20 utilize the decision tree, which tells us how to
21 classify that person.

22 However, we also have the ability to use our

1 discretion if, in fact, with the tool, they may be
2 classified in one particular category, but we, through
3 our assessment, have identified that there are other
4 factors that we need to consider as well. And we have
5 that discretion to override. And the system also
6 allows us to do what we call "keep separates" in the
7 system as well.

8 DR. WILKINSON: With it being in Miami, there
9 are obviously a lot of bi- and multilingual persons.
10 So you obviously accommodate that as well, right?

11 CAPTAIN MAYES: We do accommodate that. The
12 department contracts with an interpreter services that
13 we use, not only for classification but any matters, as
14 well as first appearance in courts. So they're
15 available. And it's just a matter of us notifying
16 them, and they are readily available to assist us.

17 DR. WILKINSON: Director Ryan, you're shaking
18 your head about that piece there. You want to add
19 something to it or --

20 DIRECTOR RYAN: No, I just wanted --

21 DR. WILKINSON: Have you learned a different
22 language yourself down there?

1 DIRECTOR RYAN: Yes, sir, but some of the
2 words I can't say. So -- but yes, we are a very
3 diverse community, and it's very important for us to be
4 ready for all languages. And we do have contracts so
5 that at the time of booking or classification, or at
6 any time, we can call that number and speak to a person
7 who can help us.

8 We also have something called a point book,
9 which, in fact, if you can't communicate at something,
10 we'll give you the book and say "what do you want?"
11 And you can point right at it and say "this is what I
12 need". So you can do that part of it. We even
13 use -- we obviously use staff members that speak
14 multiple languages to talk to folks.

15 We use other inmates, when it's appropriate to
16 do that. We always take that with a little grain of
17 salt, but in fact, we have multiple ways of
18 communicating with staff -- excuse me, with the inmates
19 to let them know -- to let them communicate with us in
20 an appropriate manner. And we take that very
21 seriously.

22 We don't want anybody -- you know, even the

1 person in the lobby who has trouble communicating with
2 our intake -- with our persons that are in the lobby
3 for visiting and so forth, we want very much for
4 everybody to be able to communicate in the best way
5 possible.

6 And as Mr. Alston knows, the limited English
7 proficiency, we've moved everything into three
8 languages at this point, which is Creole, Spanish, and
9 English. And given the diversity of our community, I
10 can see a fourth language, and a fifth one probably
11 coming out in the next years.

12 When I was in Santa Clara County, we actually
13 had six languages that were predominant there that we
14 made accommodations for.

15 DR. WILKINSON: Director Ryan, you've heard
16 all the testimony today, you've participated in the NIC
17 workshop at the American Correctional Association.
18 Give us some advice? You know, where are we headed
19 with PREA? I mean, are there some things that, you
20 know, we're missing the boat on, we should be working
21 more closely with, in your case AJA or NSA or ACA? I
22 mean, where -- what's kind of the answer from where you

1 sit as a practitioner? How do we get people to
2 understand it?

3 And you can see even from previous testimony
4 that, you know, not everybody's at the same stage of
5 wanting to make a big difference. You've obviously
6 given us a whole menu of things to do. I'm not sure
7 that everybody else would agree to do some of those
8 things, so how do we convince other persons in your
9 position to know that these things are not just
10 required, but the right thing to do?

11 DIRECTOR RYAN: You know, that's an excellent
12 thinking, about how do we kind of change the thinking
13 of where we've been. I was saying, I've been over
14 forty years in this business, and I need to tell you
15 that I've changed over the last -- since 2003. If you
16 were to take a look at my history with the Prison Rape
17 Elimination Act, I took affront to it in the beginning.
18 I said, "Wait a minute, I've been in this business --
19 we do not tolerate that behavior. We -- I will do
20 everything to eliminate any person that does; I will
21 prosecute folks that were there."

22 And so when I first looked at this, I was

1 somewhat angry saying, "Wait a minute, we don't need
2 this." But I've had an evolution in my thinking as
3 well, and I think I mentioned a little bit of the fact
4 that I think our culture has allowed this kind of
5 thinking to go on, and we need to change that type of
6 thinking.

7 A couple things that would be helpful, and I
8 think the Sheriff from Clallum County kind of talked
9 about one of the things that he's concerned about the
10 survey. I think the survey's important. We've got to
11 have means in which we go in and we take a look at
12 ourselves, and whether we like how it comes out or not,
13 I think we need to use that and to assess it and to
14 move forward with it.

15 But as we do so, one of the things that -- a
16 couple of things have come forward with me, and I would
17 ask BJA maybe to take a look at it, or BJS to take a
18 look at it. Urban jails versus rural jails, are there
19 some things there we need to take a look at? You know,
20 we have 6,000 inmates; they have a couple hundred. Is
21 there some sort of training uniqueness to those types
22 of things that we ought to take a look at and see

1 what's there.

2 I kind of had the feeling that I was looking
3 at the survey that high-rise jails, indirect
4 supervision jails, they may be a problem area, so that
5 for the future, should we get our architects,
6 correctional architects, to take a look at the thinking
7 about what it is? Why is it that we had the Metro West
8 facility, which is at the lower end of the statistics
9 and the Pre-Trial Detention Center was at the upper end
10 of those? Well, two different jails, two different
11 approaches to the model.

12 How should we build every jail in the future?

13 And I think the direct-supervision model is the one
14 that we need to take a look at. That that seems, in
15 all realms, whether it's maximum security, or even
16 minimum security, that the direct-supervision model
17 does play out as a safer place to be, and larger more
18 open areas are there.

19 One of the things the survey said was in the
20 first twenty-four hours, there's some risk in there. I
21 haven't personally experienced that, but I've been
22 thinking about what is it in the first twenty-four

1 hours that would make someone vulnerable? And one of
2 the things that we're changing to now is the old kind
3 of jail like the Pre-Trial Detention Center, the area
4 that you visited was a -- designed in the late fifties.

5 And so what we have there is those kind of cells where
6 we end up sometimes with twenty-plus inmates in there
7 at any one time, as we try to deal with the volume that
8 we're dealing with.

9 The open booking concept, the Hillsborough
10 model and Orange County models, and other models that
11 are out there, seem to have a less intense type of
12 booking process, where people are open; it's freer and
13 so forth. So that I think that model is for the future
14 as well, that that will minimize the opportunity for
15 inappropriate behavior, that that's open and we need to
16 take a look at those things.

17 I'm also looking at the fact that what is it
18 that's changing in the correctional officer
19 environment, and clearly one is we're moving to more
20 female officers. When I came to Miami-Dade, which is
21 almost five years ago now, we were only at about forty-
22 two percent, forty-three percent female officers.

1 We're now ten percent higher than that: fifty-two,
2 fifty-three percent female officers.

3 The fraternization cases that have come to my
4 attention have involved female officers. And so I
5 began to think, is there maybe something that you can
6 give us in the way of how should we recruit, how should
7 we select, how should we train, how should we monitor
8 those particular individuals to help them be good,
9 successful correction officers in a difficult
10 environment? This is something that at least we've
11 seen some evidence that there's fraternization issues
12 that are surfacing in that, and is there something we
13 can do about it? Because I have a very strong belief
14 in female officers and staff; they do an excellent,
15 wonderful job for us, and yet some of them are
16 vulnerable in different ways.

17 Let's see, I had a couple notes here.

18 You know, one of the other areas that
19 Miami-Dade County itself has apparently about nine
20 percent of its entire population has some mental
21 illness or concern. And we looked at our jail, twenty-
22 two percent of my jail population are mentally ill. We

1 are essentially the largest mental health hospital in
2 Florida. I guess I've been told the Los Angeles jail
3 is the largest mental health hospital in America.

4 Some of our individuals that have come forward
5 and said they've been victims have been the mentally
6 ill. In trying to go forward with that and investigate
7 it, it's trouble. It's difficult. And I know the
8 police department has worked very hard to try and find
9 out what the truth of those matters are.

10 But we've had some incidents where the
11 mentally ill person has claimed to be attacked, they've
12 been -- but they've been in a cell by themselves their
13 whole time. And so you kind of look at that and say,
14 "Well okay, what can we do to change maybe the
15 environment of the mentally ill environment that's
16 there?"

17 And one of the things we are doing is we're
18 creating a new mental health diversion facility that,
19 for our future, we may need to absolutely say that our
20 jails in America are the mental health hospitals for
21 America. Let's treat them like mental health
22 hospitals; let's provide them with that sort of

1 direction and training, and maybe that would be helpful
2 in the long run.

3 So I guess I threw out such things as we've
4 got to take a look at our facilities and how we're
5 designing them for the future. Our booking operations,
6 how we're designing them for the future. Our
7 correctional objective classification systems need to
8 be upgraded to take a look at how we can prevent things
9 from happening, and we're still evolving in that.

10 Our training needs to be absolute, and
11 understanding the zero-tolerance and that the
12 department administratively is going to take very
13 adverse action if you get yourself involved in that.
14 And help them understand why it's important in our
15 environment that fraternization is not accepted. You
16 can do anything else in the world you want to do, but
17 you can't be a correctional officer, a deputy sheriff
18 detention officer.

19 That's -- this environment is different, and
20 we expect higher levels of ethics in all of that type
21 of stuff. We need a leadership, like I get involved in
22 large jail network, and we've been talking about PREA

1 for the last three years. What are we all doing about
2 it? I think we're pretty well connected on what
3 direction we're going, but we also need to get our
4 professionalism and the organization to understand how
5 critical this is.

6 It's not something that we're going to solve
7 tomorrow. I don't believe that I'll ever be in a jail
8 where something will not happen. But we need to react
9 quickly, efficiently, effectively, get a hold of
10 internal affairs, the police department, whoever does
11 your investigation. Make a big deal of it immediately.

12 This is important to do right now. We do do it, but
13 it's critical to do it.

14 So I guess I gave you kind of a litany of
15 things that I'm concerned about, but I think this is
16 the right direction. Your Panel is going to give us
17 some recommendation, I'm sure you've heard lots of
18 things. We are constantly going to be reviewing it and
19 taking a look at it. I'm looking forward to the
20 regulations coming out next year, and we will be moving
21 ahead to do what we can to implement them as quickly as
22 possible.

1 There are some -- I think Mr. Wallenstein
2 discussed some -- everything has a financial obligation
3 and responsibility. But I think this is one of those
4 ones where we are going to do our best to accomplish it
5 as quickly as we can, commit ourselves to it, and make
6 it happen appropriately.

7 DR. WILKINSON: Thank you very much. Gary,
8 you --

9 DR. CHRISTENSEN: Are you -- just one last
10 thing, it's something as far as the way different
11 facilities interact, and -- from a smaller urban area
12 to a very large urban area that's multicultural,
13 multilingual. Do you see differences in the
14 application of this in an extremely multicultural
15 environment as opposed to a different, more homogeneous
16 environment? Whether it be in terms of number of
17 incidents or reporting ability, likelihood to report
18 things like that? Any thoughts about that?

19 DIRECTOR RYAN: You know, this is so important
20 in every environment, I just -- I think the commitment
21 of leadership, wherever that leadership is in the jail
22 environment, has got to step forward and say, "Look, we

1 just don't want this in our jail. This is
2 intolerable." And I'm not so sure it's multicultural,
3 diversity, or whatever. No one wants this. No one
4 wants this to happen.

5 And I would say that, as long as we are all
6 committed to that zero-tolerance concept, whether you
7 have a multiracial, diverse jail or you have a very
8 homogeneous one, that the positive's going to come out
9 in the appropriate way. I don't -- let me think about
10 it. If I think of something, I'll tell you. But
11 unless somebody else on the team has some thoughts
12 about why that might be unique to us, and what
13 we -- our approach to it.

14 But the commitment of professionalism in our
15 business is what I believe this is all about. We are
16 professionals; this is an important and critical
17 component of the public safety and security that we
18 have to do our business right. We have to have the
19 community look at us as a very positive element in the
20 community. Law enforcement always is at the top, and
21 the fire department's at the top, but without us in
22 corrections doing what we do, the rest of the community

1 really can't be safe. We do a very important component
2 of that, and I want to raise our professionalism, and
3 this will be one way to do it.

4 DR. CHRISTENSEN: And the reason I ask the
5 question is, there's certainly the clinical
6 psychologists and the doctors would know that there's
7 been a good amount of research about the way different
8 cultural groups seek and utilize service. So it would
9 be -- and I know that there's nothing out there,
10 there's no research that I know of relative to PREA
11 specifically. But I would be surprised if that doesn't
12 have some bearing on exactly how services come to bear
13 for groups like that.

14 I don't know if you have any thoughts about
15 that, Doctor?

16 DR. MONTROYA: Yes, I would agree certainly.
17 We have a large patient cultural impact in our -- in
18 our city. But I think that certainly among the
19 Hispanics, Hispanic subcultures, we have a very large
20 number of Hispanic subcultures in the Miami area --
21 predominantly Cuban, but certainly many Central
22 American and a growing South American population. And

1 I think that there are differences, even among the
2 subcultures in terms of divulging information, and
3 enough sharing attitudes towards law enforcement,
4 correctional officers.

5 So I think that, yes, I think that's something
6 that -- that would certainly be something that would
7 behoove us to try to figure out the avenues of
8 communication. Perhaps for example, the -- they would
9 be more like to speak to a woman as opposed to a man,
10 or to a man as opposed to a woman, or to someone from a
11 faith-based organization or --

12 DR. CHRISTENSEN: Or someone of similar
13 ethnicity?

14 DR. MONTROYA: Absolutely, yes. That's a
15 given. So I think that that's something that we would
16 then have to take your guidelines and try to see
17 how -- you know, the lines of communication. You know,
18 what are the avenues of communication within that
19 subculture.

20 DR. CHRISTENSEN: Thank you.

21 DR. WILKINSON: Anything else from the rest of
22 the team that -- closing thoughts?

1 CAPTAIN JOHNSON: I guess I can close by
2 saying thank you. I mean, I've learned a lot through
3 this process. I mean just interactions and your
4 insight into PREA and what it means, and our correction
5 profession going ahead. I'm ultimately grateful.

6 LIEUTENANT TESTAMARK-SAMUELS: And I would
7 like to say, as the manager of the intake and release
8 bureau, we took a look at the survey and the findings.
9 We did look at -- and we are reviewing our processes,
10 and some of them we have changed, and we will continue
11 to review the processes as we move forward.

12 So I thank you for the opportunity to be here
13 today.

14 DR. WILKINSON: Yeah, it's amazing you get
15 done what you get done in such a cramped space. But
16 you maximize every square inch in the intake area. So,
17 Doctor? Doctor? Any other thoughts?

18 DR. GONZALEZ: No, I would just like to thank
19 you for the opportunity. Situations such as these
20 sometimes, you know, are very stressful for everybody,
21 but it is a learning process. And so we appreciate the
22 feedback that you provided to us. So thank you.

1 DR. WILKINSON: Lieutenant, anything else?

2 LIEUTENANT GARCIA: Just thank you for the
3 opportunity. I get to see how the other side operates.
4 And I can tell you one thing, we're working together,
5 not only with the correctional staff but the whole
6 staff, state attorney's office and the -- If we all
7 work together, we're going to ultimately accomplish
8 whatever we put our minds to. So it's definitely in
9 the right direction.

10 DR. WILKINSON: Great. Tim, final thought?

11 DIRECTOR RYAN: My thanks as well. I
12 appreciate the opportunity of allowing us to come and
13 share our story with you. Thanks very much.

14 DR. WILKINSON: Okay. Well then, we
15 will -- with that, I don't want to adjourn quite yet
16 because I have to read something into the record.

17 The Panel notes for the record the admission
18 of the Civil Rights Division 2011 CRIPA findings as
19 they relate to the Miami-Dade Pre-Trial Detention
20 facility. So as you indicated in your initial
21 testimony, you've been involved with DOJ in a number of
22 ways, and CRIPA is one of them. And we did get a

1 report that we want to enter into the record.

2 So with that, we will adjourn the hearing for
3 the high prevalence institutions for today. Tomorrow
4 begins another hearing entirely. But let me thank once
5 again all of our witnesses, especially Miami-Dade,
6 since you're the ones here now, and best of luck to you
7 in the future with some tough issues to tackle. But I
8 know you will do that with all deliberate speed.

9 So thank you very much.

10 (The proceeding was recessed at 4:23 p.m. and
11 scheduled to resume the next day, September 16, 2011.)

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