

1 quickly and easily to focus on the issues of prison rape in
2 terms of prevention, detection, reduction and punishment.
3 So, I urge the Commission to look carefully at those sets of
4 standards and use the ones that are useful to you.

5 There's been progress in improving conditions of
6 juvenile confinement in my career over the last twenty-seven
7 years, but I will tell you that there are many, many
8 facilities in this country that have a long way to go before
9 they are safe and humane for your incarcerated youth. And I
10 hope the Commission standards will promote the safety and
11 security and quality of care that children are entitled to
12 and that it's our obligation as a society to provide. Thank
13 you very much.

14 CHAIRMAN WALTON: Thank you very much.

15 Questions?

16 COMMISSIONER KANEB: Mr. Flores, I heard you say
17 that there is a compliance monitoring officer from your
18 division in each state, and I would ask you to expand upon
19 how, first of all, what that person's job is, and how, if in
20 any way, the Commission might make use of the existence of
21 that party.

22 MR. FLORES: Thank you for your question.

23 We provide funding through our office to states to
24 comply with the requirements of the JJEP Act, the Juvenile
25 Justice Emergency Prevention Act. These compliance monitors

1 work in the states; they provide us with feedback. They are
2 the ones who are responsible for providing us with data and
3 for keeping us apprised of violations of these different
4 core requirements. We have four: separation, removal,
5 deinstitutionalization of status offenses so that we are not
6 locking up truants and runaways, and then also the issue,
7 which is extremely important, and that is the
8 disproportionate number of minorities that have contact with
9 the system and trying to address that.

10 We receive information on a regular basis. They
11 function along with two other bodies. We have our state
12 administering agencies, and every state has a multitude of
13 them because they are the ones that are responsible for
14 receiving federal funds and then administering them, they're
15 the ones that we have contact with on a regular basis. We
16 refer to ours as the state administering -- the SAG, the
17 State Advisory Group. The State Advisory Groups are
18 appointed by the Governor. They make up -- their makeup
19 includes experts as well as prominent people in their state,
20 and they assist in helping the Governor identify what groups
21 will receive funding as a result of other dollars.

22 Together with the compliance monitors, the
23 Governor's staff people, we have a system in place already
24 that provides us with a way of making improvements, making
25 sure that our concerns get some immediate attention. I

1 would -- I think that since they are already being trained
2 and are going to be very aware of what happens with this
3 Commission and the work that comes out of this effort, this
4 would be an opportunity for you to work with staff in our
5 office, and Alyssa Rumsey, who's a member of my staff, is
6 present with me today, she has already been in
7 communications with Jack, your executive director, to work
8 on how we can have a better, closer relationship. My
9 suggestion, Commissioner, is that if there is information
10 that you want to have get out immediately to the states that
11 you use this as a conduit to get that information out right
12 away. If there's information that you would like to see
13 collected, if there's a way for us to do that, complementing
14 our efforts that are already underway, then I want -- I'm
15 more than willing to sit down with the Commission and talk
16 about how we could do that, how we could facilitate that
17 information.

18 We also finally have -- these compliance monitors
19 have relationships with staff management, so, they know the
20 facilities, they know which facilities are having problems,
21 which ones are not, where you have people who are very, very
22 committed to seeing the improvements and where you have
23 people who are perhaps passing through. That's an
24 opportunity for you as well to gain the snapshot pretty
25 quickly as to perhaps some particular problem areas or some

1 real opportunities. I think that while it's true that many
2 people look at the juvenile justice arena and say what's in
3 it for me, this really isn't going to help me achieve much
4 in my life, I think quite the contrary. I do think that
5 there are some institutional obstacles, but you could also
6 use this as a way to address proactively the kinds of
7 situations where you -- that you read about, unfortunately,
8 where you have a number of kids who are alleged to have been
9 abused, where you've got significant long-term problems.
10 So, those are things that we could help you with. The
11 compliance monitors, we're happy to make sure that they are
12 aware of what you need, and to the extent that we can
13 collect that or gather that information, we're happy to find
14 a way to make that happen.

15 COMMISSIONER KANEB: So, there is one compliance
16 monitor in each state.

17 MR. FLORES: Yes, sir.

18 COMMISSIONER KANEB: Does that person have a
19 staff?

20 MR. FLORES: That person may have access to staff.
21 They are usually part of a larger operation within the
22 state. It varies from state to state. As I say, they work
23 with the Governors' offices, they are state employees.

24 COMMISSIONER KANEB: Oh, these are state
25 employees.

1 MR. FLORES: Yes. That we -- but these are folks
2 that we pay for, that are paid for in federal funds.

3 COMMISSIONER KANEB: Okay. Do they report to your
4 office or to the Governor or the Corrections Commissioner in
5 the state?

6 MR. FLORES: My understanding is that they report
7 in the first instance to the Governor, the Governor's
8 office, and whatever process the Governor has in place, but
9 they respond to us and they provide us with data, so, they
10 kind of have two masters in this kind of a situation where
11 they're providing us with data and information as well as
12 being a state employee.

13 COMMISSIONER KANEB: And you have furnished
14 information about these people or this program ---

15 MR. FLORES: To them, yes.

16 COMMISSIONER KANEB: --- to Jack Thomas of our
17 staff; is that correct?

18 MR. FLORES: Yes, we have.

19 COMMISSIONER KANEB: Okay. I don't want to take
20 more time with this. I guess, at least speaking for myself,
21 I would like to get better informed about what potential
22 these monitors and people that I might be working with would
23 have to gather information from us -- for us that we might
24 find useful, rather than our trying to comb through what is
25 probably a huge amount of data that you publish regularly.

1 And, so, just to clarify, as a practical matter, if we
2 through staff or otherwise wanted to contact one of these
3 people, would that person feel comfortable furnishing us
4 information or do you need to prepare them to ---

5 MR. FLORES: My suggestion would be that we ask
6 Jack and Alyssa to work on a process so that you can get any
7 kind of information that you would like, and if there are
8 problems in trying to generate some data or information that
9 we can work around them. I think it's not something we've
10 done in the past, but we -- I can't imagine why we couldn't
11 work our way to a satisfactory process working with our
12 compliance monitors. These are folks that we rely on to
13 give us data. They're very committed to the process that we
14 have in place, and they have been key in making sure that we
15 have an accurate picture with respect to our core
16 requirements as to what states are performing and what
17 states are not.

18 COMMISSIONER KANEB: And the four main areas that
19 they're monitoring are separation of inmates, appropriate
20 separation of inmates; is that what I understand?

21 MR. FLORES: There are four areas. The first is
22 deinstitutionalization of status and non-offenders, which is
23 making sure that they -- we're not locking up status
24 offenders and putting them in detention facilities.
25 Separation of juveniles and adult ---

1 COMMISSIONER KANEB: Just making sure they are not
2 locking up...

3 MR. FLORES: Truants, runaways. If it's a crime
4 -- if it would not be a crime for an adult to commit it,
5 then we do not believe that juveniles should be in a
6 detention facility simply as a function of age. We think
7 there is a more -- there are more appropriate ways of
8 dealing with those issues.

9 The second one would be separation of juvenile and
10 adult offenders so that even if the detention facility has
11 both, there is full sight and sound separation so that we
12 don't have kids in a facility where they are exposed to
13 adult inmates, whether it's before, during or after the
14 trial process.

15 COMMISSIONER KANEB: So, there are facilities -- I
16 guess I'm showing my ignorance of the system here -- a
17 system where adults and children are incarcerated in the
18 same facility.

19 MR. FLORES: In the same building complex but not
20 -- under the JJDP Act there's to be complete separation.

21 The third one is jail and lockup removal, and that
22 is that while it may be appropriate to have juveniles locked
23 up for a limited period of time, that that must be very,
24 very short, and they are not to be left there for days,
25 weeks, months, while a process is pending.

1 And then the last one is the reduction of
2 disproportionate minority contact. And in my written
3 testimony I will -- I have provided the status of compliance
4 for the various states with respect to those four core
5 requirements.

6 COMMISSIONER KANEB: Thank you.

7 Jim.

8 COMMISSIONER AIKEN: Mr. Flores -- good morning to
9 everyone.

10 MR. FLORES: Good morning.

11 COMMISSIONER AIKEN: And this is a question to
12 you, sir, as well as to the rest of the panel. We talked
13 about separation, sight and sound, we talk about age
14 differential, size, mental status, et cetera, of children in
15 relationship to adult populations that are confined. The
16 question I have is what research, what approaches, what
17 strategies, what standards have been developed or being
18 considered as well as the collection of information to what
19 I term as best I can to hybrid population, those
20 individuals, those children that have been adjudicated as
21 adults, those individuals have been adjudicated as adults
22 based on their community behaviors and not necessarily their
23 institutional behaviors, where do they fall in this matrix?
24 Where do they fall in relationship to the juvenile system
25 or adult system? Where do they fall? Where -- what are the

1 standards, what are the approaches, what are the strategies
2 that we have in relationship to these young children that
3 are now adjudicated as adults?

4 COMMISSIONER SMITH: And, Jim, because that's
5 going to be one of my questions, one of the other things
6 that sort of goes with that, that is something that I'm
7 concerned about, is if you have these youth who are in adult
8 settings, just as a practical matter, for example, is there
9 still a mandatory reporting requirement if they're sexually
10 abused in custody as you would have in a juvenile setting?
11 What happens in terms of data collection about incidents
12 that happen to them?

13 MR. FLORES: First I would say that there is -- we
14 do not have a uniform juvenile justice system in the United
15 States; each of them varies substantially, in some cases
16 even within the state from county to county, and, so,
17 obviously the first part of my answer is that there is no
18 uniform best practice that we have out there, and the states
19 take a number of different routes to dealing with that
20 population.

21 I will say that the Office of Juvenile Justice and
22 Delinquency Prevention has done in the past and we're
23 looking now at taking a look at some new data and collecting
24 some new data in terms of that population, which are
25 juveniles who have been waived into the adult system who may

1 find themselves in the juvenile system for a period of time
2 but then in an adult system or maybe moved to the adult
3 system after they have been adjudicated.

4 I'm sure my colleagues at the table can add to my
5 answer. I would just say that the -- both the accreditation
6 and the PBS system are collecting data and information, are
7 working regularly with management across the country at
8 different facilities to take a look at those issues because
9 they raise a number of different sub-issues. We are still
10 looking at, unless you're talking about life in prison
11 without the possibility of parole, you're talking about
12 those inmates coming out, those students coming out, those
13 detainees or residents, however you want to refer to them,
14 they will be back in our communities. And, so, from JJ's
15 perspective, we're trying to figure out how do we work so
16 that re-entry is a possibility, successful re-entry. We
17 have a number of efforts underway in terms of that issue.
18 The Justice Department put out money I think in early
19 2002/2203 to take a look at re-entry, but as I -- I would
20 have to get back to you with -- and I can, shortly -- with
21 at least a brief literature review in terms of what
22 research, what data we've got collected, we've already
23 collected, and what we're in the process of collecting, or
24 that we're aware other agencies are in the process of
25 collecting.

1 MS. CHUNN: I'd like to add to that. Thanks.
2 There is an advantage of being the only woman up here.
3 The American Correctional Association wrestled
4 with that for years -- we had a lot of lively debate --
5 because the prison system was not prepared really for kids
6 when the move became pervasive across the country to bind
7 over kids for serious crime. They've always had provisions
8 for that, but not -- it was not used to the magnitude that
9 we saw it used in the nineties. And, so, it became a
10 management issue and there were lots of conversations about
11 "we weren't designed for this," "this is not our mission,"
12 that kind of thing. But we have always done in ACA, we felt
13 like we owed to the professional community in corrections
14 some guidance. We've often been criticized by not letting
15 the people who handle community corrections make standards
16 for community corrections, and those in juvenile corrections
17 for juvenile corrections, and those in adult corrections.
18 We believe the best thinking is derived from a cross-section
19 of people, and we cleave to that belief and value. So, we
20 all had many, many meetings and concluded that the best
21 approach to provide to adult prison personnel was to
22 recommend that there be separate units when you have a
23 number of people who are -- would have been served in the
24 juvenile system. Bear in mind, though, that when a
25 youngster's been bound over to Superior Court to be tried as

1 an adult and has been placed in an adult facility, that
2 means they're going to be with you a number of years. And
3 after you've looked at the reduced use of parole, that is
4 even more the case.

5 The complaints that were made were that the mixing
6 of the generations created many problems. There was a
7 notion that kids might be victimized by adults. Then there
8 was a whole movement where adults -- where kids were
9 victimizing adults, particularly some of the older adults,
10 and, so, it's a very complex issue but one that bears some
11 serious concern, particularly in the notion of having
12 separate units. Because space is of a premium in most
13 secure facilities, then identifying a unit that can be used
14 to that end is often very difficult. But I think that if we
15 could look at that in terms of what the practices have been
16 and what lessons have we learned, I think that's one of the
17 things that we do well is we distill the lessons that have
18 been learned and those things in turn impact what we are
19 able to achieve later.

20 CHAIRMAN WALTON: Someone else...

21 MR. DIXON: One of the things that has happened in
22 some states is what they've called blended sentencing, where
23 a kid who is adjudicated as an adult can stay in the
24 juvenile system until he ages out and then go into the adult
25 system. But one of the things that occurs when that happens

1 is that the kid, once he even finished the adult system,
2 because ninety percent of those kids are coming -- returning
3 home -- the issue is linking up, linking that kid up with
4 services once they get back in the community, and re-entry
5 and transitional programs and those kind of things are what
6 is lacking in our systems, one of the things that we're
7 working on and working very diligently on, but those are the
8 areas. The second piece of that is looking at that youth
9 coming into the system at the beginning and following them
10 through the process. We tend to go directly to the back end
11 of the system and not look at what's happening at the front
12 end of the system, and we have to look at it as a system,
13 not as pieces of a system. And, so, once we start looking
14 at the juvenile system from that standpoint, then I think we
15 start doing a better job. And there are kids who, there's
16 no question, I tell folks at the time, I am not that
17 liberal. My issue is we do have jails and they're there for
18 a reason. The issue really becomes how do we treat folks
19 once we have them there. And that has to be a mainstay for
20 how we do business when we're dealing with kids, and looking
21 at that entire system is very significant in doing that.

22 COMMISSIONER AIKEN: I appreciate your responses.
23 My focus is the fact -- and I say fact -- at least an
24 assumption that I draw -- that your community behavior is a
25 better predictor of future community behavior if they are

1 not impacted with something, and it doesn't necessarily have
2 a direct relationship to your institutional behavior. There
3 are people that have done some very bad things in the
4 community but come into a correctional setting or
5 confinement setting and you don't see that continued
6 predator behavior, and now you have a child that's committed
7 something horrendous in the community that has been able to
8 be managed properly in a confinement setting and now the
9 child is in an adult setting and do we have statistics, do
10 we have tracking mechanisms, do we have strategies, do we
11 have monitoring and things of this nature, or standards, for
12 that matter, in relationship to preventing and controlling
13 predator behavior such as sexual violence upon this
14 population.

15 MR BEYER: I think your issue is very important,
16 and I think it is a real difficult problem to the adult
17 system, but I just want to say, you have asked where the
18 juvenile, talking about juvenile, I don't want to minimize
19 that, but that is a different issue, and I don't want to
20 take anything away from it, but it goes back to what we
21 said: we first try to divert the kids from coming in if we
22 can, keep them in the communities, let the community take
23 care of the kids. If they have to go into detention, make
24 sure that they're identified with their issues right away,
25 especially if their system is passing them on to the larger

1 state system, for instance, they would come on to us so that
2 we know who's coming, what their issues are. It all comes
3 -- when the child first comes in is really where probably
4 some of the most important work comes down, we get to learn
5 about the person through case monitoring, through the type
6 of questions that are asked, the programs that you have, so
7 you can find out mental health issues, family issues, or
8 lack of family issues, all the things that you need to know
9 about that resident, that student, that child so you know
10 who you're dealing with. And that is exactly the same time,
11 because the juvenile system, for the most part, ninety-nine
12 percent of the time, is returning the kids to the community,
13 they're going home, is when you start processing for
14 re-entry or parole, because you can't wait two hours before
15 the boy or the girl's ready to go home and say, hello,
16 parole officer, I'm your parole officer, welcome back to the
17 community. It starts from the day the child walks in. And,
18 so, it's a whole different unique issues. That's one of the
19 beauties of the juvenile system, thank goodness, is that
20 they're not with us forever, they are going home, and for a
21 relatively short period of time compared to the adult we
22 have a lot a lot of work to do starting with the safety
23 issue to try and turn that kid around, particularly if that
24 kid did not go to the adult system, is not a predator, to
25 work those issues through, through all the rehabilitating

1 techniques, because ultimately we are legislatively mandated
2 to rehabilitate, and that's what we want to do for the
3 period of time that we have the child.

4 MR. SOLER: I think it's important to understand
5 what the Federal Juvenile Justice and Delinquency Prevention
6 Act does and does not cover and who it does and does not
7 cover. It only applies -- the protections in the act only
8 apply to juveniles who are under juvenile court
9 jurisdiction. Once a child has been transferred into the
10 adult criminal justice system, then the provisions of the
11 Juvenile Justice Act don't apply. Those four requirements
12 that Mr. Flores talked about, separation from adults and
13 removal and those only apply to juveniles under juvenile
14 court jurisdiction. So, once they go into the adult system
15 they don't have that kind of protection.

16 In addition, the Federal Juvenile Justice Act does
17 not talk about a broad range of conditions of confinement;
18 it's only those four requirements. And, so, as far as I
19 know, after a long time working in this field, the
20 compliance officers in the states are not looking at
21 individual juvenile facilities and doing assessments of
22 those facilities, they're monitoring compliance with the
23 statutory requirements: is there separation if children are
24 in, is there removal, is there no detention of status
25 offenders, and how are they looking at racial and ethnic

1 disparities in the system. So, the present structure of
2 federal law doesn't provide the right kind of structure for
3 monitoring this issue very closely. So, I think the answer
4 to your question is, we don't have lot of good data on how
5 this is going down and the incidence of this. In our
6 experience, in my experience, the greatest reform on the
7 prison rape issue that has taken place over the last
8 twenty-five years was the enactment of the Juvenile Justice
9 Act which got kids out of jail. It's been a very effective
10 federal reform; there are very few children held in adult
11 jails these days, and when they are, they're held in very --
12 for very short amounts of time. When the Juvenile Justice
13 Act was being considered by Congress thirty years ago, the
14 testimony before the Senate Judiciary Committee was all
15 about rapes of children in jail and all about children
16 committing suicide in jail. The statute was focused on
17 getting kids out of jail because we know that jails are
18 schools of crime for children, we don't want children in
19 jails, they are in great danger when they're in jails, and
20 they're in great danger when they're in prisons. Despite
21 the best efforts of correctional administrators and
22 superintendents, it's very difficult to protect children in
23 appropriate ways when they are in a prison setting.

24 There was a survey done about ten years ago
25 looking to see how many prison systems actually separate

1 juvenile inmates from adult inmates so they can be protected
2 that way, and it was something about half the systems did
3 then. There may be more now because there's more awareness
4 of those kinds of issues, but that's a terrible situation.
5 You don't -- when you think about our own children, think
6 about children from our community, we don't want 15-, 16-
7 and 17-year-olds in these adult prisons because they're
8 going to get badly hurt, and most of them are in the prisons
9 not for violent offenses. The majority of children
10 transferred into adult court are not transferred for violent
11 offenses but for property offenses and drug buys.

12 MR. DIXON: And to add to that, we're looking at
13 17-year-olds, but I think one of the issues based on what
14 the brain research has come out is really talking about kids
15 have not matured until they're in their early twenties, so,
16 we have to be conscious of that also. So, stopping at
17 seventeen, we may need to move, when we place kids in the
18 adult system, up to eighteen or maybe nineteen. So, that's
19 a serious issue that has to be addressed also.

20 CHAIRMAN WALTON: I know that tremendous efforts
21 have been made to limit the detention of children, but is
22 there still a systemic problem in our nation, or if not the
23 nation, in specific jurisdictions in the country where young
24 people are inappropriately being detained, and if that's so,
25 are those individuals at greater vulnerability for the type

1 of assaults that we're talking about?

2 MR. DIXON: Well, to answer your question, yes.
3 What has started to happen, especially in juvenile
4 detention, they have become the de facto mental health
5 facility for juveniles, and, so, when you have those kids
6 coming in with those multiple mental health issues and
7 trying to manage those kids, then you have serious concerns,
8 and that's a national concern, that's not just through
9 jurisdictions. Every facility in the country is having
10 problems with that, so, it's a major issue.

11 MR. BEYER: Major. We wrestle with that
12 constantly. And the other issue is, which was also touched
13 on, is on the issue of disproportionate minority contact.
14 The differences, talking, leaning a little bit about what
15 you were saying, Commissioner, is that kids of color many
16 times come in and spend longer periods of time than kids,
17 white kids, for instance; and, so, if you're spending more
18 time in detention waiting to be processed simply because of
19 your color of skin, there's greater opportunity for things
20 to go wrong. That's why you want to try and get kids
21 through the detention system as quickly as possible because
22 they are not supposed to be a long-term holding facility,
23 supposed to be short term. And that's what happens. They
24 get -- the mental health kids get hooked up there, the
25 disproportionate issue gets hooked up, all involved in their

1 issues, and it creates a real problem as far as the juvenile
2 correctional issue.

3 MR. DIXON: The second issue, a piggy-back onto
4 that, has to do with we're start -- we're looking at
5 detention as a building and not a process, and until we look
6 at it as a process, we're going to have a lot of kids who
7 are placed in detention who should not be there. The
8 process mechanism I'm talking about is alternative. They're
9 still part of detention, but it means that kids can be
10 placed in their home because they're not a threat to the
11 community and they're not -- they don't have the ability to
12 run. And, so, a process of how we look at how we place kids
13 is very fundamental of how we look at the bricks-and-mortar
14 piece, because constantly we look at the bricks and mortar
15 and not the process of detention.

16 MS. CHUNN: And that's one of the reasons that I
17 believe that disproportionate minority contact is such an
18 issue, because often the notion is there is no other place
19 we can put youngsters of color, and parents don't know what
20 the options are, and, so, it becomes even more difficult for
21 the system to have advocates that can push for this kid
22 particularly if he has no history of violence. I think if
23 this Commission were to recommend that young people, those
24 who are classified as juveniles, not be held in prison there
25 would be a hue and cry of applause and congratulations

1 across this country. I don't know an adult administrator
2 who's holding juveniles who would rather have it that way.
3 They would much rather have juveniles in juvenile
4 facilities.

5 MR. SOLER: One example of the inappropriate
6 detention actually comes up in one of the issues under the
7 Juvenile Justice and Delinquency Prevention Act. One of the
8 requirements is deinstitutionalization of status offenders,
9 which means that children charged with offenses that would
10 not be crimes for adults, like truancy and curfew violation
11 deemed beyond control of parents, cannot be locked up. But
12 there is an exception to that rule, and I'm afraid in many
13 places in the country the exception has swallowed the rule.

14 The child, the first time they truant they cannot be locked
15 up, but when they truant and if they are brought into court
16 and put on probation, for the truancy a condition of
17 probation is attend school. If they then fail to attend
18 school, they don't get arrested for the truancy, they get
19 arrested for violating probation, and that is a delinquency
20 offense and that is not covered by the prohibition. And,
21 so, they are -- all over the country there are thousands of
22 -- today there are thousands of children who are locked up
23 in detention for behavior that constitutes status offenses,
24 that is, for not going to school or for violating curfew or
25 for not obeying their parents, and they are locked up

1 because of this valid court ordered exception. And, so,
2 that's just one example of inappropriate detention.

3 The Casey Foundation's Juvenile Detention
4 Alternatives Initiative has been working for thirteen years
5 to develop procedures to minimize the use of unnecessary
6 detention in a way that nevertheless promotes public safety.
7 JDAI is now in about sixty sites around the country; there
8 are four sites that they consider model sites, and it may be
9 worth looking at what they're doing, particularly in terms
10 of looking at inappropriate detention: Chicago, Portland,
11 Oregon, Santa Cruz, California, Albuquerque, New Mexico,
12 have made significant strides in significantly reducing
13 unnecessary detention without any increase in juvenile
14 arrests in those vicinities, and it's spreading to other of
15 the JDAI sites.

16 One last point to make about disproportionate
17 minority contact. Incarceration in this country is largely
18 about people of color. Any policies that we're talking
19 about in terms of children locked up are disproportionately
20 going to impact African American and Latino youth. And we
21 know something about those numbers. The numbers that we
22 know all indicate disproportionality, and, so, we need to
23 keep that in mind as we're thinking about standards to
24 develop to protect children from prison rape.

25 COMMISSIONER PURYEAR: I'd like to quickly ask a

1 question that -- changing the subject here for a little bit
2 -- but there also have been a couple of you, like Mr. Beyer,
3 saw Mr. Beck's statistical results about the higher degree
4 of frequency of sexual staff misconduct with juvenile
5 residents versus adult inmates, and that's a troubling
6 statistic. Mr. Soler and Mr. Flores both, I think, made
7 references to the architectural design of facilities. Why
8 don't we just camera up or use other technologies in these
9 facilities so that somebody's always watching or has the
10 capacity to watch or come back and look and see what
11 happened in these facilities and so that if there is a
12 complaint or a grievance made it can quickly be ascertained
13 whether or not the complaint or grievance is grounded. It's
14 very, very cheap to do that.

15 MR. SOLER: It's a good idea, and I think it would
16 be helpful, but I think we shouldn't mislead ourselves and
17 think it's going to solve the problem. There are -- I've
18 been in facilities that do have lots and lots of cameras,
19 and I've always talked to children who have been assaulted
20 by staff in those facilities, and there are ways of getting
21 out of camera view and cameras are not everywhere in the
22 facilities, and the truth is that cameras are not a
23 substitute for very well trained staff and very committed
24 leadership in the leadership and a policy of no tolerance of
25 sexual misconduct by staff in the facility.

1 MR. BEYER: That is the only way to do it, and
2 that's what I originally said, and the reason -- I will say
3 again -- one of the reasons why our percentages were higher
4 in juvenile is because we have more accountability in
5 certain respects, because they're kids, of who oversee, and
6 we are obligated to report to, so, there is a greater
7 number, whether founded or not, whether founded or not, and
8 it all comes down to the issue of tolerance. I'll say it
9 again. You can have cameras and you could get beat on
10 cameras. If you don't have people who are committed and
11 concerned -- and it starts with the head of the operation --
12 it could be me as the director, it could be the
13 superintendent of the facility, you've got to walk and talk
14 your place, you've got -- they have to know what you're
15 going to tolerate. It talks about surprise visits in the
16 middle of the night, make sure staff isn't sleeping, that
17 they're concerned about those kids, that they're looking
18 inside the room, the cell, whatever the case may be. This
19 is a 24-hour business seven days a week; you can never go to
20 sleep. It's not one of those things I could lean back and
21 say, oh, it's okay. You never -- it's never okay. When it
22 comes to the issue of safety, it never, ever, ever stops.

23 COMMISSIONER PURYEAR: I'm not suggesting this is
24 a substitute for effective training or employing the right
25 people in facilities, for having an adequate number of

1 people to cover the facility, but it does seem -- everybody
2 behaves a little bit differently if they think somebody
3 might be watching them.

4 MS. CHUNN: The problem is money, a lot of times.

5 COMMISSIONER PURYEAR: Let me ask about that,
6 though. Have you priced a system, a camera system, these
7 days? It's not like it used to be. You can have a digital
8 video recorder, you can have digital cameras for -- and let
9 me just ask, does anybody who's run a facility think that
10 having a camera system deployed where they could see areas
11 that -- where things are likely to go wrong is not worth one
12 employee, for instance?

13 MR. BEYER: No, it's not with one employee.

14 MS. CHUNN: No.

15 MR. BEYER: Because you need somebody ---

16 COMMISSIONER PURYEAR: Paper pushers or anything.

17 MR. BEYER: Well, you need somebody to watch the
18 camera.

19 COMMISSIONER PURYEAR: Sure. You can do that from
20 your -- anyway, can do that off your laptop in your office,
21 if you want to, or at home in the evening.

22 MR. DIXON: I'll say this, and I said it in my
23 testimony, one of the things that we have to stop doing is
24 trying to, with all due respect, get off on the cheap,
25 because it takes folks to supervise those folks, it takes

1 folks to train those folks, and all my facilities have
2 cameras in them, all of them, and we have digital cameras,
3 we have all of that, and we've still an incident of those
4 things occurring in the facility. And, so, if cameras were
5 the -- was -- I won't say the cure-all -- then believe me,
6 we wouldn't be having this discussion now.

7 COMMISSIONER PURYEAR: Do you think they help?

8 MR. DIXON: I think they add a certain level of
9 help, but I think, like anything else, and that's why I said
10 earlier that it's not a science, it's an art, to looking at
11 how people are deployed, because folks, if they want to do
12 something wrong, folks will look at ways to find out how to
13 do it, and that's where training and all those other things
14 come into play.

15 COMMISSIONER AIKEN: I hope not. I hear
16 everything, but I do have to make a comment. No one is
17 suggesting, I don't think, that the camera will replace
18 living, breathing bodies and interactions, but the question
19 I often ask is who's watching and where is that camera being
20 monitored? In a control room. Why can't it be in the
21 warden's office? Why can't it be at a different place?

22 MR. BEYER: Because the warden's busy. I was a
23 warden. I couldn't tell you that I sat -- if a warden's
24 sitting in his or her office all day long, you're no good to
25 anybody anyway. You can't run the place from your office.

1 I'll just tell you this: the camera is a tool, it's a tool
2 and it's a beneficial tool. Give you a good example. Took
3 a tour. Girls were complaining in one of our -- several
4 years ago that they were scared at night. Why are you
5 scared at night? Well, we found out that the staff came in
6 to sleep, didn't come in to work, they came in to sleep.
7 Now, the cameras caught the sleeping on tape. What that
8 allowed me to do was fire people. And, so, it was a tool to
9 correct the situation. But when you mandate managers to go
10 and make those tours that you're going to come and check on
11 a regular basis or an infrequent basis or on a surprise
12 basis, the best tool, in my view, in ensuring the safety and
13 the welfare of the people you're responsible for, is to
14 ensure that the people understand what they have to do and
15 hold them accountable to what they have to do.

16 COMMISSIONER AIKEN: I understand that and I agree
17 with you, but I don't think it's an issue of either/or.

18 MR. BEYER: No, I agree with you.

19 COMMISSIONER AIKEN: And a warden is busy, you
20 better believe the warden is busy, and the warden should be
21 busy about making sure that this place is safe, safe for
22 staff as well as inmate population, and if I could pull up a
23 laptop at 2:00 o'clock in the morning and plug into a part
24 of the prison, or the confinement facility, to see for
25 myself at random as I feel deemed appropriate, I think

1 that's appropriate too.

2 MR. BEYER: No question.

3 MS. CHUNN: What we want to do, too, is beyond
4 compliance; we want to change the culture. I think we heard
5 from one of the victims this morning, this guy goes in on
6 third shift, middle of the night usually, locks the door
7 behind him, and that's, unless you're going to put a camera
8 in every room, every sleeping -- every place in the
9 building, then it's not going to get us what we want. And I
10 think what we want is something beyond compliance.

11 COMMISSIONER AIKEN: You want more commitment.

12 MS. CHUNN: Exactly. And I think part of what you
13 are pointing out is unless we can instill in people the kind
14 of commitment to safety that we won't get what we're going
15 to do. Increasingly, though, there's nobody at the top of
16 the organization who's saying, look, I'm giving you this
17 job, but I expect these kids to all remain safe, I don't
18 want any riots, I don't want anybody killed, I don't want
19 any suicides, I don't want any sexual assaults, but you're
20 not getting that message consistently. So, you're getting a
21 lot of leaders who don't even know where their institutions
22 are, and when they go out it's once or twice a year, and
23 then they're surprised when they've got a sex scandal.
24 We've got to have people who show up who are in leadership
25 positions who care enough about the children so that the

1 staff know that you will without a doubt be taken to court.

2 I told a person one time the AG is my person, I can take
3 you to court all day long, every time a kid says that he's
4 been inappropriately touched or there's any hint, you'd be
5 surprised what that attitude does in changing people's minds
6 about whether or not they really want to --

7 CHAIRMAN WALTON: We're off schedule, but I'll let
8 Mr. Smith ask a short question but we don't want to short
9 change the next panel.

10 COMMISSIONER SMITH: This is not really a short --
11 this is not a short question, it's a short comment. I
12 appreciate the passion and the commitment of everybody on
13 the panel to assuring the safety of youth in custody, or
14 youth who are in various settings in the juvenile system,
15 but from all the testimony that's gone across this panel,
16 the thing that really strikes me is that there is not a
17 focus on sexual abuse of youth in custody. You're much more
18 focused on the four OJDDP requirements and there's not a
19 focus on this issue. And, so, what I'm asking, in fact,
20 demanding, with what little piece of power I have as someone
21 who's appointed to this Commission, is some specific,
22 concrete efforts and activities over the course of the next
23 months, year, to demonstrate the commitment of this
24 community to addressing sexual abuse in custody explicitly.

25 Mr. Flores, you have a piece of funding that's out

1 there that's due on June 19th. It doesn't specifically set
2 aside any resources to deal with PREA, even though I
3 understand that you would welcome those. A good idea would
4 be to be very specific about that. You got compliance
5 monitors. Are you saying specifically to look at these
6 issues. There are a number of standards across the JDAI,
7 ACA, all of the alphabets, but are they explicitly
8 addressing this issue, and that's what we need and that's
9 what we want you to do. So, that's my comment.

10 MS. CHUNN: I think what we're saying, all saying
11 to you is, yes, we have, varying degrees of attention to
12 this specifically, but that each one of us stands ready to
13 work with you on this. The ACA certainly pledges to
14 continue its work in providing the level of specificity in
15 the standards-producing process that will get us where we
16 want to go in this area.

17 MR. BEYER: And CJCA is equally committed, and if
18 you were sitting here today, we were talking about suicide
19 or elimination of suicides, I would talk to you and
20 represent the other correctional administrators with the
21 exact same passion; just as you don't want to lose a child
22 to a suicide, you don't a child sexually invaded by anyone,
23 it's that important; just as you wouldn't want it to happen
24 to your own child. We are all -- we stand committed and we
25 stand together on this.

1 MR. DIXON: NJDA has the same commitment. Again,
2 we see the kids up close and personal, and we can't get away
3 from them and we have to deal with them.

4 CHAIRMAN WALTON: We're ten minutes off schedule.
5 I hate to end the session, because it's been so informative
6 and passionate, but we would be more than thankful of
7 getting additional input from you. So, if there were things
8 you weren't able to say that you'd like to say, please let
9 us know about it, and I'm sure we'll be in contact and have
10 further discussions. Thank you very much.

11 We'll take five minutes.

12 (Recess.)

13 CHAIRMAN WALTON: Our next panel will address the
14 nature of the problem. Our first witness will be Mr. Paul
15 Brizzi, who is the Prosecuting Attorney in Marion County,
16 Indiana. Our next witness will be Dr. Barry Krisberg, who
17 is a Ph.D. with the National Council on Crime and
18 Delinquency. Next we'll have Mr. Robert Bidwell who is a
19 physician with the Hawaii Office of Youth Services. Our
20 next witness will be Mr. Steven Gibson who is director of
21 the Montana Department of Corrections, Youth Services
22 Division. And our final witness will be Ms. Grace Chung
23 Becker, who is Deputy Assistant Attorney General with the
24 United States Department of Justice.

25 We will start first with Mr. Brizzi.