

1 passed regarding juveniles, we have not been
2 successful in obtaining a law to allow us to
3 prosecute staff for sexual misconduct as a felony.

4 For several years, Kentucky has been one of
5 the few states that did not have felony law for
6 sexual misconduct. We will continue this effort
7 and present legislation in January for the third
8 year in a row. Hopefully, we will be successful.

9 While the public perception of prison is often
10 the image of tattooed bench-pressing "Hulk-Like"
11 Men giving other inmates what they deserve, those
12 of us in the field of corrections know and see the
13 reality of prison rape. Its aftermath for its
14 victims include physical and mental pain, fear,
15 loss of identity and the system as a whole is one
16 of the greatest threats of the security of our
17 institutions. Thank you.

18 THE CHAIRMAN: Thank you very much,
19 Mr. Rees.

20 Mr. Wall?

21 MR. WALL: Mr. Chairman and members of
22 the Commission, I come before you as a career

1 corrections professional. I started in a line
2 position over 30 years ago and I am now proud to be
3 in my seventh year as director of the Rhode Island
4 Department of Corrections and I thank you for
5 inviting me to address the Commission.

6 The passage of the Prison Rape Elimination Act
7 has shown the spotlight on the issue of staff on
8 inmate and inmate on inmate sexual abuse. It is an
9 uncomfortable place for our profession to be. Both
10 staff on inmate sexual abuse and inmate on inmate
11 sexual abuse have been with corrections for a long
12 time, but staff sexual misconduct emerged as a
13 topic of serious public discussion about 15 to 20
14 years ago. Before I would argue was the case with
15 inmate on inmate sexual abuse.

16 And my own department's attitude and approach
17 to staff sexual misconduct have evolved over the
18 years. Twenty years ago we were not unlike many
19 correctional agencies in that when staff sexual
20 misconduct was found to have occurred, the impulse
21 was to excuse the staff member and sympathize with
22 the staff member. He was a company man. She was

1 close to retirement. There was trouble in the
2 marriage. What can we do to save the staff member?
3 Overtime new leadership emerged in our department.
4 The issue became particularly salient in our
5 women's facilities. And as women there began to
6 have confidence that they would be believed and
7 protected, cases emerged in larger numbers.

8 Events on the national scene also caught our
9 attention in Rhode Island. We were well aware of
10 the national publicity given to the large lawsuit
11 in Georgia at the beginning of the 1990's. And
12 during this time, our profession, especially the
13 National Institute of Corrections, took action to
14 step up to the plate. In fact, our field's ability
15 to deal with staff sexual misconduct was greatly
16 enhanced by the work of NIC and its partner, the
17 Washington College of Law over the years.

18 Through their work, we were equipped with
19 tools, information, and technical assistance to
20 develop what we've come to know as the systemic
21 approach, an approach that focuses on effective
22 correctional practice rather than the adhoc

1 response to a given crisis. And it emphasized the
2 need to integrate policy, operations, the legal
3 office, human resources, medical and mental health,
4 classification, internal investigations, and
5 outside partners from law enforcement prosecution
6 and health care into a holistic approach.

7 It is well thought out and with some
8 modifications to be sure, I believe it translates
9 effectively to the work of dealing with inmate on
10 inmate sexual abuse as well. And what's been
11 accomplished in the feel gives me reason to believe
12 that we can successfully address not only staff on
13 inmate sexual abuse, but inmate on inmate sexual
14 abuse.

15 I commend and I seize work to the Commission.
16 I urge you to look at it seriously as you develop
17 your standards for prevention, investigation NS
18 punishment.

19 My own department was part of that process.
20 We drew on the approach that was taken by NIC. I,
21 myself, along with my chief of Internal Affairs and
22 the then warden of the women's facilities attended

1 one of our NIC's first trainings on the subject.
2 One of our instructors was one of your
3 commissioners, Professor Brenda Smith. And I think
4 it enabled us to implement a set of tools that has
5 given our department the ability to be vigorous in
6 the prevention, investigation, and punishment.

7 I was tapped by our then director -- I'm
8 sorry, by our then president, Reggie Wilkinson, of
9 the Association of State Correctional
10 Administrators to testify before Congress on the
11 PREA legislation when it arose. And what I said at
12 the time on behalf of our association was this: We
13 know that staff on inmate sexual abuse occurs. We
14 know that inmate on inmate sexual abuse occurs. We
15 recognize that there are disputes about its
16 prevalence, and for that reason we welcome a
17 credible study that we hope will shed light on just
18 how often these incidents take place. But we also
19 know that whenever they occur, we deploy them, we
20 uphold them and that we want to use PREA as a
21 resource, a resource for us to take the steps we
22 need to take so that we can draw on our obligation

1 as leaders to address these issues.

2 Underlying our efforts as correctional
3 leaders, all the strategies that we put into place
4 is the question of culture and its first cousin,
5 leadership. I recognize that these subjects may at
6 first glance sound intangible, but an appreciation
7 for their role is absolutely essential to the
8 success of the PREA legislation. Because the fact
9 is that these cases do not arise in a void. They
10 occur in the context of our cultures. And the
11 standards that you are developing will help us
12 create accountability if they dovetail with our
13 efforts to promote cultural change.

14 What do I mean by culture? We could discuss
15 that at length, but in sum I describe it as an
16 organization's way of life. The sum of the
17 attitudes or the norms, the values, the beliefs, of
18 those people who live and work in it. And the fact
19 is that the culture can either support or obstruct
20 this work both in investigations and prosecutions,
21 as well as in prevention and other forms of
22 intervention.

1 It needs to be understood not only by us, but
2 also by the agencies that we are working with on
3 this issue because it does provide a context to
4 understand the behaviors of the staff and the
5 offenders who are involved in it. And,
6 furthermore, successful investigations in turn
7 influence the culture going forward.

8 The important thing for us to have understood
9 is that culture is not inherent. Culture is
10 learned and, therefore, it can be changed. And
11 that's our obligation and our opportunity as
12 correctional leadership.

13 What are some of the strategies that we use to
14 incorporate our desire to eliminate prison rape
15 into our efforts of cultural change? First, of
16 course, policy. It has to be clear and strong,
17 concise, definitive information about boundaries
18 and clear naming of what behavior is acceptable and
19 what is not.

20 Another strategy, articulating zero tolerance,
21 a term that is overused if it isn't given content,
22 I'm talking about zero tolerance with teeth. Every

1 allegation or suspected incident shall be brought
2 forward and shall be thoroughly investigated and
3 sanctions proportional to the evidence and harm,
4 including prosecution shall be imposed. We also
5 try to change the culture through the hiring and
6 promotional process, questions that explore the
7 candidate's attitudes toward the issues that
8 concern us and underscoring management's
9 determination to deal with these incidents right at
10 the get go when you're before the hiring board.

11 An important strategy is education, but the
12 education must reinforce the importance of these
13 issues, inmate on inmate sexual abuse, and staff on
14 inmate sexual abuse. It must reinforce the
15 importance of these issues in terms that our staff
16 can appreciate and understand. Namely this, what
17 do our managers understand? They understand
18 liability and reputation. That's where that
19 training needs to go. Our supervisors and line
20 staff, what do they understand? They understand
21 professionalism and they certainly understand
22 institutional security.

1 They must recognize that the issue is not
2 about sex, it's not about women. In fact, we've
3 had cases both in the staff context and the inmate
4 context that cross all aspects of male/female.
5 It's not about sex, it's about security. We are
6 all responsible for the operation of safe, secure,
7 orderly institutions, and that is compromised
8 whenever boundaries are crossed.

9 Predatory sexual behavior may be the most
10 combustible of all boundary violations and,
11 therefore, the greatest risk to institutional
12 security. If we also want to make this issue
13 relevant to our staff, we need to provide them with
14 practical tools. For example, supervisors need
15 checklists of the kinds of red flags which might
16 indicate the existence of inappropriate
17 relationships or conduct.

18 In the staff sexual misconduct, for instance,
19 does the staff member seem to volunteer for
20 overtime only if that staff member can obtain
21 particular posts? That's one of many examples I
22 could use. In the inmate on inmate context, does

1 an inmate seek a cell change and is unwilling to
2 tell you why? That's a red flag for our staff.
3 Those kinds of practical tools are essential so
4 that it can be operationalized for our personnel.

5 We need to orient inmates to their rights and
6 be very practical about it. How can you report
7 abuses? What will be done to protect you if you
8 do? Demystify the investigative process so that
9 everybody understands how it works and it's more
10 credible. Education and dialogue with our partner
11 agencies. Law enforcement and prosecutor's
12 offices, they need to understand the unique
13 features of the correctional environment, the
14 imbalance of power, the pressure of the code of
15 silence, for example. And we need to understand
16 their cultures, that they come at this from a
17 different perspective than we do because they have
18 a tendency to think of offenders as people who
19 never tell the truth.

20 We also need to understand what their
21 standards of proof are and why what might be
22 sufficient for us to proceed administratively may

1 be inadequate for the much higher standard to which
2 they are held.

3 And, finally, in terms of the intervention
4 with culture that will make PREA take route in our
5 agencies, the investigations have to be credible in
6 action. Staff offenders and the public will
7 evaluate the seriousness with which we take staff
8 sexual misconduct and inmate on inmate sexual abuse
9 when they see consequences for the perpetrators.

10 Termination of staff, serious discipline for
11 inmates. Prosecution for both gets everyone's
12 attention when the case is documented that this is
13 predatory. And a successful prosecution can be a
14 defining moment at a powerful agent of cultural
15 change. Everyone in the culture can tell you what
16 happened in a case like that. And that's one way
17 in which the culture learns.

18 Please be patient with us. As those of us who
19 work in this field will tell you, cultural change,
20 including cultural change with respect to these
21 issues as we move down into the deepest parts of
22 our agencies, it's not a sprint. It's a marathon.

1 But by linking your standards to the strategies
2 that we are employing, you can help equip us with
3 the tools we need to move forward on our shared
4 goals for PREA.

5 When we as leaders can connect your standards
6 to the approaches that we are taking to foster the
7 changes we seek, then the values of PREA will take
8 route in our agencies. They will outlast the
9 Commission and they will outlast us. When they
10 become organic to our operations and integrated in
11 our culture, we will have created an accountability
12 for these issues, an accountability that will last.
13 Please feel free, when the time comes, to ask me
14 any questions that you may find helpful about any
15 aspect of the PREA issue. Thank you.

16 THE CHAIRMAN: Thank you, Mr. Wall.
17 Ms. Caruso.

18 MS. CARUSO: Good morning. Mr. Chairman,
19 commissioners, thank you for the opportunity to
20 address you today on this important subject.

21 I'd like to start by acknowledging and I'm
22 sure that my colleagues are in agreement with me