

1 the opportunity to be here.

2 CHAIRMAN WALTON: Thank you very much.
3 I'm sure we'll have some questions, then, for both of
4 you. We may have some follow-up questions that we
5 won't have time to ask today, so if we submit
6 something to you, we appreciate you responding because
7 that would be helpful.

8 And I forgot to announce, if anybody
9 has electronic equipment turned on, please turn it off
10 because it does impact with the system.

11 Chairman, thank you for being here.

12 REPRESENTATIVE JERRY MADDEN:

13 Mr. Chairman, thank you very much.

14 Mr. Kimbrough and I are something of
15 new guys on the block. Actually, I've been the
16 Chairman of Corrections -- I've been a member of the
17 legislature of the State of Texas now for 15 years,
18 but until two years ago, I had never even seen a
19 correction bill, never looked at the inside of a
20 prison. I have a district that has no prisons and
21 absolutely no desire to have any, and one of the
22 smaller interment rates of the State of Texas in that
23 district.

24 But the Speaker of the House asked me
25 to become the chairman of the committee two years ago.

1 At that stage I was basically able to figure out the
2 difference between parole, probation, and anything
3 else. But the boss gave me one thing. He said,
4 "don't go build new prisons." So at that stage I had
5 to begin to learn the process of how do we make that
6 work and how does that happen.

7 And in dealing with those things, it
8 came -- came to look at the various departments that I
9 have. First of all, I have the entire Texas
10 Department of Criminal Justice. We also have the
11 Texas Youth Commission. We also have our Council on
12 Offenders with Mental Illness and things like that, so
13 you learn a lot of the statistics and things because
14 I'm not a lawyer, I'm an engineer. My knowledge and
15 background is an engineering one. And so I asked
16 questions as an engineer. And you start asking
17 numbers questions and you start finding out things.

18 And I will tell you that our Texas
19 Youth Commission wasn't even on our radar screen as
20 far as even at the end of the last session. We had
21 had, you know, one hearing, basically, that they come
22 in and talked a little bit about it, and I had, you
23 know, some little pieces of legislation that we had
24 done, but nothing major.

25 But we started looking at incidents

1 that we had at some of the facilities, particularly
2 one we had in south Texas where they had basically a
3 riot, which they now have the Federal intervention on,
4 Federal case.

5 And started looking at all the things
6 about it and started asking questions. And when you
7 get an engineer that starts asking questions, it can
8 be very dangerous because they start asking lots of
9 detailed questions. Like why isn't this happening,
10 and what is happening here, and why does this happen
11 this way. And so I got to asking the questions of --
12 about the organization. And I've got to admit, I
13 started from the restraint policies and looking at
14 their restraints, because we heard cases of kids that
15 were injured. And we heard cases of workers that were
16 injured, also. And I said, is that the right way to
17 be doing it. Is there other alternatives.

18 We quickly found out that I had an
19 organization that had the highest workers'
20 compensation rate in the State of Texas, 22 percent.
21 We figured that out, that's one out of every five
22 employees had a workers' comp claim in a year. That's
23 a fairly high one, and as a business guy, I sat back
24 and said, that's a red herring that something else is
25 going on out there. There is something else wrong.

1 So we started digging into a whole
2 bunch of other things that were there, their policies.
3 We figured out real quickly that their policies
4 weren't reviewed regularly, that their board did not
5 look at all of their policies, and we tried to get
6 them to change that and implement those changes. And
7 I will tell you that they were very slow to do that,
8 and I will tell you that they were also -- they had an
9 investigatory system -- they had an IG system at one
10 stage that had reported to the superintendents at each
11 location. They moved that and had it reported to the
12 legal counsel at the headquarters. We said, that
13 doesn't make any sense. And so we directed them to
14 move it to report to their Board of Governors.

15 Unfortunately, at the same time, they
16 decided that there was going to be an Office of Youth
17 Care Investigators instead of an Office of Inspector
18 General and, therefore, they weren't looking at the
19 kinds of things we wanted to. We also figured out
20 real quickly that they were not commissioned peace
21 officers and, therefore, they had no obligation to
22 report criminal offenses and they had no capabilities
23 to look at and investigate crime scenes and
24 investigate the things that were going on at the
25 various locations. They didn't have any scheme, it

1 appeared, to do any retention of evidence. They went
2 several days between the reporting of an incident and
3 the time when the headquarters or anybody got back out
4 there to look at the case.

5 And so those things all raised the flag
6 and I will tell you, at some stage in that -- in that
7 discussions about the middle of July or August, the
8 Prison Rape Elimination Act came up. And one of the
9 things we were looking at, because the Texas
10 Department of Criminal Justice had gotten a million
11 dollar grant to go look at the things, and I will tell
12 you that we have looked at our interim hearings and
13 seen that Texas had a high rate of reporting of prison
14 rapes. 20 times greater than Ohio and 20 times
15 greater than California and -- you know, of number of
16 incidents reported. You can take a look at those
17 statistics, which we said -- my ACLU people came in
18 and tried to tell me, well, Texas is really bad
19 because they've got so many of them. And we looked at
20 it and said, none of us believe that Texas has 30
21 times more prison rapes than the state of California
22 does, or 20 times more than Ohio does. We think what
23 we're really finding out is because the system we have
24 at TDCJ, while imperfect at best, is still one that
25 does get reports of incidents at a much higher level

1 than we think any other state has.

2 But I looked at my Youth Commission and
3 they said they didn't have any problems with it, and
4 they had made no requests for Prison Rape Elimination
5 funds. They indicated that somehow or other, only one
6 organization could get it and, obviously, the big boy
7 was going to get it and that was going to be the TDCJ
8 and so they made no effort to put in for that Prison
9 Rape Elimination grant.

10 And as I told your Chairman, one of the
11 things that we had found in looking at one of the
12 incident reports that they had at the Evans facility
13 was a report where a youth had been part of the riot
14 they had down there, and he had been part of -- it was
15 a charge brought a guard for failing to make his
16 inspection tours regularly and they were doing a
17 disciplinary action against the guard. But that the
18 youth had reported that he had been in a fight and,
19 also, that he had been sexually assaulted.

20 And their reaction to that was that
21 they had taken him to the nurse to have his black eye
22 checked. And that was all. So we started doing some
23 more digging, obviously. Some more questions that
24 came out.

25 And -- and also a lot of actions that

1 then occurred, particularly right after that, when the
2 knowledge of the incidents that happened in our west
3 Texas facility, which has really been the major thing
4 that has caused the entire chain that we've had here.

5 Now, I will tell you that I had
6 legislation filed before any of that became known in
7 the general press that would have dealt with the
8 Inspector Generals and would have given us a Special
9 Prosecutors Unit and would have done a lot of the
10 other changes that Mr. Kimbrough is talking about.
11 But this has -- obviously, has highlighted the -- not
12 only the need for it, but especially the things that
13 we have to change. So we're still at the forefront of
14 a lot of those changes. A lot of the activities going
15 on, we're -- a lot of information that we might have,
16 I hope we can be of help to the Committee in anything
17 that we've got. So thank you all.

18 CHAIRMAN WALTON: Thank you very much
19 for your testimony and your good works.

20 Let me just ask. I know you're just --
21 you are not finished with your investigation of the
22 issue, but what are the things that you think were the
23 major breakdowns in the process that permitted this to
24 occur?

25 MR. JAY KIMBROUGH: I have often used