

1 information about the BIA training program.

2 CHAIRMAN WALTON: Thank you very much
3 for your testimony.

4 Doctor, Ms. Asetoyer has said that the
5 Indian Health Services does not have any type of
6 policy related to sexual assault in prisons or
7 detention facilities. Is that correct?

8 DOCTOR JON PEREZ: That's correct.
9 It's -- we're a pretty decentralized agency. And we
10 have taken -- with each one of our -- let me back up a
11 second and, if I may, provide some context here.

12 Are you familiar with Public Law
13 93-638, Indian Self Determination?

14 CHAIRMAN WALTON: Somewhat.

15 DOCTOR JON PEREZ: Somewhat. Part of
16 why we have gone to decentralized policy making -- and
17 not that we don't do it at the national level. We
18 actually do. In fact, we've got multiple manuals for
19 clinical care and delivery of care. But we've highly
20 decentralized because, for Behavioral Health,
21 approximately 70 percent of the programs are now run
22 by the tribes themselves; for substance abuse, 85
23 percent; for the actual medical care, it's over half.
24 Increasingly, tribes are taking over their own
25 programs. We don't run them anymore. We now support

1 them in running their own.

2 The -- the legalities and policy making
3 of it are such that the tribes don't necessarily have
4 to honor anything that we put as a national policy.
5 They don't even have to report back to us as part of
6 that policy. And so what we've done is, we're
7 cooperatively at the area level to try to ensure that
8 we have the best possible care, given the exigencies
9 of those areas. For example, when we're talking about
10 checkerboarding and where you have multiple
11 jurisdictions, you have county, state, fed, us,
12 tribes, all trying to work together. If we establish
13 a policy, it may or may not work. So that's part of
14 what we do.

15 Now, specific to the -- the rape kits
16 and examinations, we don't have enough trained people
17 to actually do them. And that is a hard reality.

18 And --

19 CHAIRMAN WALTON: Is that due to money?

20 DOCTOR JON PEREZ: Pardon me?

21 CHAIRMAN WALTON: Is that due to
22 resources, money?

23 DOCTOR JON PEREZ: Resources are always
24 an issue, sir. And -- but not -- not completely.

25 Part of it is the -- is the nature of our

1 particular -- and how far flung our agency is and how
2 remote some of the services are provided to. And so
3 if I put all this together and say, policies and do we
4 have policies. Yes, we have policies there that are
5 congruent with all of the national accrediting
6 agencies for the clinical services that we do
7 provide -- in terms of being able to provide. And
8 this is why the centralization, I think, has actually
9 been a benefit in a lot of our areas -- not all of
10 them, but many of them -- is that we can then directly
11 work with people who are trained.

12 For example, I'm a clinician. Tomorrow
13 morning I'm going to go back, the door is going to
14 open and we take calls at the Phoenix Indian Medical
15 Center where we see approximately 200,000 people a
16 year. And do we have a policy for evaluations? We
17 absolutely do. Do we do them ourselves? In some
18 cases, through the ER. Primarily, we have it done by
19 agencies outside of us, because they're the ones that
20 can also provide the forensic testimony to actually
21 convict someone.

22 So it -- when I'm addressing how we do
23 what we do and when we're talking about national
24 policies for it, that's why I'm offering some
25 caution --

1 CHAIRMAN WALTON: Do you conduct the
2 actual training programs for --

3 DOCTOR JON PEREZ: Pardon me?

4 CHAIRMAN WALTON: Do you conduct any
5 type of national training programs for the Indian
6 community, or are you referring various --

7 DOCTOR JON PEREZ: We do. We have an
8 ongoing -- we have an ongoing --

9 CHAIRMAN WALTON: Have you done any in
10 this specific area, regarding the Prison Elimination
11 Act?

12 DOCTOR JON PEREZ: Not specific to
13 prisons. No, generally. Generally, for forensic
14 evaluations, but not specific to prisons.

15 CHAIRMAN WALTON: Any response?

16 MS. CHARON ASETOYER: Oh, yes. This is
17 my area of expertise, reproductive health.

18 We have done a series of -- held a
19 series of round tables and conducted surveys on the
20 fact that Indian Health Service does not have
21 standardized sexual assault policies and protocols in
22 place.

23 And, for instance, in the community,
24 what -- what happens when there are -- is no person
25 that can do a forensic exam? Well, a person that has

1 been sexual assaulted has to leave the community and
2 is contracted out to the nearest facility, which may
3 be a hundred miles away. And after a sexual assault,
4 a woman -- or anybody -- may not want to make that
5 travel because it's -- it's very difficult. And so
6 they go home and they start the process of dealing
7 with it. And a perpetrator is running around the
8 community knowing that there is no evidence against
9 him or her.

10 And so we currently are working on a
11 set of policies and procedures for Indian Health
12 Service, a standardized. There are some standardized
13 policies. For instance, after the sterilization
14 abuses that occurred in the '60s, there had to be a
15 policy implemented nationally that allows a 30-day
16 waiting period after a woman decides that she is going
17 to have a tubal ligation. So those policies do exist,
18 some kind of standardized policies.

19 So the standardized policies that we
20 are recommending have actually been put together
21 through a -- a coalition of national and native
22 organization, mainstream, including the ACLU. And it
23 has been -- they have actually gone through the whole
24 process of being approved and supported by the
25 National Congress of American Indians. So that

1 organization, the National Congress of American
2 Indians, represents just about every tribe in the
3 United States, and they are in support of this project
4 to get standardized sexual assault policies and
5 protocols for Indian Health Service standardized.

6 And we were just at their meeting last
7 month and they are very, very supportive and have
8 passed, through resolution, the support of getting
9 Indian Health Service to standardize sexual assault
10 policies and protocols.

11 In our county facilities where -- jails
12 where Indian Health Service -- or not Indian Health
13 Service, but the Bureau of Indian Affairs contracts
14 for them to provide the inmate service, there -- I
15 talked about the inhumane conditions that existed
16 within that county jail. That is some -- a very
17 common picture of the county facilities that -- that
18 contract with reservation communities to house prison
19 inmates. And those kinds of conditions not only --
20 they create a lot of psychological trauma,
21 frustration, powerless, and they result in -- in
22 people reacting in a way that they want to have more
23 power. And so you see an increase of inmate sexual
24 abuses and rapes in facilities like that than you
25 would in a state of the art facility. Not that a

1 state of the art facility, they don't exist, they do.
2 But inhumane conditions create powerlessness and
3 frustration and anger, and those kinds of situations
4 increase the number of sexual assaults that you will
5 see.

6 And, of course, I have gone in and out
7 of the State facilities since the '70s, doing health
8 education for inmates. And because we are so
9 disproportionately over represented, you see a number
10 of situations, the disenfranchising of our young
11 people. You see the sexual assault residuals when
12 they come out. And Indian Health Service, we know,
13 could reduce the number of sexual assaults if they
14 were to take advantage of the fact that they have
15 access to the local facilities and could go in with
16 more than just the Sanitation Officers. But could go
17 in with a healthcare provider, a mental healthcare
18 provider as well, and inspect the facilities and
19 interview inmates. And we encourage this.

20 COMMISSIONER FELLNER: Could I ask
21 Mr. Perez to respond? I gather Ms. -- Asetoyer? Am I
22 saying that correctly?

23 MS. CHARON ASETOYER: Yes.

24 COMMISSIONER FELLNER: Has said you
25 don't do inspections of the sort that she is

1 describing, and that you are -- have not made a
2 priority in particular on investigating conditions
3 either of sexual abuse in the detention facilities or
4 other conditions that promote or facilitate sexual
5 abuse. Why not? She says you have the authority to
6 do it, so it's not about the -- the tangle, sort of
7 jurisdictional questions.

8 There was actually a report, we know
9 that there is a history of disastrous conditions both
10 in Indian-operated facilities as well in county
11 facilities which house Native Americans. Where does
12 responsibility for this failure to act lie?

13 DOCTOR JON PEREZ: I think that --
14 well, the fact that we know the conditions -- or the
15 fact that we send officers in to get -- and evaluate
16 the conditions, so it's not that we're not there.
17 And --

18 COMMISSIONER FELLNER: But excuse me.
19 Let me just ask. In those inspections, are you asking
20 inmates, have you asked inmates about their experience
21 of sexual assault or violence --

22 DOCTOR JON PEREZ: I don't know. I can
23 find out for you.

24 COMMISSIONER FELLNER: Would you,
25 please?

1 DOCTOR JON PEREZ: I don't know
2 specifically.

3 COMMISSIONER SMITH: And certainly the
4 issue is not just sanitation. You know, I mean, I
5 think that what I hear Ms. Asetoyer saying is that
6 certainly the conditions which she has described are
7 awful and horrible and horrendous, but there is a
8 particular role that Indian Health Services has to
9 play in terms of providing healthcare and
10 amelioration, and also bringing to bear its
11 substantial resources in those particular situations,
12 and that it should be doing that. That, actually,
13 they're asking for that to happen.

14 DOCTOR JON PEREZ: I was just literally
15 talking to Charon about it, because I want to find out
16 what NCAI is recommending, and I do want to know
17 directly what they are recommending. And I will take
18 that directly back to them and discuss it directly,
19 the concerns directly.

20 When we are trying to navigate multiple
21 demands on the system, all of which are important, and
22 I'm not saying that this isn't, we are constantly
23 trying to balance the acute needs and overwhelming
24 needs of many of our communities and -- while at the
25 same time being able to provide a broad range of

1 services.

2 What she is talking about right here, I
3 definitely want to know about and I definitely want to
4 find out why we have environmental health officers
5 going out and who else does go out. Or, conversely,
6 to -- because my assumption probably is that what
7 they'll do is, they'll have the patients go to the
8 clinic or to the service unit as opposed to going to
9 the prison. So it's not that people aren't receiving
10 services, but you literally have to come out of there
11 to get to our service unit.

12 COMMISSIONER FELLNER: But if you are
13 sending people in, if they're doing a, quote,
14 sanitation inspection, so you already have somebody
15 from your service going, why haven't they -- or can
16 they -- can you take steps and then get back to us and
17 let us know, what steps can be taken during those
18 interviews, regardless of what the Congress says. I
19 mean, it's easy to always wait and wait and wait and
20 wait, but you have an obligation now. And I would be
21 interested in knowing what steps, what questions, what
22 is the scope, since you have someone there at these
23 facilities, what is the scope of that investigation
24 and should it and could it be expanded to include
25 sexual assault or violence that may not be

1 specifically labeled sexual assault, but could or
2 could not have such a component.

3 DOCTOR JON PEREZ: Absolutely.

4 CHAIRMAN WALTON: Is it accurate to
5 characterize your resource level as substantial? How
6 much -- what is your budget?

7 DOCTOR JON PEREZ: We're -- our overall
8 budget is about 3.3 million for two million
9 population. And in terms of per capita funding, we're
10 at about a fifth of what the Federal insurance
11 coverage is per capita. And we are actually, if I
12 remember correctly, we're at about half of per cap
13 services for people in Bureau prisons.

14 COMMISSIONER FELLNER: Have you --

15 DOCTOR JON PEREZ: So to say that we
16 have a robust budget, I do not think would be an
17 accurate characterization of our resources.

18 COMMISSIONER FELLNER: Have you made a
19 report to press so that Congress is aware of this?

20 DOCTOR JON PEREZ: Yes. Last week I
21 was -- I was literally providing testimony for the
22 Senate Committee on Indian Affairs on precisely that
23 issue.

24 COMMISSIONER FELLNER: Would you send
25 us a copy of that testimony, too?

1 DOCTOR JON PEREZ: Yes, ma'am.

2 COMMISSIONER FELLNER: Thank you. That
3 would be great.

4 I had a question for -- and forgive me.
5 My eyes are going and I'm trying to read it from here
6 and --

7 MR. MARK DECOTEAU: It's Decoteau.

8 COMMISSIONER FELLNER: Decoteau.

9 MR. MARK DECOTEAU: Yes, ma'am.

10 COMMISSIONER FELLNER: Do you know what
11 percentage of officers in Native American-run
12 detention facilities have gone through your program
13 and been certified by it and completed it? And if you
14 don't have that, can you tell us how many -- just how
15 many people, as a total, have actually completed your
16 full training program?

17 MR. MARK DECOTEAU: For the
18 corrections?

19 COMMISSIONER FELLNER: Yes.

20 MR. MARK DECOTEAU: Actually, the --
21 all of the correctional officers all throughout Indian
22 Country are mandated to come through the Indian Police
23 Academy for their training. I would believe, since
24 the Academy started, up to date, we have probably
25 trained over -- don't hold me, but probably a thousand

1 that come through our facility. We have four classes
2 a year -- three classes a year, with 48 participants
3 in each class.

4 COMMISSIONER FELLNER: And you said
5 mandated. We all know sometimes there is the law and
6 then there is the reality. Do you have any basis for
7 knowing, if a thousand have gone through, you think,
8 for the corrections -- no. That wouldn't work because
9 some people could have left or resigned.

10 So you don't know what percentage of
11 people currently acting as officers have, in fact,
12 completed the training?

13 MR. MARK DECOTEAU: No, ma'am. But if
14 that's -- I can get you that information.

15 COMMISSIONER FELLNER: That could be
16 great.

17 And do you do the in-service training,
18 too?

19 MR. MARK DECOTEAU: Yes, ma'am.

20 COMMISSIONER FELLNER: And how do you
21 do the -- do people come down to your facility for the
22 in-service training, or how is that done?

23 MR. MARK DECOTEAU: No, ma'am. Our
24 in-service trainings for our correctional officers is
25 the Indian Police Academy staff -- training staff and

1 myself -- we get together with the detention
2 correctional upper management, and we go by their
3 guidelines and recommendations as to what they feel
4 their correctional officers need to be trained in.
5 And, of course, they get theirs from reports and --
6 you know, from their -- each district reports to them.
7 And then within that, we take that and we provide 40
8 hours of in-service training to the correctional
9 officers and we bring that on-site to wherever
10 location they request.

11 COMMISSIONER FELLNER: And you do that
12 for every Indian facility every year, you provide 40
13 hours?

14 MR. MARK DECOTEAU: 40 hours of
15 in-service training for all correctional officers.
16 And we have six district and each district receives
17 two in-service trainings. And they're normally held
18 back to back. And, yes, that's per year.

19 COMMISSIONER PURYEAR: Let me just
20 follow up with Jamie's line of questioning,
21 Mr. Decoteau.

22 I was reading the Neither Safe Nor
23 Secure, the U.S. Department of the Interior' Office of
24 Inspector General report on Indian detention
25 facilities. And this is a few years old, but they

1 noted that 52 percent of all the detention officers in
2 the sites we visited had not received detention
3 officer training.

4 They added, there were numerous
5 situations where detention officers worked long
6 time -- long periods of time without attending the
7 required IPA detention officer training. Instances
8 where people had been employed 12, seven, five years,
9 have never been trained.

10 So given that there appears to be a
11 pretty robust percentage that are not going through
12 your center and getting trained, how is it that the
13 mandate is not connecting in the field? What is the
14 disconnect there?

15 MR. MARK DECOTEAU: The disconnect
16 there is that, of course, out there in Indian Country,
17 both law enforcement and correctional staff are
18 very -- very short as far as staffing goes. In a lot
19 of cases, they may only have maybe ten to 12
20 correctional officers working in the facilities. So
21 if they get a new hiree, they are supported to come
22 within one year, they're supposed to put them through
23 the Indian Police Academy for training. However, due
24 to budget restraints, staff limitations, sometimes
25 they're not able to cut them loose to come down for

1 training, so they try to find the most -- the time for
2 them, you know, when it's convenient for them or --

3 COMMISSIONER FELLNER: And sometimes it
4 never is.

5 MR. MARK DECOTEAU: I hope I'm not -- I
6 hope I'm not -- but that's probably the reason why a
7 lot of them go maybe a year or two without going
8 through the training, is they just don't have the
9 resources and the staff to cut them loose to send them
10 down to training.

11 CHAIRMAN WALTON: But it otherwise is
12 available?

13 MR. MARK DECOTEAU: It is available and
14 they are supposed to come within the Indian Police
15 Academy within the first year of being employed as a
16 correctional officer.

17 COMMISSIONER PURYEAR: When you say
18 that there are, you know, maybe only ten or 12 in the
19 detention center, what size detention center are we
20 talking about?

21 MR. MARK DECOTEAU: I'm sorry. I just
22 pulled that out of -- no, I'm not using any
23 particular. I'm just trying to give you an example of
24 a shortage of staffing in any training facility to
25 where they wouldn't be able to cut anyone loose in

1 order to come down, you know, to training.

2 COMMISSIONER PURYEAR: How long is the
3 retraining? Remind me.

4 MR. MARK DECOTEAU: Pardon me?

5 COMMISSIONER PURYEAR: How long is the
6 training?

7 MR. MARK DECOTEAU: How long? It's
8 eight weeks.

9 COMMISSIONER FELLNER: And remind --
10 when you do the -- either in the training or in the
11 in-service, have you provided any in-service training,
12 have you been asked or to provide or have you provided
13 any in-service training related to sexual abuse,
14 whether by staff on inmates or inmate or inmate?

15 MR. MARK DECOTEAU: No.

16 COMMISSIONER FELLNER: Have you been
17 asked to provide it?

18 MR. MARK DECOTEAU: Not -- no.

19 COMMISSIONER FELLNER: No. And you
20 haven't voluntarily gone to facilities or informed
21 facilities that this is something they need to do
22 training in?

23 MR. MARK DECOTEAU: Well, this is --
24 and I'm glad you brought that up because I made a
25 little notation here on my notes that the Indian

1 Police Academy, we do have some portions within our
2 instructions that we could adjust due to situations
3 that we find or that's reported to us as being
4 important out there in Indian Country.

5 For instance, we have the crime scene
6 investigation portion, and then we have a lab, a lab
7 where the instructors go out and we create scenarios
8 for the officers to respond to. And it could be a
9 domestic violence, it could be a breaking and
10 entering, whatever is dictated to us from the field
11 that they feel is important for them to grab a hold of
12 and to have firm knowledge of.

13 COMMISSIONER FELLNER: But you're
14 saying that you just -- the field comes to you, but
15 don't you have an obligation yourself to be both in
16 the training, to be working on some of these issues
17 and to offer to them training, even if they have -- to
18 say, you know, this is something we really need to be
19 working on?

20 For example, in your training, do you
21 address questions of staff -- inappropriate staff
22 contact with inmates?

23 MR. MARK DECOTEAU: Yes, ma'am. We do
24 have ethics and conduct within our program. We do
25 have officer liabilities within our programs, to where

1 we're dealing with inmate and correctional officer
2 contact as far as circumstances surrounding those
3 issues, yes, ma'am.

4 CHAIRMAN WALTON: You --

5 MR. MARK DECOTEAU: If I could
6 interrupt just for one second.

7 Where I was going with this in-service
8 training is, I put a little notation here, and what
9 we'll do at the Indian Police Academy is, one of our
10 scenarios, we'll set it up to where the correctional
11 officers are responding to an actual rape situation
12 within a detention facility, and then we'll go through
13 the proper guidelines as far as what to do when
14 responding to that. And those are some things that we
15 can do at the academy, and that's what we're looking
16 forward to in the future is what -- that's where I was
17 getting with that. Sorry for interrupting.

18 COMMISSIONER PURYEAR: Just one more
19 question.

20 Again, referring to the Inspector
21 General's report. This was a few years ago. Several
22 jail administrators claim they were unable to send new
23 personnel to the IPA for training because classes were
24 infrequent and often full.

25 How often are classes offered and are

1 they full, typically?

2 MR. MARK DECOTEAU: Within the Indian
3 Police Academy, we have three correctional officer
4 training programs each year. Each one is 40 -- 40
5 cadets participate each class, in each class.

6 COMMISSIONER PURYEAR: Does that mean
7 each class is full?

8 MR. MARK DECOTEAU: And each class is
9 full. Now, if we have -- for instance, if we do have
10 a full class and we have maybe ten applicants that
11 could not get into the first class, they're
12 automatically put into the second class. So the
13 longest they would ever have to wait in order to get
14 through one of our programs is probably four weeks.
15 So we'll start one class that's an eight-week program,
16 then probably within the sixth week we'll start
17 another class, so all of those on the waiting list
18 will automatically go to that class.

19 If there is, by chance, a situation
20 that we're faced with so we have an over abundance of
21 applications, what we would do is, then we would
22 request to just run an additional class so that we can
23 get everyone in. But as far as my knowledge goes, at
24 the Academy, we have never had the situation to where
25 we had too many applicants and we weren't able to

1 provide the adequate training for them.

2 COMMISSIONER SMITH: Thank you for your
3 testimony, all three of you. And I guess what I would
4 like to do is, I want to sort of bundle that with the
5 testimony that we heard yesterday.

6 And I guess the picture that I get is
7 of a system that's decentralized, checkerboarded, with
8 people having sort of, I guess, concurrent authority,
9 or sort of confused authority. And in situations and
10 in systems like that, it's very easy for things to
11 drop into gaps.

12 Now, yesterday, there was a panel, and
13 I asked them a question about whether they had ever --
14 could they tell us, the Commission, about any reports
15 of assaults, sexual assault that they had received,
16 and they could only think of one.

17 COMMISSIONER FELLNER: The one in Pine
18 Ridge.

19 COMMISSIONER SMITH: The one on the
20 Pine Ridge Reservation in South Dakota that involved a
21 juvenile.

22 Ms. Asetoyer, based on what you're
23 describing, it sounds to me that that is really not
24 accurate. And so I guess what I would be interested
25 in is, what would a system look like, given this

1 configuration, that would encourage reporting, so that
2 we could get some sense about what is going on and so
3 resources could be deployed. Because it's not
4 happening in training, because you're not really
5 training about it. It's not happening in the Indian
6 Health Service because you're not asking about it. So
7 if you're not training staff about it, you're not
8 training inmates about it, then people don't really
9 have a sense about how or where you would report that,
10 except to someone who comes in and asks about it.

11 So what could we do to improve the
12 system of reporting so that we could get both
13 resources, training, and services into the problem.
14 And that's a question that goes across the panel.

15 MR. MARK DECOTEAU: May I respond? I'm
16 sorry.

17 MS. CHARON ASETOYER: Okay. Let me
18 back up a little bit.

19 Sexual assault in Indian Country is
20 devastatingly high. One in three Native women will be
21 raped or sexually assaulted in her lifetime. That is
22 across the board. That tells you right there that
23 it's woven into the fibers of our contemporary
24 society. And that's really hard to have to say.

25 We know the historic trauma of being

1 put in boarding schools, and the sexual assault that
2 occurred there, and how that acts as a pyramid. You
3 know, you have -- you have perpetrators and then you
4 have a victim, and then victims turn into perpetrators
5 and throughout the generations it gets larger and
6 larger.

7 There should be no excuse for Indian
8 Health Service not having a standardized set of
9 policies and protocols to address this issue, since
10 one in three Native women will be raped in her
11 lifetime. There is no excuse for Indian Health -- or
12 the Bureau of Indian Affairs law enforcement not to
13 have sexual assault training as a priority, because it
14 happens so much in our communities. And if it is
15 happening in the community, the prison systems, the
16 jails are part of our community, where our community
17 goes.

18 Overly -- over dis -- an over
19 representative number of Native Americans go to prison
20 and jail. There is no excuse for there not to be
21 policies and training in place in order to help reduce
22 the number of sexual assaults that go on in our
23 communities, whether they are in -- out of prisons or
24 within the prisons and jails. There is no excuse.

25 I am a consumer of Indian Health

1 Service. That is where I receive my healthcare. My
2 son has been in the prison system and in the county
3 jail system. There is no excuse for law enforcement
4 not to have the appropriate kind of training.

5 Sexual assault is something. Sexual
6 issues is something that is very difficult for us to
7 talk about in our communities because we have been so
8 historically traumatized and victimized. However,
9 that is no excuse.

10 I think that with the onset of the
11 HIV-AIDS pandemic in this world, it has made the issue
12 of talking about sexual abuse in mixed company within
13 our culture occur more often. However, not often
14 enough. And it is because of the social morays that
15 we don't speak about this in public as often as it is
16 necessary. So we go around with blinders on, and we
17 know it happens. But for Federal agencies to go
18 around with blinders on, there is no excuse. There is
19 absolutely no excuse.

20 COMMISSIONER SMITH: So Ms. Asetoyer,
21 as I hear you speaking, it sounds like those entry
22 points where we might get some resources would be
23 services around HIV and AIDS, that that might be a
24 place to insert some work on sexual assault in
25 institutional settings, that the Indian Health Service

1 certainly should have this as a priority and that BIA
2 should as well.

3 Again, to the entire panel. Are there
4 other places where we might be able to -- because as I
5 see it, the reports aren't even getting out there. I
6 mean, who would people report to? I understand that
7 people are talking to you, Ms. Asetoyer, but are there
8 other places?

9 MS. CHARON ASETOYER: We run a shelter
10 for battered women and that, too, is a good entry.

11 COMMISSIONER FELLNER: Can I just ask a
12 follow up on that? No? Men. Ask about men.

13 COMMISSIONER SMITH: Okay. Thank you.

14 But can I get something from
15 Mr. Decoteau and from Mr. Perez in terms of how we
16 could elevate this issue?

17 MR. MARK DECOTEAU: Yes. And I know
18 you had asked the question is that, isn't it the
19 Academy's responsibility to provide training that --
20 that we recognize is important out there in Indian
21 Country, whether they actually want it or not. And
22 that is true. We work closely with police and
23 correctional upper management, along with our
24 professional standards division, who actually goes out
25 there and handles a lot of Internal Affairs and

1 investigation reports.

2 Now, if they report to us that they
3 have a huge number of officer-involved shootings, then
4 we include the use of force policies in our in-service
5 trainings and will provide whatever training that they
6 require us to -- you know, to give to them out there
7 in the Indian Country.

8 But as far as rapes in detention
9 facilities, before coming down, I had actually queried
10 our staff as to, has anybody heard of any rapes being
11 committed out there in detention facilities, and the
12 one in Pine Ridge was brought up, but that was the
13 only one. So I'm thinking that in order for us to
14 respond down at the Academy as far as it being a
15 training issue, I was shocked of hearing her
16 testimony, thinking that, within the reporting system,
17 you know, if it was actually brought to our attention,
18 we would definitely respond to -- you know, to that.
19 But so far it hasn't reached us. So it may be the
20 method of reporting and the -- you know, the
21 procedures to follow.

22 COMMISSIONER SMITH: And it may be that
23 silence is just so deeply embedded in the community --

24 MR. MARK DECOTEAU: We're not hearing
25 about it the Academy level as far as it -- and then

1 it's not recognized as a training issue, so then it's
2 not really included, you know, as top priority within
3 our training.

4 CHAIRMAN WALTON: Commissioner Kaneb.

5 COMMISSIONER FELLNER: Well, Mr. Perez
6 was going to say something.

7 DOCTOR JON PEREZ: I can say it
8 briefly.

9 As I was looking at this, I'm looking
10 at screens reporting and services for those three
11 areas where you -- we have some convergence or places
12 where we might get some traction. And, specifically,
13 policies regarding the screen. And it's similar to
14 what we've done with meth, with suicide, with fetal
15 alcohol syndrome, and -- and women of child-bearing
16 age and doing that in the clinical setting. And how
17 we take it from the clinical setting and transfer that
18 over to -- you know, to the jails and to the tribal
19 programs, I'm not sure, but it's certainly something
20 that we could definitely look at, and I would be very
21 willing to take back.

22 So when you're talking about, how do we
23 take this checkerboarded and conflicting jurisdiction
24 area and get down to a victim level to say, you know,
25 I don't care about all that other stuff, but how do we

1 navigate it through to get there, I think it's
2 absolutely appropriate for us to -- as an agency to --
3 to put something together for them. And I'm very
4 willing to take that back.

5 COMMISSIONER KANEB: Ms. Asetoyer.

6 MS. CHARON ASETOYER: Yes.

7 COMMISSIONER KANEB: Would you have an
8 opinion as to whether or not the frequency of rape
9 that you're talking about is representative of what
10 happens to incarcerated Indian women as well?

11 MS. CHARON ASETOYER: Oh, yes. In the
12 state of South Dakota -- I'm sorry I didn't bring the
13 statistics, but sexual assaults occur -- approximately
14 50 percent of the sexual assaults that occur in the
15 state facilities occur by the staff on inmates, female
16 inmates.

17 COMMISSIONER FELLNER: Where is that
18 data coming from?

19 MS. CHARON ASETOYER: The State of
20 South Dakota itself. Or excuse me. A report that was
21 done through the University of South Dakota, and that
22 could be provided for you.

23 COMMISSIONER FELLNER: That would be
24 great if you'd send that to us.

25 COMMISSIONER KANEB: And are you -- I

1 guess you're talking to us, because I asked the
2 question this way, about women being assaulted by male
3 staff. Right?

4 MS. CHARON ASETOYER: Yes.

5 COMMISSIONER KANEB: And are you -- do
6 you have an opinion as to whether there is assault on
7 a homosexual basis in the Indian population, either in
8 lockups, jails, whatever, in Indian Country or in the
9 general South Dakota penal system?

10 MS. CHARON ASETOYER: Yes. Exactly.
11 Yes, sir.

12 COMMISSIONER KANEB: Do you believe it
13 is higher than -- than it is in the general
14 population? Now I'm talking about homosexual assault.

15 COMMISSIONER SMITH: Same sex.

16 MS. CHARON ASETOYER: Yes. Same sex.

17 Okay. So male rape on males, like male and female --

18 COMMISSIONER KANEB: Yes.

19 MS. CHARON ASETOYER: Like staff on --
20 yes. Oh, yes. Exactly, because -- very much so.
21 Especially in the male facilities.

22 COMMISSIONER KANEB: So in the male
23 facilities, you believe there is a high incidence of
24 male on male prisoner sexual abuse?

25 MS. CHARON ASETOYER: Yes, sir. I know

1 for a fact there is.

2 COMMISSIONER KANEB: And does this --
3 and I think I know the answer we're going to get.
4 Does the same reluctance to disclose, complain,
5 whatever, exist there on the part of victims?

6 MS. CHARON ASETOYER: Definitely. In
7 fact, probably more so than rape by the opposite sex.
8 Yes, sir.

9 COMMISSIONER KANEB: Thank you.

10 CHAIRMAN WALTON: One of our
11 Commissioners, who is not here, is a professor at the
12 University of South Carolina who has done a lot of
13 work --

14 COMMISSIONER FELLNER: South Dakota.

15 CHAIRMAN WALTON: South Dakota. Sorry.
16 Have you ever done any work with her,
17 Professor Struckman-Johnson?

18 MS. CHARON ASETOYER: No, sir, I have
19 not.

20 COMMISSIONER FELLNER: Could I ask you
21 how you know --

22 CHAIRMAN WALTON: I'm sorry. I think
23 Mr. Aiken had a question.

24 COMMISSIONER AIKEN: Thank you all for
25 appearing today. I just have one question of Doctor

1 Perez.

2 I think your earlier testimony
3 indicated that there is a scarcity of resources. Is
4 that correct? Or diminished resource in relationship
5 to responsibilities that you have. Is that correct?

6 DOCTOR JON PEREZ: Yes. I think it
7 would be appropriate to say that resources are always
8 an issue for us in healthcare delivery.

9 COMMISSIONER AIKEN: Okay. With that
10 understood, and I stand corrected, when there is a
11 diminished resource, we have to establish priorities.
12 In the establishment of priorities, what are your
13 priorities and what has a higher level of priority
14 above the issues that we've discussed this morning?

15 DOCTOR JON PEREZ: Life and limb, sir.
16 Stated directly, life and limb is where we begin.
17 Primarily, emergency services and in being able to
18 provide those immediate services. Our primary service
19 unit is small, it's usually isolated, and it tends to
20 give primary and emergent care only.

21 In our larger centers, some of our
22 larger centers, we have a wider array of services
23 available. But if you're trying to think about us
24 across the nation, what does an average service unit
25 look like, you're going to have a small clinic,

1 perhaps a small hospital, a few beds, six to eight,
2 ten, and you're going to have an ER, you're going to
3 have some primary care docs and nursing staff, and
4 they're going to be providing services to that
5 community. And if it requires a higher level of care,
6 they're shipped out. But when you're asking, how do
7 we triage, literally it's life and limb. And that's
8 where we start and in many cases we can't go beyond
9 that.

10 COMMISSIONER AIKEN: What so you're
11 basically saying, and I stand corrected, is immediate
12 trauma care delivery is what is taking most of your
13 priority as well as your resources?

14 DOCTOR JON PEREZ: Those people with
15 the -- with the most emergent need get the service
16 first, yes, sir.

17 COMMISSIONER AIKEN: And, number two,
18 have you considered or even explored alternatives
19 other than the traditional delivery of medicine and
20 care such as telemedicine and other technologies, and
21 can you share about that with me.

22 DOCTOR JON PEREZ: Yes, sir. I've been
23 using telemedicine myself for over ten years. It
24 started in a -- in a very small community in Arizona
25 and I'm still doing it today. Yes, we are. In fact,

1 as an agency, I'm very proud of what we do with what
2 we have to do it with. I think we're the best at what
3 we do when we're talking about isolated and rural
4 areas.

5 So I'm not apologizing for our care,
6 and I'm not apologizing for the resource with which we
7 do it. However, we do have to make very difficult
8 decisions about what we do with what we can do. And I
9 am very clear who I represent when I sit at this table
10 and -- and who I represent are the people that I
11 serve. And so when I'm asking -- when I'm talking to
12 you directly, I'm not -- I'm not -- I'm not thinking
13 about, how can we not be responsive to you. What I'm
14 thinking about is, given what we do do, and the level
15 of need -- which is across the board. I can name you
16 a litany of need -- how do we most creatively and
17 effectively address it.

18 What I'm hearing right here and when I
19 was talking -- and I meant it with Charon, let's take
20 a look, if we screen. Because screening, in medical
21 parlance, is not just screening. Because when you
22 screen somebody in POPS, you've got to do something
23 about it. You can't just say, oh, okay. This is
24 positive for a sexual assault, and leave. We can't,
25 because that's where the other -- that's where the

1 other accrediting agencies become involved.

2 If something is identified, it has to
3 be treated. So if we're talking about screenings, and
4 perhaps we're screening in a primary care setting, we
5 do now for assault and for -- and for domestic
6 violence. It's a standard question. In fact, we have
7 about a half dozen of them that are very similar to
8 this. So should -- is this something that we could
9 add. We might reasonably. And it's definitely
10 something I'll take back.

11 Now, I don't know if that was
12 responsive to your question.

13 COMMISSIONER AIKEN: Very much so.

14 The next question is, what type of
15 technology applications have been deployed to the
16 confinement facilities in relationship to not only
17 responding to medical needs, but the prevention and
18 stabilization of chronic as well as acute medical
19 issues while people are incarcerated?

20 DOCTOR JON PEREZ: You're talking about
21 telemedicine technology? You've lost --

22 COMMISSIONER AIKEN: I'm just saying,
23 whatever innovation that may be available.

24 DOCTOR JON PEREZ: Within the prison
25 setting? I would have to check on it, sir. We -- we

1 don't do anything in the prisons -- Federal,
2 obviously, so we're talking specifically about what
3 are we doing in the tribal.

4 COMMISSIONER AIKEN: In Indian Country,
5 that's the question I'm asking.

6 DOCTOR JON PEREZ: And I'll find out
7 for you. I don't know off the top of my head, sir.

8 COMMISSIONER AIKEN: I would be very
9 interested to see what level of innovation that has
10 occurred or will be occurring in relationship to being
11 able to validate what some of the testimony is about
12 this morning and how to resolve it in a manner that is
13 very transparent and understood by all parties.

14 DOCTOR JON PEREZ: To be direct about
15 it, I -- the going into the jails themselves and
16 providing services in the jails would probably be the
17 place that I would start to get you that information.
18 Because most of it is, as Charon was talking about in
19 her particular location, that the patients come to us
20 for service as opposed to us going into the
21 facilities. So that may be a place to start as well.

22 I'll get the information on technology
23 and the level of penetration in the jails themselves
24 to the best that we can provide that for you. If
25 that's responsive to what you would need.

1 COMMISSIONER AIKEN: Very well.

2 CHAIRMAN WALTON: Anything else?

3 COMMISSIONER AIKEN: I just wanted to
4 follow up on John's question.

5 Ms. Asetoyer, I understand you do a lot
6 of work with women and you said, for example, your
7 battered women shelter. How do you know -- and can
8 you just tell us how you know about sexual assault of
9 men by other men, whether by staff or by other inmates
10 that is occurring? Could you just give us a little
11 more of your basis -- how you know this?

12 MS. CHARON ASETOYER: I've been going
13 in the male prisons, not the females prisons, in South
14 Dakota, since the late '70s, early '80s, in and out,
15 and the main prison up in Sioux Falls as well, to do
16 workshops, through invitation of the Native American
17 Inmate Society, and also down in the Springfield
18 facility, which is not a maximum security facility.
19 I've been certified by the State to go in and to do
20 workshops, and we do get invitation by the prison
21 itself and the inmates, Native American Inmate
22 organization, so we do talk to a lot of inmates.

23 COMMISSIONER FELLNER: Thank you.

24 CHAIRMAN WALTON: Could we just -- I
25 mean, there is a disconnect between what you're saying

1 and what I'm hearing otherwise in reference to the
2 prevalence of the problem. We heard yesterday that
3 there are some cultural reasons as to why maybe the
4 reporting level might not be an accurate indication of
5 what the true problem is.

6 What would your recommendation be to us
7 as to what we should recommend regarding trying to
8 document the true nature of the problem? What would
9 be the best way to do that?

10 MS. CHARON ASETOYER: Well, Indian
11 Health Service needs to adopt standardized policies so
12 that -- how do I want to say this. So that
13 perpetrators aren't allowed to run amuck in the
14 community and feel that it's okay. Because eventually
15 that perpetrator is going to be arrested for some --
16 one of the crimes that he commits and end up in prison
17 and will very well -- you know, may perpetrate in
18 prison as well. You know, we've got to stop this.
19 We've got to have -- we've got to have policies in
20 place that will prosecute perpetrators, that will
21 reduce the number of reoccurring offenses.

22 We've got to get Indian Health Service,
23 within those standardized policies, to go in and make
24 regular visits to these facilities that they have -- I
25 don't want to say jurisdiction over, but free access

1 to and to have a healthcare provider and a mental care
2 provider go in. Because if you have been raped in,
3 say, the county jail by -- by a staff person, they're
4 not going to bend over backwards to get you into
5 Indian Health Service emergency room just so you can
6 tell on them. You know, but if they had -- if they
7 had a healthcare provider going in on a regular basis,
8 then the staff would know they couldn't get by with
9 that. Other inmates would know that there is someone
10 coming in there and they probably wouldn't be able to
11 get by with it. So you're going to reduce the number
12 of frequencies. You probably will never be able to
13 eliminate it totally, but you're going to reduce, and
14 everything will help. You're going to reduce the
15 number of sexual assaults that are occurring.

16 CHAIRMAN WALTON: But I guess what I'm
17 asking, I'm hearing from Mr. Decoteau that they're not
18 hearing about the problem. And as a result of that,
19 they're not focusing on this aspect of the problem
20 with any degree of priority, if at all.

21 How do we -- I mean, right now the
22 Justice Department, an arm of the Justice Department
23 is trying to assess the prevalence issue of sexual
24 assault in prison and jail facilities. I don't know
25 if they intend to do that in reference to Indian

1 Country or not, but assuming they did, do you think
2 they would be able to send a researcher into the
3 facilities and get accurate information about the
4 problem?

5 MS. CHARON ASETOYER: Definitely. You
6 know, that figure one in three Native women will be
7 sexually assaulted in her lifetime, that is a
8 Department of Justice statistic. So the Department of
9 Justice has a lot of statistics and has information,
10 and maybe -- pardon me, with all due respect -- should
11 start communicating to these other subdivisions of the
12 Department of Justice, because it definitely would get
13 down to the BIA and law enforcement.

14 It's not -- it's not a well kept
15 secret. It -- there needs to be policies in place. I
16 mean, if there isn't, then we know if there are
17 policies, you know, they're not always followed. So
18 if there is no policies, they will never be followed
19 because there is nothing to follow. So they have to
20 be put into place.

21 Researchers, I -- yes, they do need to
22 go into the facilities and they do start needing to
23 interview people. But there also has to be assurances
24 that there won't be retaliation or retribution on
25 these individuals.

1 CHAIRMAN WALTON: You mentioned
2 HIV-AIDS. I'm not familiar with the situation in
3 Indian Country. What is the prevalence of the
4 problem?

5 MS. CHARON ASETOYER: We're over
6 represented, as we are with everything else, with the
7 number of cases in our communities. Unfortunately.
8 And the prisons, you know, not only HIV-AIDS, but
9 hepatitis C, you know, it's -- it's way over
10 represented within the Native American population.

11 CHAIRMAN WALTON: Anything else? Yes.

12 MR. MARK DECOTEAU: Yes. I just had a
13 question for Charon, because a lot of this, like you
14 said, is kind of new information for me.

15 But I was wondering, was she responding
16 to -- and I believe, you know, detention facilities
17 that are, you know, outside our jurisdiction as far as
18 Indian Country goes, and I was just wondering if she
19 can comment, when she was talking about male staff --
20 detention staff on male inmates and the sex crimes
21 that she is alluding to are actually being committed
22 within Indian Country detention facilities? Because
23 those would be the training facilities that we would
24 be required to provide training for and not the
25 facilities outside of that jurisdiction. And we

1 wouldn't have control over what their correction
2 officers would be, you know, receiving. But that
3 would be helpful information for me.

4 MS. CHARON ASETOYER: For instance, in
5 the county facilities where the Bureau of Indian
6 Affairs Department of Justice contract to house our
7 prisoners, the Indian -- the Bureau of Indian Affairs
8 law enforcement officers are like guests. Because
9 they'll bring a -- a prisoner in there to book them,
10 and they'll -- they're housed there, but there is
11 always this sense of, they're a guest within that
12 facility among the other law enforcement officers.
13 And we've had complaints from some of the BIA officers
14 that there have been mistreatment of inmates, but
15 there was nothing they felt that they could do. And
16 this is where Indian Health Service, if they made, you
17 know, more regular visits, could be helpful.

18 As far as our own facilities, we had a
19 facility for a little while -- in fact, they're
20 building one now, but we had a juvenile facility and
21 it was not well staffed; it was not well funded. It
22 ran out of funding and the Department of Justice
23 pulled the funding -- I'm not sure which -- but there
24 was an incident there where a male guard handcuffed a
25 juvenile female to the bed posts. And that facility

1 had no real trained guards working there. And I don't
2 know how they allowed for it to open up without people
3 being appropriately trained. In fact, one of the
4 employees was a -- had a sexual assault perpetrator --
5 you know, had a convicted sex offender working there.

6 So there has to be monitoring and
7 training prior to -- monitoring throughout the
8 history -- or the lifetime of these facilities, but
9 there has to be training, I feel, before a person is
10 hired to be a guard in a facility within our
11 reservations, too.

12 COMMISSIONER FELLNER: But can you
13 answer his question, because I think it's an important
14 question for us. Are you aware of cases of male staff
15 assaulting male inmates in Indian-operated facilities?

16 MS. CHARON ASETOYER: No, I am not.
17 Not to say that it hasn't gone on --

18 COMMISSIONER FELLNER: But you're not
19 aware of it?

20 MS. CHARON ASETOYER: I am not aware of
21 it, because we do not have one on our reservation.
22 It's run by the county.

23 COMMISSIONER FELLNER: Okay. It was
24 just that he was wanting to get that clear.

25 MS. CHARON ASETOYER: Okay.

1 MR. MARK DECOTEAU: I was just
2 wondering if she could kind of expand, then, on some
3 of the information that she has been providing as far
4 as the number of actual rapes being committed, how
5 many of those are -- actually had been committed
6 within Indian Country. Because now I think we're
7 getting the whole -- we're getting county and Indian
8 Country combined as a whole, and I'm just wondering if
9 the -- if there is a lot more of it in the county
10 facilities and very little of it in Indian detention
11 facilities. And maybe that's -- if she can just give
12 us an idea as to what that number is.

13 COMMISSIONER SMITH: I think that
14 Ms. Asetoyer can talk about that, but I can tell you,
15 from the perspective of this Commissioner, I think the
16 prevalence in any of those settings is not clear,
17 based on the lack of good record keeping and data
18 collection. So she can certainly talk about that and
19 talk about her experience, but at this point, I don't
20 think that, at least for me, the absence of her being
21 able to provide that information suggests that it's
22 not going on in Indian Country or that it's more
23 prevalent in county facilities.

24 MR. MARK DECOTEAU: Yes.

25 CHAIRMAN WALTON: Anything else? Yes.

1 DOCTOR JON PEREZ: This is a clarifying
2 question for Commissioner Fellner. I want to make
3 sure you get what you want, because my testimony last
4 week before the Senate was on housing. I think what
5 you would really like to have and what the Commission
6 would like to have is our budget information and some
7 comparisons to give you an idea of how we're funded.

8 COMMISSIONER FELLNER: That would be
9 terrific. Yes, thank you very much.

10 CHAIRMAN WALTON: Okay. We thank you
11 all for your testimony. We will consider it and I'm
12 sure it'll play a role in what we recommend. So thank
13 you very much.

14 We'll recess until 10:30. Hopefully
15 we'll be ready to proceed. We're not supposed to
16 start until 10:45, but hopefully our witnesses will be
17 here and can get started a little early.

18 (RECESS.)

19 CHAIRMAN WALTON: We will get started.
20 I would ask everybody to turn off electronic devices.

21 Our next panel actually will start at
22 10:45. We have the pleasure of having with us the
23 Major from the Harris County Sheriff's Office, which
24 is where Houston, Texas is located, Major K.W. Berry.
25 And he is here to testify about the efforts being