

1 CHAIRMAN WALTON: I'm sorry.

2 Mr. Rivera.

3 MR. GUILLERMO RIVERA: Oh, okay.

4 Thank you for inviting me to speak here
5 today at this forum. I would like to start by saying
6 that in September of 2004, the Department of the
7 Interior Office of Inspector General published a
8 report indicating Neither Safe Nor Secure: An
9 Assessment of Indian Country Detention Facilities,
10 that highlighted the problems within Indian Country
11 detention facilities. OIG found serious safety,
12 security and maintenance deficiencies exist at the
13 majority of the BIA and tribal detention centers,
14 impose a hazard to inmates and staff and public
15 safety.

16 Out of this report came 25
17 recommendations. As a result of the corrective action
18 plan that was developed to satisfy the 25
19 recommendations made by the Office of the Inspector
20 General, today we have addressed 16 of those 25
21 recommendations. The remaining nine recommendations
22 is the issue of resources.

23 The BIA mission is to fulfill its trust
24 responsibility and promote self determination on
25 behalf of the federally-recognized tribal governments,

1 American Indians and Alaska Natives. The BIA provides
2 services directly or through contract grants or
3 compacts to service a population of 1.6 million
4 American Indians and Alaska Natives who are enrolled
5 members of 561 recognized Federal tribes -- or
6 federally recognized tribes. I'm sorry.

7 While the role of the BIA has changed
8 significantly in the last three decades, in response
9 to a greater emphasis of Indian self determination,
10 tribes still look to the BIA for a broad spectrum of
11 services. The Office of Justice Services provides
12 many of those services. It provides public safety,
13 protection of property, and other actions related to
14 law enforcement, such as criminal investigation,
15 detention, tribal courts, training for -- and training
16 through the Indian Police Academy.

17 Indian Country law enforcement provides
18 services to a population that is predominantly under
19 the age of 25, experiences high unemployment rates,
20 has extreme geographic barriers, and lacks municipal
21 infrastructure. Indian lands range from remote
22 wilderness to urban centers. The close proximity to
23 the international borders of Mexico and Canada make
24 some of the Indian lands conducive to drug
25 trafficking. The Department of Justice, DOJ, has

1 documented that the crime rate of Indian -- of
2 American Indians is more than twice the rate of the
3 national average.

4 BIA law enforcement programs provide
5 investigative police and detention services to many of
6 the tribes, as well as technical expertise to many
7 tribal communities to run their own investigative,
8 police, and detentions programs. BIA is responsible
9 for providing law enforcement services to
10 approximately 56 million acres of Indian Country in 35
11 states, serving 1.6 million American Indians. The BIA
12 supports 201 law enforcement programs with 47
13 BIA-operated programs and 154 tribally-operated
14 programs. Approximately 77 percent of the total BIA
15 law enforcement programs are outsourced to the tribes.

16 A safe community with a sufficient
17 number of trained and equipped law enforcement
18 officers is a key fundamental component to
19 self-sustaining tribal governments. Some tribal law
20 enforcement programs are supplemented by
21 community-orientated police service, the COPS program
22 grants, available from the DOJ, Department of Justice.

23 The BIA is currently pursuing a
24 memorandum of understanding with the DOJ COPS office
25 to address the expiration of the grants and the

1 distribution of grants for new resources. The BIA is
2 working in collaboration with DOJ on implementing the
3 Amber Alert program in Indian Country and on
4 developing an effective means of collecting crime
5 data.

6 In addition, the BIA is working with
7 private industries to explore bringing new technology
8 into Indian Country law enforcement.

9 OJS, it's the Office of Justice
10 Services of the Division of Corrections, funds 59
11 tribally-operated detention facilities and directly
12 operates 20. The focus of this program is to upgrade
13 detention services in Indian Country, making detention
14 centers safer, more secure, and compliant with
15 nationally-accepted standards. The BIA will continue
16 to operate detention services in Indian Country to
17 make detention centers safe, secure, and more
18 professionally run, pursuant to nationally-accepted
19 standards.

20 Until the 1960s, jail construction in
21 Indian lands was very limited. DOJ law enforcement
22 administration assistant grants were provided for the
23 construction of new jails in Indian Country. Many of
24 our facilities are 40 or more years old and still
25 operating today. Older detention centers present many

1 challenges, such as ongoing maintenance, needed
2 improvements to the high use of aging facilities. In
3 fiscal year 2006, our Professional Standards Division
4 inspected 19 mostly-older facilities and issued
5 reports. The PSD has scheduled the inspections of six
6 more facilities through August of 2007.

7 According to the OIG, BIA was unaware
8 of 98 percent of the serious incidents which occurred
9 in Indian Country detention facilities. In August of
10 2005, a policy regarding serious incident reports was
11 established and continues to be effective in reporting
12 serious incidents through the proper chain of command.
13 We are now aware of serious incidents as they happen.

14 The BIA detention program is a very
15 transient prisoner population and it's not atypical of
16 a long-term prison environment. Prison rape is
17 extremely rare in our facilities. If a sexual assault
18 is reported, procedures are in place to conduct a
19 proper investigation. Reporting of these incidents
20 may be received from inmate victims, inmate witnesses,
21 correctional employees, uniformed police employees,
22 visitors to inmates, counsel to inmates, and others
23 with pertinent information. BIA law enforcement
24 criminal investigators, or FBI agents, conduct sexual
25 assault investigations in the same manner, whether it

1 occurs inside a correctional facility or at a public
2 safety site.

3 The collection of evidence from the
4 sexual assaults range from evidence collected at the
5 scene to evidence collected from the individuals
6 themselves. And in my written testimony -- I won't go
7 into it -- but it has steps and details on how this
8 evidence is collected.

9 In order to provide for a more safe and
10 secure environment and for juvenile offenders, on
11 April 23rd, 2004, the BIA issued LES Special
12 Order 04003, for removal of juveniles from adult
13 detention centers. The purpose of this order is to
14 enforce national standards that requires sight and
15 sound supervision of adult and juvenile inmates. This
16 order states that failure to comply could result in
17 the personal actions taken against BIA detention
18 supervisors and that tribally-operated detention
19 programs contracted with Public Law 93-638, that fail
20 to comply with that be resumed by the BIA -- could be
21 reassumed by the BIA. To date, all of our facilities
22 are in compliant with this Special Order to ensure the
23 safety of juveniles within our detention facilities.

24 Currently, the BIA is in the process of
25 reviewing phase one of a preliminary report done by

1 Shubnum. Shubnum is a contractor that was hired by
2 the BIA Office of Facilities Management and
3 Construction, to assess detention centers in Indian
4 Country. The report will provide information that
5 will allow us to begin discussion, to begin developing
6 a master plan in Indian Country detention and
7 corrections. Shubnum was tasked in February of 2006
8 with assessing the condition and needs of the
9 corrections program in its 38 detention facilities.
10 Shubnum visited and analyzed specific elements within
11 the programs and facilities, most of which are
12 interrelated. Shubnum concluded that most of the
13 facilities have outlived their lives and
14 functionality. Of the 38 facilities that were
15 studied, 90 percent need to be decommissioned and
16 replaced to meet their missions. The report phase one
17 of the master planning program of the detention
18 facilities in Indian Country is being organized, one,
19 to describe -- describe findings of the visits to
20 detention facilities; two, to show the assessment of
21 the site conditions and show the needs of the
22 corrections programs of these detention facilities;
23 and, three, show the assessment of the conditions and
24 needs of the physical facility; and, four, demonstrate
25 whether the combination of the program operations and

1 facility operations were meeting their missions; and,
2 five, provide a cost analysis based on the findings to
3 suggest whether present remedies and future needs for
4 the detention facilities to meet their mission.

5 The BIA Office Justice Services has
6 worked very hard to improve quality of detention
7 services in Indian Country. The last two years has
8 been a period of major reform. During this time, the
9 program has undergone major change. However, we
10 recognize that much remains to be done to make our
11 programs fully effective.

12 We look forward to developing a healthy
13 and working relationship with the National Prison Rape
14 Elimination Commission in order to prevent sexual
15 assaults in our facilities and to ensure that any such
16 incidents that do occur are dealt in an appropriate
17 and expeditious manner. Thank you.

18 CHAIRMAN WALTON: Thank you.

19 Mr. -- or Professor, I guess.
20 Professor Gover.

21 PROF. KEVIN GOVER: Thank you,
22 Mr. Chairman, members of the Commission.

23 Let me just -- it may seem odd to some
24 people that these communities of Indians have
25 authorities of their own, so let me just provide a