

1 was happening. There was no real formal internal complaint  
2 process, no way to have any sort of follow-up about these  
3 allegations and what was going on.

4           And the last piece of this was that the staff was  
5 just completely unprofessional, unqualified to be in charge  
6 of young, vulnerable detainees. And some -- I can't  
7 remember who said it earlier in the day -- but the resources  
8 have to be put into obviously hiring the best people  
9 possible to not only run the facility but then also be the  
10 youth services managers you have to have -- I think somebody  
11 used the word or term "zero tolerance" toward this type of  
12 behavior, and there has to be absolute oversight from some  
13 sort of outside agency, whether it's a commission.

14           Since this has broke, since these people have been  
15 charged, we've turned over the running of the facility to  
16 probation, to actually put it in the hands of law  
17 enforcement at least in the short term as a temporary fix to  
18 the problem, but since then there's been another study  
19 that's been done in terms of all the ills, and I think we  
20 have some serious issues in Indianapolis to address.

21           CHAIRMAN WALTON: Thank you very much.

22           MR. BRIZZI: Thank you.

23           CHAIRMAN WALTON: Dr. Krisberg?

24           DR. KRISBERG: Thank you very much. I'm very  
25 honored to be invited by this Commission to talk on this

1 very important topic. I'm going to focus my comments on an  
2 investigation that I conducted in California on behalf of  
3 the California Attorney General.

4           In 2002, in response to a law suit, the Attorney  
5 General called me and asked me to lead a panel of  
6 independent experts that would examine and investigate  
7 conditions in the California Youth Authority and then report  
8 out what we found. The study took almost a year, and as a  
9 result of the findings, which have been reported broadly in  
10 the news, the State signed a consent decree and I am now  
11 currently appointed by the judge in the case to continue to  
12 monitor compliance with safety and welfare issues in the  
13 Youth Authority.

14           I should say now that the California Youth  
15 Authority is now called the Department of -- Division of  
16 Juvenile Justice. July of last year it was merged into the  
17 Department of Corrections, so, I'm going to refer to it as  
18 DJJ rather than the term that's more known familiarly in the  
19 field.

20           The Department of Juvenile Justice operates eight  
21 large facilities, holds about thirty-three hundred young  
22 people that are committed for generally very serious  
23 offenses. It is one of the largest juvenile correctional  
24 systems in the country. All of these youth are housed in  
25 antiquated and decrepit facilities, and there are few people

1 in California who would dispute that issue. Many of the  
2 youth live in what I would call barracks, not really  
3 dormitories, no dormitory that I remember, with as many as  
4 60 youth sleeping in bunk beds. Staff are usually stationed  
5 in cages in a security post, and there's almost no ability  
6 to visually inspect what's going on in these barracks.

7           The investigation covered the full panoply of  
8 health care, education, mental health, you name it. I  
9 focused on the more traditional corrections issues.

10           What we found, briefly, was that the California  
11 Department of Juvenile Justice is plagued with high levels  
12 of violence and fear. Fights and assaults on staff, riots  
13 are common occurrences. Incidents of violence, gang and  
14 racial conflicts, staff fears, have led to a reliance on  
15 extended periods of lockdowns in which many youth spend an  
16 average of 21 hours per day in their cells and when they're  
17 out they're in cages, little cages that are recreation  
18 areas. There's daily use of chemical and mechanical  
19 restraints. Many correctional staff use -- wear equipment  
20 like security vests and helmets that are more typical of  
21 what you'd see in a maximum security prison. A videotape  
22 showing several DJJ staff beating up two young people was  
23 aired on national television and the internet. The director  
24 fired those staff. They've all been reinstated by the State  
25 Personnel Board, so, it's a little more complicated than

1 cameras. In the recent past, many of the facilities have  
2 employed guard dogs to maintain order. Suicide attempts are  
3 frequent, and four youth took their own lives in the last  
4 two years. Sexual assaults are part of these horrific  
5 conditions.

6           Now, as to the data, I had unprecedented access  
7 and unlimited access to data on individuals, statistical  
8 data, you name it, and certainly was given complete support  
9 from everybody in California state government. The data was  
10 hard to come by. This is a tough issue to get good  
11 information on. In the end, I relied heavily on the  
12 disciplinary system, and I looked at sustained serious  
13 disciplinary infractions. I focused my investigation on six  
14 of the facilities that were the most troubled, at least as  
15 we thought at the time, and I looked at serious disciplinary  
16 infractions in these facilities, and of the six facilities  
17 that I visited, we were able to document in 2002 over 4,000  
18 high level sustained disciplinary infractions for violence,  
19 for assaults, principally youth-on-youth assaults, so, over  
20 ten per day in these six facilities. How many of these  
21 involved sexual content and sexual violence, I think you'd  
22 have to do a much more in depth analysis of situations and  
23 even then it would be hard to do.

24           In addition to the 4,000 sustained disciplinaries  
25 for assaults and batteries, there were nine sustained

1 disciplinary infractions for sexual assaults, 56 sustained  
2 charges for sexual acts. The difference between that was  
3 kind of a subjective judgment as to whether or not the act  
4 was consensual or not, but it was often pretty vague to  
5 determine that. And, in addition to that, there were 925  
6 sustained serious infractions. And, by the way, in  
7 California this would mean an average of 90 days added to  
8 your time, so, this is big stake stuff. So, there were 925  
9 infractions for sexual harassment, and that covered a wide  
10 range of gestures, provocative languages, public  
11 masturbation, and other activities broadly defined as sexual  
12 horseplay, either by the staff or the youth. So, I am  
13 absolutely convinced that inappropriate sexual conduct is a  
14 very serious problem in the California Youth Authority.

15           Now, I also had the advantage to conduct in the  
16 initial investigation over a hundred interviews on a  
17 completely confidential basis with a cross-section of young  
18 people. Since that time in my monitoring I have talked to  
19 at least another hundred and fifty youth on the same basis,  
20 and the youth clearly report that sexual violence is a major  
21 problem in the California Youth Authority. While the gay,  
22 bisexual, lesbian, transgender youth tend to be more honest  
23 in reporting this, at least to me, it was clear that the  
24 validly heterosexual youth equally described situations but  
25 tended to be far more embarrassed. You needed to establish

1 a pretty substantial relationship with the young people  
2 before they would agree to this, and in the case of the  
3 young women, this was not going to happen, and we really  
4 needed to bring in other trained women counselors to talk to  
5 them about what was going on. But it was very clear that  
6 this was a major and significant problem.

7           And youth talked about -- again, we heard this  
8 before -- that the grievance system was not helpful, that  
9 reporting this to the staff often meant that the staff would  
10 discount it. The staff's general attitude was this is  
11 consensual, particularly gay youths, their reports would be  
12 discounted as initially consensual behavior with youth, then  
13 having second thoughts.

14           What youth tended to do to protect themselves,  
15 particularly when the lights were out in the dormitory, was  
16 often to assault staff to get locked up, and they didn't  
17 mind being locked up 23 hours a day if that meant, as they  
18 would often say, not having to watch your back. So, you'd  
19 see staff, and, in fact, correctional officers and  
20 superintendents would routinely tell me that the lockup  
21 units were populated with essentially what they called  
22 protective custody cases. These were not gang-bangers,  
23 these were not violent youths, these were youth trying to  
24 escape the victimization that was going on in the  
25 dormitories.

1           Another way out was to engage in abnormal  
2 behavior, like suicidal gestures, smearing feces on yourself  
3 or your bed, claiming that you were hearing voices, so that  
4 the psychologist and psychiatrist would, again, get you out  
5 of these terrible dormitories and into some single room  
6 where you'd feel some modicum of safety.

7           There was almost no training, no focus on  
8 preventing sexual victimization or responding to it, so,  
9 again, my overall conclusion is that it is a serious and  
10 major problem, and even though the State is committed to a  
11 remedial plan, and the legislature just put up a bunch of  
12 money to implement this, it's going to be a long haul to get  
13 out of a mess this deep.

14           I want to go to recommendations for your  
15 consideration. First and foremost, these systems definitely  
16 need classification systems. Whereas the adult systems have  
17 made great strides in terms of objective custody-oriented  
18 classification systems, most juvenile systems are in the  
19 infancy, so, they don't really have effective classification  
20 systems to either identify the victims or the victimizers.  
21 I would recommend to you something that we are now  
22 implementing called the Juvenile Intervention and Assessment  
23 System that has demonstrated its ability to reduce  
24 institutional violence in adult facilities and we believe  
25 can do similar work in juvenile facilities. Whether you use

1 ours or somebody else's, you've got to have a classification  
2 system; otherwise you're at ground zero.

3 Living unit sizes. I agree with the ACA  
4 standards, one of the few things I agree with ACA about, but  
5 I think you've got to have units no more than 20 youth,  
6 you've got to have staff ratios no less than one-to-eight,  
7 and we really need to systematically get rid of these  
8 antiquated facilities that don't permit staff to directly  
9 observe what's going on.

10 Staff training, and I would mention the techniques  
11 developed by the North American Family Institute which is  
12 nearby in Danvers, Massachusetts, called the Normative  
13 Culture. The Normative Culture specifically creates what  
14 are called communities of dignity respect. They enlist the  
15 staff and the youth in the common goal of ensuring safety,  
16 and I think unless staff are given tools which build a  
17 culture of safety, compliance alone is going to have limited  
18 effect. Training of staff, I've mentioned before. Staff  
19 have relatively little training in either adolescent  
20 psychological development or the particular needs and  
21 victimization of gay, bisexual, lesbian, transgender youth.

22 These facilities are badly understaffed with  
23 respect to medical/mental health professionals, and it seems  
24 to me that we need to get more of them in these places, and  
25 even medical professionals need additional training to

1 recognize the signs of sexual victimization and to know how  
2 to respond appropriately to it.

3           Grievance systems we've already talked about. I'm  
4 a big supporter of getting bona fide outside groups to come  
5 in to visit these places, to talk to the youth on a  
6 confidential basis. I think it sets a tone if correctional  
7 staff know that outsiders are going in.

8           And, again, the living environments. When youth  
9 facilities take on the trappings of prisons, then the  
10 behavior within them starts looking like prisons, and we've  
11 got to de-prisonize these facilities if we're going to get  
12 ahead of this problem.

13           California, the horrid conditions in California  
14 are not an anomaly. Similar situations have developed in  
15 Arizona, Connecticut, Georgia, Florida, Hawaii, Louisiana,  
16 Maryland, Mississippi, South Dakota, to name a few. I  
17 believe there's a national crisis in which residential care  
18 is collapsing in this country and there's a small minority  
19 of states that are not places where kids are currently being  
20 abused. And the U.S. Department of Justice has been  
21 laudable in terms of initiating an unprecedented level of  
22 investigations under the Civil Rights of Institutionalized  
23 Persons Act to challenge many of the conditions, and I think  
24 that's important to go on.

25           I was thinking as we were talking, if I was going

1 to do the one thing at a federal level that would make a  
2 difference, I would go back to the Federal Juvenile Justice  
3 Act. When we amended the Federal Juvenile Justice Act to  
4 require states to study the issue of disproportionate  
5 minority contact, to come up with good faith remedial plans,  
6 to basically require that as a condition of federal support,  
7 a lot of good things happened. The problem has not  
8 disappeared, but we began to move a difficult issue forward.  
9 And I think I would recommend that you consider an amendment  
10 to the Federal Juvenile Justice Act requiring that every  
11 state, number one, conduct an investigation or study of this  
12 problem, come up with recommendations for action, and then  
13 condition receipt of federal funds, at least, on the  
14 submission of a good faith plan to remedy the issue of  
15 sexual violence in juvenile facilities.

16 Thank you very much.

17 CHAIRMAN WALTON: Thank you, Doctor.

18 Dr. Bidwell.

19 DR. BIDWELL: Good morning, and aloha. And thank  
20 you for the chance to speak with the Commission today.

21 I'm going to preface my testimony, my official  
22 testimony, with a few words that I hadn't intended.

23 I'm a pediatrician that works at the Honolulu  
24 Juvenile Detention Facility and at the Hawaii Youth  
25 Correctional Facility, and I've known Cyryna Pasion, who