

1 MS. PATION: Thank you.

2 CHAIRMAN WALTON: We'll take a ten-minute break.

3 (Recess.)

4 CHAIRMAN WALTON: Good morning to our first panel.

5 Your reputations precede you. We welcome all of you; we're
6 happy to have your presence on this panel.

7 We have Mr. J. Robert Flores who is the
8 Administrator of the Office of Juvenile Justice and
9 Delinquency Prevention in the Office of Justice Programs in
10 the United States Department of Justice.

11 Our second witness will be Ms. Gwendolyn Chung who
12 is President of the American Correctional Association.

13 Our third witness will be Mr. Howard Beyer, who is
14 President of the Council of Juvenile Corrections
15 Administrators.

16 Our fourth witness will be Mr. Leonard Dixon,
17 President of the National Juvenile Detention Association.

18 And our final witness will be Mr. Mark Soler, who
19 is Executive Director of the Center for Children's Law &
20 Policy.

21 Again, thank all of you for your presence. If
22 you'll stand and take the oath, we'll have your testimony.

23 (Panel Sworn)

24 CHAIRMAN WALTON: Thank you. Mr. Flores.

25 MR. FLORES: Thank you, Mr. Chairman, members of

1 the Commission. I want to express my thanks for an
2 opportunity to participate in this morning's hearing, and I
3 want to say thanks, this is an area that OJJDP in particular
4 had worked on long before I arrived, and I will believe they
5 will continue to work on this issue long after I'm gone,
6 because it's part and parcel of making sure that we address
7 across the broad spectrum how we're going to make these
8 facilities safe for children. We believe in rehabilitation.
9 When children are abused or exploited, whether outside or
10 inside a facility, it makes delinquency that much more a
11 reality. We're working very, very hard across the country
12 to just do exactly what you, Chairman Walton, have suggested
13 in your last comments to the last panel, and that was we
14 really have to take a hard look at who we have in detention.
15 A number of states really have made tremendous
16 progress in reducing that population, focusing more on
17 community corrections, trying to find ways to divert youth
18 so that really detention is the absolute last resort. It's
19 an incredibly expensive proposition to put a child in
20 detention. And sometimes when I talk about it, I talk about
21 the fact that in the state it could run as high as \$95,000 a
22 year, depending upon the kind of care that that child might
23 need. We can almost always provide that care and those
24 resources in other ways at a much lower cost with much
25 better results, and I think ultimately that's what we're

1 looking at is how do we deliver better for our kids, and
2 they are our children.

3 The Office of Juvenile Justice and Delinquency
4 Prevention has conducted surveys and collected data about
5 the operations of juvenile detention facilities. We call it
6 our survey of youth and residential placement, what we call
7 the SYRP survey. In 2003 we conducted a nationwide SYRP and
8 included questions about sexual assault of youth in custody,
9 and not only did we learn information about that, but we
10 also learned important information about other things that
11 were typically tied to that. These were kids who were not
12 just victimized in that way; they were more likely to have
13 been assaulted both inside or outside the facility, and the
14 risks that they faced were higher than a number of other
15 areas.

16 We learned a little bit about what those
17 facilities were that had significantly higher risk levels of
18 sexual violence directed at their inmates. Long-term secure
19 facilities we found a higher rate among youth who received
20 punishment, physical exercise as punishment, solitary
21 confinement, pepper spray, and restraint chairs. While we
22 recognize that it is very -- it's extremely important to
23 make sure that correctional officials have the discretion to
24 run their facilities, it's also critical for us to
25 understand that if we're not collecting data and we're not

1 really learning about what works best all the time, that
2 we're not going to deliver a safer environment, not only for
3 the inmates but also for the staff. The reality is that if
4 a facility is built in such a way that there are places that
5 can't be monitored and a large but perhaps shy child can be
6 taken there and abused, what happens to the small staff
7 person who is five-one, five-two, maybe, only weighs a
8 little bit more than a hundred pounds, that area is also a
9 danger to that individual as well. And, so, these issues
10 really are critical for us to address for the well being of
11 the entire facility, and then ultimately what happens once
12 we have those children leave.

13 We have, from our survey, in any event, determined
14 that facility size is not directly related to the risk of
15 sexual assault. The use of locks on rooms, outside doors,
16 external walls, fences, even over-crowded, there are ways in
17 well run facilities even if they're stressed because of the
18 number of inmates for them to be safe and well run. But
19 we've also determined that there are a number of steps that
20 could be taken to reduce the risk of victimization, and
21 things that we could look at: for example, does the facility
22 have a high incident of contraband of any type? That
23 indicates a lack of supervision; it indicates perhaps a lack
24 -- a significant lack of training. Are people reviewing
25 carefully housing and group classifications? We heard a

1 little bit about that from your witnesses in the prior
2 panel. Clearly communicating rules and providing
3 orientation to newcomers: it's important for people to have
4 an understanding that what is being taken from them is their
5 freedom, not their safety, when they enter a facility, and
6 this goes for parents as well. Parents need to know that if
7 they are surrendering their child to the State that they are
8 not going to be exposed to that kind of abuse. There has to
9 be a reasonable understanding of what kinds of measures will
10 work for children to make a report. If the reporting
11 mechanism will further jeopardize, or looks like it will
12 further jeopardize that child, the child's not going to take
13 advantage of it. He's already been abused once; why make it
14 even worse for himself?

15 We need to take a look at basic conditions of
16 confinement and make sure that those are in accord with the
17 best research and data that we have. We've made a number of
18 efforts over the years to take a look at confinement issues.

19 We have a number of core requirements that the statute
20 requires OJJDP to look at specifically, making sure that
21 children are not placed with adults, that they are
22 separated, that they don't go into facilities because
23 they're a status offender. This is a challenge, especially
24 when states are looking to find ways to protect runaways, or
25 they may think that they don't have sufficient control over

1 some of their -- families do over some of their children.
2 We don't think that that's the way to fix that, remedy that,
3 is to have them detained.

4 One of the things that we're going to be doing in
5 order to make sure that the word gets out about the work of
6 this Commission is to make sure that this is incorporated in
7 all of our trainings from this moment forward. I recently
8 sent a letter to each state administering agency head
9 requesting their cooperation and partnership. We were told
10 quite frankly that not everybody was aware of it, that this
11 statute had been passed, and that this Commission was, in
12 fact, working. Whether or not we regard that as reasonable
13 after all of the attention that this Commission has gotten,
14 I can't say, but we are going to make sure that everybody is
15 receiving regular contact from us on this issue.

16 We have, in our system, compliance monitors; every
17 state has one, we fund them, and I would encourage you to
18 look at those compliance monitors as a way for you to
19 consider having somebody on the ground in every state so
20 that they can be looking and asking questions. In some
21 states, the only people who are asking questions about the
22 quality and the operations of a facility may be our
23 compliance monitor on the juvenile side.

24 We also have a number now of data collection
25 processes that allow detention facilities management to have

1 a current understanding on a day-to-day basis really as to
2 what's going on in their facility. One of these is the
3 performance-based standards project which was developed by
4 the Council of Juvenile Correctional Administrators that
5 you'll hear from shortly, and that's another way for these
6 facilities and the senior management to understand their
7 responsibility, know that there is a statute that compels
8 them to take action, and currently a hundred and forty-one
9 private facilities from twenty-eight states and the District
10 of Columbia are voluntarily participating in that PBS
11 program, providing information on 13,000 youth in custody,
12 and recently three new state agencies comprising an
13 additional sixteen facilities have joined that effort. We
14 will also be participating with NIC on a national satellite
15 broadcast which is set on preventing sexual abuse of youth
16 in custody, which is set for June 28th, and we're working
17 with NIC on that.

18 I want to just say that the work of this
19 Commission is really about changing the ethos. I was a
20 practicing prosecutor on the state and federal level, and,
21 so, I'm familiar with the jokes that people make, not just
22 prosecutors, not just police officers, but including members
23 of the bench, about what will happen after conviction. A
24 proper understanding of what we want out of our correctional
25 facilities, the opportunity that we have, especially with

1 children, to get them to be successful after they leave that
2 facility, is not an opportunity to be missed, and I'm
3 hopeful that by working together we can change that ethos so
4 that it's unacceptable and people look at it as a matter of
5 concern, not a matter of levity. And, so, I appreciate the
6 opportunity to testify before you this morning.

7 CHAIRMAN WALTON: Thank you very much for your
8 testimony.

9 Ms. Chunn, thank you for being here.

10 MS. CHUNN: Thank you.

11 CHAIRMAN WALTON: Nice to see you.

12 MS. CHUNN: It's my pleasure.

13 Distinguished members of the Commission, let me
14 just begin by saying the American Correctional Association
15 has a longstanding track record of trying to make sure that
16 it stems the flow of young people from the juvenile system
17 into the adult system. While our organization began in
18 adult corrections, it's very clear that the commitment
19 that's demonstrated through the policies and resolutions
20 that we've promulgated make it clear that our commitment is
21 not just a passing fancy. My written comments speak very
22 much to the notion that there are very few organizations who
23 really understand the connection between the juvenile system
24 and the adult system, while, in fact, the general public
25 does, and most other persons outside the system understand