

1 willingness to come forward and present your
2 testimony and it will play a significant role in
3 our deliberations and our ultimate decisions as to
4 what recommendations we should make, so thank you
5 very much.

6 MS. RAGSDALE: Thank you.

7 MS. BROWN: Thank you very much for
8 taking the time and patience to see us. Thank you.

9 THE CHAIRMAN: We'll recess until
10 ten o'clock.

11 (Brief recess.)

12 CORRECTIONS ADMINISTRATORS DESCRIBE CHALLENGES OF
13 INTERNAL REPORTING, INVESTIGATION, DISCIPLINARY
14 PROCEDURES AND PROSECUTION

15 MR. CHAIRMAN: We'll reconvene with the
16 next panel.

17 Good morning to all you. Our next panel will
18 address the issue from the corrections
19 administrators' perspective and they will be
20 addressing the calendars of internal reporting, the
21 challenges of internal investigation, disciplinary
22 procedures and also prosecution.

I will let each witness identify themselves.

1 I'll then place you under oath and then we will
2 have you present your testimony. And after that,
3 we will have some questions for you, I'm sure. So
4 would you please identify yourselves?

5 MR. DIGNAM: Yes. My name is John
6 Dignam. I'm a chief at the Bureau of Prison's
7 Office of Internal Affairs.

8 MR. REES: John Rees, Commissioner,
9 Kentucky Department of Corrections.

10 MR. WALL: Ashford (ph.) T. Wall, II.
11 I'm commonly known as A.T. I'm director of the
12 Rhode Island Department of Corrections.

13 MS. CARUSO: Patricia Caruso, director of
14 the Michigan Department of Corrections.

15 MR. SPRENKLE: Bill Sprenkle, Deputy
16 Secretary, Deputy Secretary of Administration for
17 the Pennsylvania Department of Corrections.

18 MS. BISSONETTE: Lynn Bissonette,
19 Superintendent, Massachusetts Correctional
20 Institution at Framingham.

21 MR. CHAIRMAN: Thank you very much,
22 Again, welcome. Would you please stand and I'll

1 administer the oath.

2 (Panel sworn)

3 MR. DIGNAM: Thank you, Mr. Chairman and
4 other members of the Commission. I appreciate the
5 opportunity to follow up today on the Bureau of
6 Prisons director Harley Lappin's testimony before
7 this Commission this past March to further discuss
8 investigations of staff sexual abuse.

9 My office is responsible for conducting and
10 coordinating investigations into all allegations of
11 waste, fraud, abuse or other misconduct by our
12 employees and our contractors. We are especially
13 concerned about allegations of sexual abuse of
14 inmates, which we consider to be among the more
15 serious and troubling of the allegations we
16 receive.

17 The Bureau of Prisons has a zero tolerance
18 standard for staff sexual abuse of inmates. Every
19 allegation of sexual abuse by staff against inmates
20 is referred to the Department of Justice Office of
21 the Inspector General for their consideration for
22 investigation and possible prosecution. We were

1 very pleased to see criminal penalties enhanced
2 with the enactment that the violence against women
3 and the Department of Justice Reauthorization Act
4 in January.

5 The penalty for sexual abuse of an inmate in a
6 federal prison was increased from up to one year in
7 prison to up to five years in prison. And the
8 penalty for abuse of sexual conduct with an inmate
9 was increased from up to six months in prison to up
10 to two years in prison. And then last week, last
11 Thursday, President Bush signed into law the Adam
12 Walsh Child Protection and Safety Act, which
13 increased the penalty for sexual abuse of an inmate
14 again, this time from up to five years to up to 15
15 years in prison.

16 Another welcome result of the act was the
17 addition of contract correctional facilities to the
18 institutions covered by the sexual abuse statutes.
19 We hope this will further deter sexual abuse of
20 inmates in halfway houses and private prisons. The
21 Bureau of Prisons and the Department's Officer of
22 Inspector General worked aggressively with the

1 Congress to gain these penalty enhancements and
2 other changes.

3 We are indebted to the Office of the Inspector
4 General for their April 2005 report, which was
5 undoubtedly instrumental in influencing this
6 legislation.

7 My office classifies staff sexual misconduct
8 into one of four categories, aggravated sexual
9 abuse, sexual abuse, abusive sexual contact, or
10 unprofessional conduct of a sexual nature. The
11 first three categories are based on the criteria
12 and definitions provided in title 18, U.S.C. 2241
13 through 46.

14 The fourth category, unprofessional conduct of
15 a sexual nature, is not a criminal offense, but is
16 behavior prohibited by agency policy nonetheless.
17 Consistent with our zero tolerance approach, we
18 hold our staff accountable for any behavior with or
19 toward inmates which could be construed as sexual
20 or sexually suggestive. In this way, we put our
21 staff on notice that no sexually inappropriate
22 behavior, verbal or otherwise, no matter how it is

1 intended or perceived, will be tolerated.

2 Investigating and punishing these less serious
3 infractions potentially can prevent such behavior
4 from escalating into actual sexual relationships
5 and abuse. The Office of the Inspector General
6 generally assumes the investigative authority and
7 responsibility in cases of sexual abuse referred to
8 them by us or other sources when there's potential
9 for criminal prosecution. Their efforts have
10 resulted in a number of successful prosecutions of
11 our staff and contractors in recent years.

12 Even when criminal prosecution is declined,
13 which occurs more often, their investigations have
14 led to the resignations of employees who abuse
15 their authority or provided us with sufficient
16 evidence to sustain administrative charges against
17 these employees and remove them. Most cases of
18 alleged sexual abuse by staff are referred back to
19 my office for investigation and we pursue or own
20 investigations vigorously and hold staff
21 accountable for any violation of the agency's
22 standard of conduct. Insofar as my agency is

1 charged with the care and humane treatment of all
2 inmates in our custody, our interest is in pursuing
3 all allegations of sexual abuse. And that's clear,
4 that it's in our best interest.

5 There are other important reasons for doing so
6 and not just because our charge is the protection
7 of inmates. In most cases in which sexual abuse or
8 sexual contact between staff and inmates are
9 substantiated, it's also been determined that those
10 staff have introduced contraband, such as drugs or
11 other prohibited items into our institutions either
12 as a bribe to ensure an inmate's silence about the
13 abuse or at the request of the inmates with whom
14 they're in a sexual relationship.

15 This constitutes a significant security breach
16 at our facilities, which jeopardizes the safety of
17 inmates and staff at all the locations. There is
18 also the potential for staff being compromised in
19 other ways. For example, in one case a staff
20 member who maintained a sexual relationship with an
21 inmate was ultimately involved in aiding in that
22 inmate's escape from one of our minimum security

1 facilities. Thus, not only is the vigorous pursuit
2 of all allegations necessary to protect inmates
3 from such abuse by our predatory staff, it is also
4 vitally important to do so because the safety and
5 security of all inmates and staff can be
6 significantly compromised when professional
7 boundaries between staff and inmates are not
8 maintained in our correctional environment.

9 Sexual abuse and misconduct by bureau prison
10 staff and contractors is not limited to male
11 employees who abuse their authority with female
12 inmates. In fact, 60 percent of the investigations
13 conducted in the last five years involved female
14 staff members and male inmates. While this can be
15 explained in part by the fact that we have many
16 more male inmates in custody than we have female
17 inmates, it also highlights the differences in
18 dynamics and other complexities involved in
19 investigating allegations of this sort.

20 Commissioner Smith, who I had the pleasure of
21 assisting a recent training she coordinated for OIG
22 agents and my agents, she effectively describes

1 those kind of complexities of motives, for example,
2 in one of her recent writings on this topic. The
3 bottom line, however, is this, regardless of intent
4 or motive, there is no such thing as truly
5 consensual sexual activity between our employees
6 and inmates, period. Any such behavior on the part
7 of our staff or any other correctional employee
8 constitutes a significant and intolerable abuse of
9 authority and must be prevented when possible and
10 punished when discovered.

11 To this end, we strongly encourage inmates and
12 employees to report. In fact, BOP employees are
13 also held accountable and can be disciplined for
14 not reporting known or suspected instances of
15 misconduct, including sexual misconduct.

16 Our standards of conduct identify three
17 specific charges in this regard, failure to report
18 a violation of conduct, failure to report to
19 management any violation of unprofessional conduct
20 with inmates, and refusal or failure to cooperate
21 in any official U.S. Government inquiry or
22 investigation.

1 More pointedly and specifically regarding the
2 prohibitions against relationships, sexual or
3 otherwise, with inmates in their charge, those same
4 standards of conduct explicitly communicate to
5 employees the following: Employees may not allow
6 themselves to show partiality toward or become
7 emotionally, physically, sexually or financially
8 involved with inmates. And an employee may not
9 engage in or allow another person to engage in
10 sexual behavior with an inmate. Regardless of
11 whether force is used or threatened, there is never
12 any such thing as consensual sex between inmates
13 and staff.

14 Our standards of conduct further communicate
15 to our staff the criminal penalties so that they're
16 put on notice what the penalties can be. We also
17 communicate to them this, I quote from our
18 standards of conduct, "Physical contact is not
19 required to subject an employee to sanctions for
20 sexual misconduct.

21 Finally on behalf of our director, Harley
22 Lappin, I'd like to reiterate from his previous

1 testimony that our agency also takes very seriously
2 all allegations of inmate on inmate sexual
3 misconduct. Although, it is not in my
4 jurisdiction, I am well aware that as with staff
5 sexual misconduct we maintain a zero tolerance
6 approach into our sexual aggression. All reports
7 of sexual violence or coercion by inmates against
8 other inmates trigger immediate staff responses to
9 ensure that the alleged victim receives protection,
10 appropriate assistance, and simultaneously all
11 evidence is properly preserved and the allegation
12 is promptly referred for criminal investigation by
13 the FBI. If the investigation yields sufficiently
14 incriminating evidence, prosecution is pursued.
15 The cases that are not pursued are referred back to
16 our local investigators for investigation and
17 disposition. In those occasions in which
18 allegations are substantiated, inmate perpetrators
19 are disciplined to the fullest extent of our policy
20 and the law.

21 I appreciate the opportunity to address the
22 Commission today and I'll respond to any questions

1 that you might have.

2 THE CHAIRMAN: Thank you very much,
3 Mr. Dignam. They've asked me to pause for a
4 minute.

5 MR. DIGNAM: Okay.

6 THE CHAIRMAN: Mr. Rees.

7 MR. REES: Thank you. Good morning and
8 thanks for the opportunity to appear before you
9 today. I'm John Rees, Commissioner of corrections,
10 for the Kentucky Department of Corrections, and I
11 spent 38 years in the prison business, the vast
12 majority in administrative capacities in adult
13 prisons. So I believe that I'm both familiar with
14 and well-qualified to speak on this very serious
15 issue. I will try to be brief, but at the same
16 time address as thoroughly as possible this complex
17 issue. I think we need to look at it from two
18 separate perspectives, inmate on inmate acts and
19 staff on inmate acts. Additionally, we will need
20 to review how we investigate these events
21 internally and how we interface with outside law
22 enforcement and prosecutorial agencies.