

1 correction officers needed, properly train them, and  
2 put them into facilities that would meet the  
3 Constitutional standards that state and federal  
4 government -- or state and federal facilities have to  
5 meet.

6                   So with that, Mr. Chairman, I'll pass  
7 the mike to Mr. Cowboy.

8                   CHAIRMAN WALTON: Thank you very much.

9                   Mr. Cowboy, you're -- thank you for  
10 your presence. Can you take the oath, please.

11                   (Witness sworn in.)

12                   CHAIRMAN WALTON: Thank you, sir.  
13 Welcome.

14                   MR. SAMPSON COWBOY: Good afternoon. I  
15 apologize for being late. I blame it on the plane.

16                   It's an honor to be here, ladies and  
17 gentlemen. I -- my name is Sampson Cowboy. I'm a  
18 Division Director for Navajo Division of Public  
19 Safety. And, again, I would like to thank Mr. Thomas  
20 for inviting me, calling me to be here. It is an  
21 honor and I will do as best as I can to provide the  
22 statistical information and other pertinent  
23 information that this Commission is requesting of me.

24                   As I read the Title 42, Chapter 147,  
25 Section 15602, I think we have something in common

1 here. We have -- the purpose of our Navajo Nation Law  
2 and Order Code is to provide conduct on unjustifiable  
3 and inexcusable threats, or inflicts substantial harm  
4 to individual or public interests. More in line with  
5 our Navajo Nation Bill of Rights Act, which is also  
6 similar to the Constitution of the United States.  
7 That is what we base our -- a lot of our human rights  
8 decisions on.

9                   This Navajo Nation information will  
10 hopefully provide some -- this Commission some  
11 guidance and assistance in meeting the duties and  
12 responsibilities of what you are requesting of us.  
13 And I will begin with a brief history or background of  
14 the Navajo Nation.

15                   As you know, we are one of the  
16 land-based tribes in the United States, so we have a  
17 population of over 250 within the borders of the  
18 Navajo Nation itself. These includes non-Navajos that  
19 live -- that resides there. We also have various  
20 programs that are funded and managed off the Public  
21 Law 93-638, which is the old Indian Self Determination  
22 and Education Assistance Act. The -- which allows  
23 many programs or opportunities. It provides a lot of  
24 opportunities for us, however, it also creates some  
25 challenges, especially in incarceration of inmates.

1                   The Navajo Nation is approximately the  
2 size of West Virginia. And, again, with 27,000 square  
3 miles, there is a lot of acreage that we cover. The  
4 population has continued to grow, and the reservation  
5 itself lies into three states, Arizona, New Mexico and  
6 Utah, and it covers 11 counties. So which results  
7 into activities that involves four governmental  
8 jurisdictions, federal, states, counties, and the  
9 Navajo Nation, at times which also conflicts itself.

10                   Today, the Navajo Nation maintains a  
11 three-branch government, located in Window Rock, and  
12 that's where my main office is, and that's where the  
13 Navajo Nation president and the council's office are,  
14 too.

15                   The Navajo Nation is comprised of seven  
16 police districts and six adult correctional  
17 facilities, and each of these segments collaborates to  
18 enforce the laws of the Navajo Nation and protects its  
19 citizens. And it is a major task when you talk about  
20 public safety in Indian Country.

21                   In recent years, the Navajo Nation has  
22 experienced an increase in narcotics and controlled  
23 substances that have led to increase of crimes. And  
24 it had -- the crimes have also become more heinous  
25 than what it was before. And the communities are

1 being affected in different ways, and one of the areas  
2 that we're being affected as a community providing  
3 services, is the incarceration of inmates. The  
4 facility of these programs, some of these are -- have  
5 been assisted by -- through Federal grants and state  
6 grants, but that's still not enough to combat some of  
7 these issues that are being raised before you.

8                   Nonetheless, that increase in criminal  
9 activities continues to present its own challenge. As  
10 these crimes become more heinous, we expect that these  
11 inmates also become more susceptible to sexual  
12 assaults in our facilities.

13                   As of December 31st, our unemployment  
14 rate was 65.34 percent, and it appears to project at  
15 that near-constant rate in 2006. The state of  
16 Washington, in 2001, had the highest unemployment rate  
17 of 7.4 percent. Why do I bring these out? Well, this  
18 is what drives some of our communities, community  
19 crimes, social issues, social ills that you may see  
20 out in the Indian Country. When comparing Navajo per  
21 capita income to the U.S., the Navajo Nation has 4.6  
22 times less than the U.S.

23                   Although we do not have hard data to  
24 speak directly to this Commission, we know we have  
25 some concerns in regards to sexual assaults in

1 incarceration. These complaints are currently under  
2 investigation by our Criminal Investigation Unit.

3                   This leads me into Navajo Nation's  
4 first and probably the most important concern when  
5 addressing these possible occurrences, is  
6 jurisdiction. You heard a little bit from Mr. Gover  
7 on what jurisdiction is and how it's laid out in  
8 Indian Country. In Navajo Nation it is very confusing  
9 because we lie in three states with three different  
10 opinions from the judges, from Federal judges. Also,  
11 the state also plays a major factor in some of these  
12 decisions in imposing fines and how to deal with these  
13 issues.

14                   Although the responsibility lies with  
15 the U.S. Attorney and the Federal Bureau of  
16 Investigation, to determine which jurisdiction it  
17 also -- you also have to understand the perpetrator,  
18 Indian or non-Indian. At times, we incarcerate  
19 illegal immigrants in our facility for up to eight  
20 hours. Because of that, the -- our lack of resources  
21 to transport individuals down to Phoenix, Arizona,  
22 which is approximately 250 miles if you go as the crow  
23 flies, but if you go around as the road winds, it's  
24 356 miles.

25                   If the Navajo Nation does have

1 jurisdiction, Congress has limited its authority to  
2 sentence an individual. In the tribal court, you can  
3 only impose fine -- or jail sentencing up to a year,  
4 and then in the -- and the dollar amount is 5,000  
5 dollars. That's the maximum you can fine an  
6 individual.

7                   The sex crimes are serious offenses and  
8 falls under the jurisdiction of both the Indian  
9 Nations and the Navajo -- such as Navajo Nation and  
10 the United States Attorney's Officer. Congress,  
11 through the Major Crimes Act, has authorized federal  
12 criminal jurisdiction in Indian Country over 14  
13 enumerated major crimes, including rape and child  
14 sexual abuse. Sad to say, these crimes are common in  
15 Indian Country, and it is probably common in our  
16 jails, too.

17                   To ensure that there are appropriate  
18 law enforcement response, Navajo police officers and  
19 criminal investigators are routinely provided basic  
20 and advanced sex crime investigation training.  
21 Uniformed police officers are trained to initiate as a  
22 first responder. They collect evidence and secure  
23 crime scenes. The support service comes from Navajo  
24 Nation criminal investigation. Most often FBI are  
25 miles away, so Navajo criminal investigators are the

1 ones that's handling these cases.

2                   Navajo criminal investigators, they are  
3 trained at the Federal Criminal Investigations School  
4 in Glenwood, Georgia. And they are also trained in  
5 advanced sexual investigation and evidence collection  
6 by the FBI. Navajo police officers are provided basic  
7 training through their academy and at times receive  
8 advanced training through other state or federal  
9 resources. Training in advanced sexual crime scene  
10 investigation, sponsored by the Federal Bureau of  
11 Investigation, is limited. It's far in between.  
12 Evidence collection training are far in between.

13                   The crime labs that we use are the  
14 state labs and the Federal Bureau of Investigation  
15 labs. The turnarounds are like six months to a year,  
16 sometimes longer. Navajo Nation detention officers  
17 are not prepared to deal with sexual assaults that may  
18 occur within -- that occur within the detention  
19 facility. This in and of itself increases the  
20 opportunity of sex crime victimization.

21                   The turnover rate has hindered our  
22 continuity in correction facilities. Our pay level  
23 for our personnel have caused us to -- or create us a  
24 training facility for our facilities as people  
25 transfer to other areas that pays more than what our

1 Navajo Nation Department of Criminal -- or Department  
2 of Detention provides. There are, in addition to  
3 limited resources, including lack of appropriate jail  
4 space. Right now, we have six facilities, three are  
5 in full-time operation, eight are on eight-hour hold  
6 operation.

7                   There was a total of 47,840 inmates  
8 incarcerated in 2006, and the average of incarceration  
9 per day is 105. If you look at those numbers, people,  
10 it's just a revolving door in our facilities. These  
11 facilities are run and managed by the Navajo Nation.  
12 These facilities were built in 1959. We have yet to  
13 be assisted by the Bureau of Indian Affairs in this  
14 area, nor the Federal government.

15                   The length of stay depends on the  
16 availability of jail space. So most inmates, if  
17 sentenced, do not serve the maximum amount of time  
18 because of lack of available jail space. The Navajo  
19 Nation does, however, attempt to keep most serious  
20 offenders, including those that have committed sexual  
21 assault, and release less violent offenders. When the  
22 facilities reach maximum capacity, we have to release  
23 them. As stated above, the United States Attorney  
24 also has also jurisdiction over sexual assault crimes,  
25 but individuals are typically held in Navajo Nation

1 facilities rather than federal facilities.

2                   In conclusion, the greatest challenge  
3 the Navajo Nation faces is the continual increase of  
4 mandate of incarcerated inmates, which are hindered by  
5 lack of funding, lack of facilities, lack of manpower.  
6 Most importantly, with all these challenges, I commend  
7 my staff. And as I sit before you, our staff are very  
8 professional, providing the direct service to those  
9 that are incarcerated that no one has become  
10 victimized in our facility. It is not say that it  
11 will never happen, but without end, the environment  
12 does exist.

13                   Ladies and gentlemen, thank you.

14                   CHAIRMAN WALTON: Thank you very much  
15 for your testimony.

16                   Mr. Rivera, there were a number of  
17 reports you identified. I'm going to ask our staff to  
18 get in touch with you. Hopefully, we can identify  
19 where we can get those reports --

20                   MR. GUILLERMO RIVERA: Two  
21 specifically -- two specific reports that you probably  
22 will be interested in. One with the gap analysis,  
23 which was --

24                   COMMISSIONER FELLNER: Gap?

25                   MR. GUILLERMO RIVERA: Gap Analysis