

1 started. Good afternoon. Our next panel will address
2 PREA training efforts for lock-up facilities. We have
3 two witnesses who will provide testimony on this
4 subject. I would ask them to please rise and take the
5 oath.

6 (Witnesses sworn in.)

7 CHAIRMAN WALTON: Thank you. If you
8 could please identify yourselves and then we'll have
9 you proceed with your testimony. I would ask, if you
10 could, to try to summarize your testimony if possible
11 so that we'll have a little more time for questions.

12 MR. GEORGE GOTSCHALK: I'm George
13 Gotschalk. I'm the First Vice-President of the
14 International Association of directors of Law
15 Enforcement Standards and Training, known as IADLEST.

16 MS. ELIZABETH LAYMAN: My name is
17 Elizabeth Layman, and I'm here representing the Center
18 for Innovative Public Policies, which is currently
19 working under cooperative agreement with the Bureau of
20 Justice Assistance on PREA and lock-ups.

21 CHAIRMAN WALTON: Well, welcome both of
22 you.

23 Ms. Layman, you're listed first on the
24 agenda. You may proceed.

25 MS. ELIZABETH LAYMAN: Thank you.

1 project are organizations and police agencies, also
2 private agencies, responsible for operating lock-ups.
3 And this includes state, local, regional, police,
4 sheriffs, regional jails, et cetera. Our objectives
5 are -- and I will just summarize the objectives -- to
6 identify currently available resources in the
7 development of curriculum and training packages.

8 To date, CIPP, in cooperation with
9 Brenda Smith, at the Washington College of Law, has
10 developed detailed information about the legal issues
11 related to short-term holding facilities. This
12 information will be included in the curriculum packets
13 available to agencies in the field.

14 We have also completed a literature
15 review to identify relevant materials on the issue.

16 The second objective is to conduct a
17 needs assessment of agencies in the target audience.
18 So far, we have conducted nearly two dozen on-site
19 needs assessments of law enforcement agencies
20 specifically related to PREA. These agencies operate
21 small -- short-term and small lock-ups. During these
22 on-site visits, project teams met with sheriffs,
23 chiefs of police, court holding facility supervisors,
24 and those persons responsible for the operation of
25 lock-ups. Information was gathered concerning size

1 and capacity of the lock-ups, operational details,
2 aspects of the physical designs of the facility that
3 may have an impact on arrestee safety, and training
4 that is provided to employees.

5 The third objective is to inform and
6 educate the target audience about PREA and the
7 specific impact on the operation of lock-ups through
8 our presentations at regional and national
9 conferences, and by providing on-site training and
10 technical assistance that fits within the budget of
11 this cooperative agreement, as they are requested by
12 these target audience agencies.

13 To date, CIPP has designed and
14 disseminated informational brochures about PREA and
15 its specific relevance to lock-ups to each of the 50
16 state Sheriffs' Associations, and each of the 50
17 state's Associations of Chief of Police. In addition,
18 CIPP is coordinating with the American Jail
19 Association, the American Correctional Association,
20 and the International Association of Chiefs of Police,
21 and the National Sheriffs' Association to bring this
22 information to their membership.

23 We recently presented a workshop at the
24 National Sheriffs' Association Mid-Winter Conference
25 in Washington, D.C., focused specifically on small

1 lock-ups, addressing the purposes of PREA,
2 definitions, case law and legal issues, and practices
3 that successfully prevent and address the issue of
4 sexual misconduct and sexual violence. Also at the
5 meeting, attending sheriffs were asked to provide
6 feedback regarding PREA and lock-ups to guide our
7 continuing work.

8 Among the relevant concerns expressed
9 by the sheriffs at this meeting included reporting
10 procedures for arrestees concerning allegations, the
11 importance of educating staff about the criminal
12 nature of sexual misconduct, the need to take more
13 decisive action against officers who are alleged to be
14 involved with these activities, the need for guidance
15 on developing policies and training, the need to
16 address overcrowding and medical costs, and
17 insufficient staff to supervise arrestees in lock-up
18 facilities.

19 In response to the brochures that we
20 have handed out and other information disseminated, we
21 have received several inquiries from state
22 associations requesting training. Training and
23 technical assistance has also been provided to all law
24 enforcement agencies in Hawaii -- in fact,
25 Ms. McCampbell has just completed that today, and I

1 have a brief report on that, which I can tell you at
2 the end of this testimony.

3 A presentation of training is also
4 scheduled for the summer with the Missouri Sheriffs'
5 Association and other requests from other states are
6 pending.

7 CIPP also provided information on this
8 project at the Major City Chiefs of Police meeting in
9 California last month. We will be developing short
10 information articles that local, regional, state and
11 national membership organizations of the target
12 audience can use in newsletters to get the word out
13 about PREA and lock-ups.

14 The fourth objective is for us to
15 develop materials to assist and operate lock-ups,
16 which is where training comes in. The materials
17 include training curriculum and a policy development
18 guide. To date, two programs have been designed and
19 have just been piloted in the state of Hawaii. These
20 are a two-hour long program for law enforcement
21 executives in agencies that operate lock-ups, and a
22 four-hour program for law enforcement managers,
23 supervisors, and line staff in agencies that operate
24 lock-ups.

25 Under development now is a policy

1 development guide, which will help agencies to triage,
2 revise, and write their own policy as it aligns with
3 PREA.

4 CIPP has developed these training
5 modules and the outline of this training includes: An
6 overview of PREA; a discussion of arrestee safety,
7 which includes policy and procedures; completing a
8 risk assessment of arrestees; assessing the physical
9 plant where they are held; operational practices that
10 are being used in these facilities; training of all
11 employees; and auditing and data reporting of
12 incidents. It also includes preventing staff sexual
13 misconduct and arrestee-on-arrestee sexual violence,
14 with a discussion of the unique dynamics of staff
15 sexual misconduct and sexual violence in the custodial
16 setting.

17 Specific policies and procedures on
18 this topic and specific training on these two issues:
19 It includes response to allegations of sexual violence
20 and staff sexual misconduct. The training is
21 extremely interactive and includes a process where
22 people who attend the training actually map the
23 investigative process, which tends to be a very
24 educational exercise.

25 We also have a large section about

1 investigating staff sexual misconduct for both first
2 responders and those completing the investigations.
3 Some of the topics included in this investigative
4 section also include criminal and administrative
5 investigations and how they relate to each other,
6 initiating investigations and managing investigations,
7 which also seems to be a very critical issue.

8 I just wanted to also say that even
9 though this training block does include some training
10 for -- about investigations of staff sexual misconduct
11 and sexual violence among arrestees, it in no way is
12 meant to train people how to be investigators. We do
13 have a list of resources that we will be including in
14 this training to refer folks to where there are some
15 excellent programs to actually become a trained
16 investigator, because there are many of them out
17 there. But this is not meant to create investigators,
18 it is meant to make people aware of what effective
19 investigations include.

20 Another section of the training
21 includes developing memorandums of understanding with
22 those agencies that would either conduct
23 investigations for those lock-up agencies or in
24 conjunction with them. Also, MOUs with sexual assault
25 treatment centers, medical prosecutors, and with the

1 prosecutor.

2 The last section is to assist agencies
3 in determining the added value of investigations to
4 their agency. Also, in development is this policy
5 development guide that will delineate elements of
6 policy to be included in any policy and procedure
7 practice related to sexual misconduct, sexual abuse,
8 and sexual assaults in lock-up. While this guide is
9 designed to guide agencies step by step in developing
10 your own policies and procedures, we are not
11 recommending simply the copying of another agency's
12 policy. We believe and we have learned from
13 experience that it is the communication between the
14 stakeholders as they develop this policy which
15 actually creates the buy-in and understanding
16 necessary for effective policies and procedures.

17 CIPP has previously collaborated with
18 the National Institute of Corrections to develop three
19 other policy development guides for prison, jails, and
20 community corrections on staff sexual misconduct.

21 We have some current findings based on
22 some of the work that we have completed. As we have
23 already said before, there is very limited current
24 data regarding the total number of police lock-ups in
25 the United States. The most recent BJS report

1 indicates that there are 12,666 local police
2 departments in the United States, whereas, we believe
3 the number is probably double that. However, from
4 that BJS report, approximately 26 of them indicate
5 that they do operate a police lock-up. One of the
6 issues with this is that the definition of lock-up
7 seems to be something that is under discussion by
8 these agencies and that there is really little
9 research into what that definition of lock-up is.

10 BJS reported that the median capacity
11 for adults in these agencies was four, and the median
12 total capacity for juveniles was two. Generally
13 speaking, law enforcement executives other than
14 sheriffs, and particularly those in small departments,
15 are basically unfamiliar with PREA. Of the two dozen
16 on-site visits that we have conducted so far for this
17 project, only one agency had even heard of PREA and
18 had no idea how it applied to their lock-up.

19 Perhaps the title of the law does not
20 catch their attention. This is one explanation that
21 we were given. Nor are they focusing on the lock-up
22 as a significant part of their overall operation.
23 That is one of the problems. Many law enforcement
24 agencies claim that they do not operate lock-ups in
25 when, in fact, we find that they do. They may have a

1 location to detain and question witnesses which they
2 do not consider lock-ups. Some law enforcement
3 executives have been under that PREA does not apply to
4 police and only to correctional agencies. We've also
5 found that the variety of lock-ups and their holding
6 facility, both in terms of size and time, is greatly
7 varying. Some lock-ups will hold individuals for as
8 much as 72 hours or more, some for an hour.

9 CIPP has also found to date that there
10 are challenges of operating short-term holding
11 facilities and that these differences, not only in
12 size and design, create a huge challenge. Some
13 lock-up facilities hold arrestees infrequently. In
14 fact, one lock-up facility indicated that they had two
15 cells which they used perhaps once a month. Whereas,
16 we conducted on-site visits with others who hold up to
17 a hundred people and keep the facility filled. Some
18 facilities only house a single. Some house hundreds.
19 Some facilities hold arrestees for less than one hour,
20 some for 72 or longer.

21 Organizations that operate court
22 holding facilities are generally unaware of PREA. In
23 many court holding facilities we found arrestees, who
24 may or may not have been screened by the arresting
25 agency, commingled with jail and prison inmates who

1 are appearing in court proceedings. The opportunities
2 for violence and misconduct in these facilities are
3 significant. In some courthouse holding facilities
4 designated as court lock-ups, arrestees are held for
5 many hours and, in some places, days. Rarely have we
6 found any training, policies and procedures specific
7 to the issue of sexual misconduct, sexual abuse, and
8 sexual assault in most organizations. Most agencies
9 tend to rely on policy language such as inappropriate
10 behavior, sexual harassment, or over familiarity to
11 cover behavior of a sexual nature, or they do not
12 specifically address the issue of sexual violence at
13 all.

14 Investigations are critical. With
15 training, we believe these to be the two most highly
16 important aspects. In many agencies, those conducting
17 investigations have had little training or experience
18 in basic sexual assault investigations, let alone
19 sexual assault investigations in custodial facilities.

20 Some of the additional considerations
21 for the Commission: We believe that there should be
22 an arrestee risk assessment. Agencies can gain
23 valuable information to prevent potential sexual abuse
24 and violence by conducting this basic risk assessment
25 at the time of arrest. While it is not practical to

1 use the full classification process used in
2 facilities, such as long-term jails and prisons, there
3 can be a basic risk assessment tool that provides
4 basic information concerning mental health, medical
5 needs, potential for violence, and to identify
6 particularly vulnerable persons.

7 In our work, we have identified only
8 one such risk assessment in existence, and it was with
9 the Detroit Police Department, the gentleman who
10 testified here.

11 We also recommend that there be a
12 standard for physical plant assessment, and along with
13 assessing risk of arrestees, we have developed a
14 checklist for agencies to assess the lock-up's
15 physical plant. The goal is to review hazards and
16 conditions that exist which can contribute to violence
17 or illegal activity. Along with periodic inspection
18 and assessment, the process for repairing physical
19 plant is needed.

20 Another issue is notification to
21 arrestees of their rights. Providing notification to
22 arrestees of their right to be protected from sexual
23 abuse and sexual violence may improve outcomes.
24 Again, while a full orientation for arrestees similar
25 to that conducted in jails is not practical, it is

1 important to provide some form, whether by posting or
2 other public notice, clearly visible and readable, in
3 lock-up facilities, which would also be available in
4 other languages and for those illiterate.

5 The reporting of allegations is a very
6 important key. Related to arrestee notification is
7 this issue of how arrestees are able to report their
8 allegations of sexual abuse and sexual violence. Due
9 to short-term stays in lock-ups, it appears that
10 agencies rely on plan to rely on verbal reporting of
11 allegations, and frequently these verbal reports to
12 staff in those lock-up facilities never goes beyond
13 that facility. They also rely on the same process by
14 which is a complaint would be made by the general
15 public to law enforcement.

16 Training, of course, is an important
17 issue. Mandatory immediate action when -- I'm sorry.
18 Mandatory training is recommended for all employees
19 who work within lock-ups. The training should address
20 the dynamics of sexual violence in an arrest or
21 custodial setting, along with the risk assessments
22 that we have discussed. It is also critical that
23 policies and procedures require immediate action when
24 allegations are received to prevent further
25 victimization.

1 Medical care is another issue which
2 should be included in training, and this is how staff
3 would be able to obtain medical care for arrestees and
4 specific policies and procedures that would require
5 this type of response. Basic care, fire inspections,
6 and other issues on policies and procedures requires
7 some attention.

8 I'm going to go ahead and just finish
9 that as a summary and let you ask questions if you
10 wish.

11 MR. GEORGE GOTSCHALK: Members of the
12 Commission, on behalf of IADLEST, I want to thank you
13 for including us in this. We want to be at the table
14 of as many things as we can that involve training.

15 My employment is with the Chief of
16 Standards and Training with the Virginia Department of
17 Criminal Justice Services. IADLEST is a national
18 organization comprised of people who do the things I
19 do among the 50 states.

20 The issue you are addressing is a
21 complicated issue, of which training personnel, as
22 you're aware, is only a part. From my previous
23 experience shortly in my career working at the
24 Richmond City Jail and the Richmond Sheriff's Office,
25 factors such as employee selection criteria, manpower