

1 then occurred, particularly right after that, when the
2 knowledge of the incidents that happened in our west
3 Texas facility, which has really been the major thing
4 that has caused the entire chain that we've had here.

5 Now, I will tell you that I had
6 legislation filed before any of that became known in
7 the general press that would have dealt with the
8 Inspector Generals and would have given us a Special
9 Prosecutors Unit and would have done a lot of the
10 other changes that Mr. Kimbrough is talking about.
11 But this has -- obviously, has highlighted the -- not
12 only the need for it, but especially the things that
13 we have to change. So we're still at the forefront of
14 a lot of those changes. A lot of the activities going
15 on, we're -- a lot of information that we might have,
16 I hope we can be of help to the Committee in anything
17 that we've got. So thank you all.

18 CHAIRMAN WALTON: Thank you very much
19 for your testimony and your good works.

20 Let me just ask. I know you're just --
21 you are not finished with your investigation of the
22 issue, but what are the things that you think were the
23 major breakdowns in the process that permitted this to
24 occur?

25 MR. JAY KIMBROUGH: I have often used

1 this phrase, "span of control." This is a big state,
2 260,000 square miles. And we have a headquarters in
3 Austin that was relatively isolated, units that were
4 five and 600 miles away that functioned as sole and
5 independent units, and there was no back and forth.
6 There was no check and balance. There was inadequate
7 staffing. But, frankly, had there been adequate
8 staffing and adequate technological survey equipment,
9 I'm not at all sure that the checks and balances and
10 the culture was as it should be.

11 But, clearly, for example, when the
12 youth sentences are extended, those papers and those
13 documents are all maintained out at that separate
14 facility, 13 lockups, nine halfway houses. They don't
15 all have the same policies and procedures and rules.
16 Headquarters did not have that -- and, in fact, I'm
17 seeking it right now and it's taken me a few days to
18 get it, here in Austin. So if you wanted to say three
19 or four or five, span of control is clearly a part of
20 it. But that is the nature of the system here in this
21 state because of the geography but, clearly, the
22 staffing issues and electronic surveillance equipment,
23 the investigative piece that Mr. -- Chairman Madden
24 has referred to, those things are key components
25 asking for a crash, and it did.

1 REPRESENTATIVE JERRY MADDEN: It was
2 obvious to me in looking at things back in June or
3 July of last year that this was a system, it was just
4 a matter of when it was going to happen unless we made
5 the changes we were looking at doing in legislation.
6 It was going to happen. It was a matter of when, not
7 if.

8 And the problems we saw -- and I think
9 Jay hit up on it. Not only was the geography there,
10 but there was also a compartmentalization within the
11 system, both -- both within the organization, there
12 was some very -- very much some vertical blockings
13 that were there. Blocks that were set up and not
14 communicated across each section. When I had staff
15 into my office, I will tell you, I thought that nobody
16 wanted to say anything because they were afraid of
17 going across the line and stepping on somebody else's
18 toes. So when that kind of system was in place,
19 that's a real danger.

20 Second of all, there appeared to be
21 compartmentalization at each individual location, in
22 that the location seemed to be its own little fiefdom
23 in many cases. They were totally different, and in
24 some cases they had to be. I mean, we have a facility
25 that's -- and it houses most of our intake youth. We

1 have another facility that has a lot of the mental
2 health issues that are there, so some of that is
3 clearly necessary. But some of the things were
4 just -- you know, why were there different procedures
5 on handling -- on handling any kind of -- oh, incident
6 reports, or handling any kind of guard problems, or
7 handling any kind of HR. I mean, the hiring was all
8 done locally. The procedures, in general, were all
9 written locally and each one was different. When you
10 have that -- you're bound to have a system that's
11 going to somewhere collapse on itself, and it did.

12 MR. JAY KIMBROUGH: It's almost like we
13 had 13 different TYCs, in many senses. And that was,
14 I'd say, part of the inevitability that the Chairman
15 has referred to.

16 COMMISSIONER AIKEN: Thank you so much
17 for appearing today. I just have two questions and
18 I'm going to be as quick as possible.

19 I don't know about the community, but
20 certainly in a confinement setting, perception is 98
21 percent of reality.

22 MR. JAY KIMBROUGH: Yes.

23 REPRESENTATIVE JERRY MADDEN:
24 Absolutely, sir.

25 COMMISSIONER AIKEN: And, you know, I

1 am looking at this from afar. And, Mr. Kimbrough, you
2 stated, warning wrongdoers, if you are part of this
3 gig, you need to move on, or we are going to find you
4 and prosecute you. The perception that I got, and I
5 need your response, is that if you are doing something
6 wrong, go ahead and resign now. But if you stay on
7 board, if you stay on board, we're going to catch you.

8 Are we sending this message, perception
9 out to staff and inmates that their way out is to
10 resign before we put you in jail?

11 MR. JAY KIMBROUGH: No, sir. Nobody is
12 going to accuse me of being soft on crime. You can
13 look at my resume.

14 COMMISSIONER AIKEN: And I'm not --

15 MR. JAY KIMBROUGH: But here is the --
16 here is the message that I'm trying to send. This is
17 a big state and it's going to take a while to complete
18 these investigations. I, frankly, am terrified with
19 the prospect that before I could get over a hundred
20 peace officers out over the state, which took me 72
21 hours, that before that we could commence and launch
22 1,099 investigations, which we now have, that somebody
23 out there in the dark around one of those corners has
24 been one of those actors. And so what I tried to send
25 a very clear message of to the majority of those

1 hardworking TYC employees, hang on. That was the rest
2 of my -- that was the first part of that quote there.
3 Hang on. Help is on the way.

4 And pardon my colloquialism in Texas,
5 but if you're a wrongdoer, if you're evil, get out,
6 because, sir, I do not want to have on my conscience
7 that they waited for us to find them. Because we're
8 going to find them anyway, and I would much rather
9 have them outside of that perimeter and catch them
10 there, than to leave them there, for fear that in 24
11 or 48 hours, they might harm another child. And if
12 that was an error in judgment, sir, that was at least
13 my strategy, thinking about the safety of the
14 children. Because I am confident in the inevitability
15 of successful identification of wrongdoers.

16 COMMISSIONER AIKEN: Could I make one
17 brief comment and with a -- with a brief follow-up
18 question.

19 In looking at your institutions and the
20 comment that was made that each facility seems like a
21 separate Department of Corrections, don't be surprised
22 when you find that the first shift is a separate
23 culture.

24 MR. JAY KIMBROUGH: Yes, sir.

25 COMMISSIONER AIKEN: The second shift

1 is a separate culture. Certain cellblocks have a
2 certain culture. And what the question I'm asking is,
3 I'm assuming, based on what I've read and your
4 testimony, that you are in a critical and unstable
5 condition right now. And what are those things that
6 you are checking every hour, every day? What are
7 those measurements that you are taking to ensure that
8 you are on the right track and that you are making
9 progress, or at least know if progress is not made?
10 What are empirical measurements that are you taking on
11 a daily basis to check the blood pressure and vital
12 signs of this situation?

13 MR. JAY KIMBROUGH: If I may, sir.
14 Stages. The very first stage was as I alluded to in
15 the 72 hours. The first thing I wanted to do was send
16 that signal, and, in fact, when I first met with
17 officers, they were going to go to three facilities.
18 And I said, "why three?" Well, that was the only
19 place they had had any reports. I said, "no, we want
20 to go to all 22 because we don't know what we don't
21 know."

22 So the first very thing that I wanted
23 to do was send across the state at the same hour, at
24 every location, these peace officers to begin asking
25 questions. And we've continued that presence

1 throughout, because we wanted to signal to the culture
2 of perhaps wrongdoers out there, we are going to be
3 absolutely engaged.

4 One of the other things that I had done
5 and other agencies in the past where there were
6 cultures of either fear of retaliation or slow to
7 respond was to institute a program that I called The
8 Agency Integrity Program -- it was actually borne of
9 Medicare fraud many, many years ago -- that placed
10 responsibility on people to move information forward,
11 assured them of their secured status in doing so, and
12 gave them multiple outlets in which to report,
13 including anonymous. I had every agency person sign
14 that document so that they would be fully aware, which
15 again sends them the signal that we are fully engaged
16 with these kind of things. We continue to have peace
17 officer presence at each one of these locations and,
18 as you can see by the volume of cases that have come
19 to us, that what we wanted was that culture of
20 communication so that we could determine what is going
21 on out there. And I believe the evidence, empirical
22 evidence is that 1,099 cases have now been opened,
23 which shows us that -- which shows potential
24 wrongdoers, we're out there, and we are here to stay.

25 COMMISSIONER AIKEN: Okay. Well, just

1 one quick follow-up.

2 This issue -- and I'm not saying Texas
3 has the corner on this market. Okay? But this issue
4 with you being here, with you being -- taking decisive
5 steps, is a direct relationship to what was in the
6 newspaper. When or what do you have planned so that
7 these type of issues are prevented and resolved and it
8 doesn't have to be chronic to the extent that we wait
9 until public media interest forces people to do
10 things?

11 MR. JAY KIMBROUGH: Exactly one of the
12 points that I have talked to staff about. Absent
13 check and balances, absent transparencies, absent
14 multiple and lateral reporting mechanisms, there is no
15 way to assure that. So we are creating and have
16 already created some of that. But I can assure you
17 that I understand that those checks and balances and
18 transparencies, and a breaking down of these silos is
19 a key part of this thing.

20 I worry about jurisdiction, for
21 example, to prosecute cases. I've been a prosecutor.
22 I've been a county attorney and a county judge. So if
23 there is a case out in far west Texas where a local
24 prosecutor either doesn't have the resources or, at
25 the worse, the interest to engage in a case, one of

1 the issues that we worked on is concurrent
2 jurisdiction for the Special Prosecution Unit of TDCJ
3 and/or the Attorney General of Texas to step in there
4 right quick and react. So those are the kinds of
5 checks and balances -- because I don't rely on one
6 check and balance. My theory is, generally, what can
7 go wrong probably will unless we build in those
8 multiple lateral checks and balances. Prosecution,
9 autonomy, and concurrent jurisdiction is one of those
10 elements, along with the independent investigatory
11 capability, along with -- for example, y'all might not
12 know. We have wardens or superintendents, if you
13 will, that have been at the same facility for over a
14 decade. That creates cultures and fiefdoms and shifts
15 differentials that you describe, and I understand that
16 process.

17 So one of the things that we'll
18 implementing is, four or five years rotating, just
19 like TDCJ does, for example. So I know that is a long
20 answer, perhaps too long, and I would certainly be
21 glad to have follow-up detailed conversation with you
22 or any member.

23 REPRESENTATIVE JERRY MADDEN: And if
24 it's proper, Commissioner, may I'll give a couple of
25 things on the legislative side, too, because there is

1 things we have to do on the laws of the State of Texas
2 to make some of the changes that we have. And we're
3 doing some of those things and we're moving very
4 rapidly on some of the others.

5 We identified in my committee about
6 five or six items. First of all, we are obviously in
7 the midst of a huge appropriations bill right now. In
8 fact, we'll be debating on the floor of our House on
9 Thursday. But we are putting emergency appropriations
10 money into the bill, or trying our best to, to get
11 additional funding for things like cameras, like
12 additional software, like additional overtime, that he
13 needs to do some of the immediate things that he has
14 to do.

15 Second of all, we're looking at
16 legislative changes that changes, for example, the
17 prosecutorial status that are there, so that we have
18 this Special Prosecutors Unit that is specifically
19 available not just to Texas Department of Criminal
20 Justice, but also to the Texas Youth Commission, that
21 can be used by the local prosecutors as funded by the
22 State, so that it helps those smaller particular rural
23 areas get additional funding that they may need in
24 case there is some difficulty with the prosecutor in
25 thinking he doesn't have funds in moving to prosecute

1 the case.

2 We talked about some in here of the
3 various allegations we've had of rape in our TDCJ, and
4 while they don't all get successfully prosecuted, at
5 least there is a mechanism there to do those things,
6 which at TYC we didn't have. That was a critical
7 failure in the west Texas situation, because we had an
8 attorney -- a district attorney who had a case back
9 in -- as early as June of 2005, and it went to the
10 grand jury when we got the attorney generals in it
11 last week. So it's been way too long to prosecute a
12 case like that.

13 We also have several other things that
14 we're looking at for concurrent jurisdiction, possibly
15 either for our Attorney General or for one of our
16 other prosecutors to do things there. We're looking
17 at ombudsmen, we're looking at victims advocacy groups
18 and having them more in the system, we're looking at
19 major changes in the staffing ratios and the overtime
20 policies, and the ages of the youth. We have youth in
21 there from ages 10 to 20, because 21 is our cut-off
22 limit. We're looking at restrictions on that. We
23 have misdemeanants in our Texas Youth Commission along
24 with felony convictions. And we're looking at, can
25 we, you know, take out the misdemeanants. Can we take

1 out the older kids. How do we segregate them and put
2 them in the proper location so that they're safe
3 within the facilities. Those are types of things
4 legislatively that, I will tell you, my committee is
5 working at and working very hard on to get some
6 legislation out.

7 As you know, the legislative process is
8 not quite as rapid as we would like some of the other
9 things to do, but it's intended to be. I mean, it's
10 intended to be a much more deliberative body and we're
11 trying to move all with deliberate haste to make major
12 changes in the legislation as far as backing or
13 supporting the things at the Texas Youth Commission,
14 and the TDCJ, by the way, too.

15 COMMISSIONER AIKEN: Just in closing,
16 and then I will give it up. Perception is 98 percent
17 of reality. Please be careful what you say, because
18 it creates a value.

19 And, number two, don't make the mistake
20 of shooting, aiming, and then get ready. Don't shoot
21 first, aim later, and then get ready later than that,
22 because what you do is just pour resource -- pour
23 things on it and we've still got a problem.

24 CHAIRMAN WALTON: Commissioner Smith.

25 COMMISSIONER SMITH: I actually have --

1 I actually have several questions, and I want to ask
2 them because I have to leave at 2:00, and I understand
3 you have to leave as well.

4 MR. JAY KIMBROUGH: Yes, ma'am.

5 COMMISSIONER SMITH: Okay. At 1:50.

6 One is, there has been a huge amount of
7 attention on this issue. And one of the things that I
8 am interested in -- I have two questions and I'll
9 limit it to this.

10 One is, what is being done with youth
11 and staff in those facilities to debrief about this
12 and to bring in appropriate services? Because this is
13 something that has gone on. There has been a fair
14 amount of denial. There have been lack of both
15 medical services and mental health services, and so
16 it's important that there is debriefing and also that
17 there is long term -- there is long-term care for not
18 only the kids to report, but for other people who
19 witnessed and who were in that system, so --

20 MR. JAY KIMBROUGH: On that -- on that
21 very piece, Friday I met with friends and colleagues
22 from the ACLU, the Texas NAACP, and LULAC, as well as
23 others, and one of the things that you'll hear more
24 about this week -- it's a little premature, but I did
25 talk about it a little bit Friday -- is the very point

1 that you're raising. Every youth who is in the system
2 now or who is on parole, we're going to offer them the
3 opportunity, from an independent source, not TYC staff
4 but from an independent source, to come forward.
5 We'll go to them. They don't have to come to Austin.
6 You know, we'll have counselors available for them,
7 those who might have traumatized by anything that's
8 occurred in that system, the very counseling service
9 that you're describing is one of those things that, in
10 collaboration with these other groups, that we've come
11 forward with and that will be rolling out details this
12 week as we speak, in fact. So that is a very
13 important piece that we recognize and we're going to
14 fulfill that responsibility.

15 This, again, is one of those things
16 that we don't know what we don't know. So throughout
17 this state, we want to make those services available
18 because some youth may come forward that might not
19 otherwise have come forward but for us making that
20 affirmative outreach and making it available to them.
21 For fear that they may have some concern about it
22 related to a TYC staff even, we will have an
23 independent party who can help them in that regard.

24 COMMISSIONER SMITH: And I guess the --
25 okay.

1 COMMISSIONER FELLNER: The question is,
2 are you making those services available to kids? Not
3 just those that are there now, but what if a kid was
4 there last year and was raped or witnessed a rape?

5 MR. JAY KIMBROUGH: The very first
6 thing that we're doing is -- in the order of triage,
7 if you will, the first thing is, youths that are in
8 the system now. Second, youths are presently on
9 parole. Then we will continue to move forward as
10 resources and identification allows. But it's a very
11 good point. It's one that keeps me up late at night,
12 that they might have been off parole six months, but
13 they still may be traumatized.

14 REPRESENTATIVE JERRY MADDEN: We've got
15 them even searching the system right now for people at
16 our adult facilities that may have been at these
17 locations.

18 COMMISSIONER SMITH: And we know that
19 often people do not report --

20 REPRESENTATIVE JERRY MADDEN:
21 Absolutely.

22 COMMISSIONER SMITH: -- these incidents
23 until much longer --

24 MR. JAY KIMBROUGH: And that's why we
25 want to seek out. It's a point that we're very

1 conscious of --

2 REPRESENTATIVE JERRY MADDEN: We have
3 looked for them all.

4 CHAIRMAN WALTON: One other question.

5 COMMISSIONER SMITH: The other question
6 that I want to ask -- and most of these are
7 follow-ups, actually, from our panel earlier, before
8 lunch.

9 Mr. Kimbrough, I understand that there
10 has been some question -- and it's great that the
11 Representative is here as well -- about your
12 authority. I mean, so what is your long-term
13 authority and your authority to make change and to
14 have it followed? I mean, what commitments have been
15 made to you and what commitments do you need to have?

16 MR. JAY KIMBROUGH: One of the things
17 about change that follows, let me tell you, having
18 been an agency head myself, I understand that so many
19 of the things that we're talking about here could be
20 done administratively, without legislation. I have
21 not advocated that. I have advocated to the chairman
22 and to Senator Hinojosa, for example, who has a big
23 omnibus bill with relation to these things, that so
24 many of these things that we sit around and talk about
25 will be implemented administratively; codify it, so

1 that it is the law and the expression of the
2 legislature. And then there is clear accountability
3 back to the legislature. So when people that are in
4 transition, such as me and others that -- as we move
5 out of the picture, the legislature has codified these
6 new changes even -- albeit it they could have been
7 done before, don't rely on that. Codify them and so
8 there will be continuing accountability.

9 REPRESENTATIVE JERRY MADDEN: And we
10 actually very much concur with what Jay has just said.
11 That we are doing our best to codify any of these
12 changes coming along, because there is no permanency,
13 obviously, in any of us. Although, as chairman of the
14 committee, what we -- what we will do is put it into
15 the laws of the State of Texas, and once it's there,
16 then at least until the next legislature meets in two
17 years, it will be the law of the State of Texas. And
18 we expect it to be implemented.

19 And we are -- we do have one piece of
20 legislation that we've got, which is new, which is
21 going to set up a legislative oversight committee that
22 is going to operate not just while we're in session,
23 but for the other, basically, year and a half that
24 we're not in session, which will be probably three
25 members of the House and three members of the Senate.

1 Probably made up of the Senate Criminal Justice
2 Committee chairman and probably the Senate Finance
3 Committee and one other and probably, in the House,
4 it'll be House Criminal Justice and House Corrections.
5 So there will be three of us, probably, from each side
6 that will be in an oversight role as part of the
7 Sunset Bill that we're doing on the Texas Department
8 of Criminal Justice. But it's broad enough that it
9 includes all criminal justice agencies, so that would
10 be the Youth Commission, we would have an actually
11 sitting oversight -- legislative oversight committee
12 to be looking at the whole situation, too.

13 MR. JAY KIMBROUGH: May I speak to my
14 authority? That authority question you had?

15 COMMISSIONER SMITH: Yeah.

16 MR. JAY KIMBROUGH: I'm a member of the
17 Executive Branch, and the Chief Executive has asked me
18 to help deal with an Executive Branch agency. And he
19 has asked other agencies for us to cooperate together
20 and we're doing that. And I will tell you in all
21 honesty what I consider myself to be. An advocate, an
22 advocate for the youth that are in these facilities
23 that may have been either treated wrongly, abused, or
24 who now are being held for some arbitrary and
25 capricious and unjustified manner. I'm an advocate,

1 I'm a spokesperson. I believe in the urgency and the
2 need for this mission. Otherwise, I would be
3 somewhere else in what my other duty assignment was.

4 So, frankly, I consider myself as
5 spokesperson and an advocate, a facilitator, and a
6 coordinator, and I think the evidence is that we have
7 worked well together out in the field. And --

8 REPRESENTATIVE JERRY MADDEN: Even
9 before that, Jay, it should be pointed out when --
10 even before the order had gone out, even before our
11 Audit Committee had declared the emergency situation
12 that it did, there were some of us that were working
13 on it. We had -- my office had asked the Texas
14 Department of Criminal Justice, made sure they had
15 people available that if we needed people to go out on
16 the site immediately, would they be available, that we
17 would have the staffing and the support that we would
18 need to do the kinds of things that we would have to
19 do quickly. And I will tell you, we got the approval
20 from those people even before the Governor got the
21 okay to go ahead and start the process. And that we
22 had organized a meeting, which Jay was at, which
23 Mr. Ed Owens, our executive -- new Executive Director
24 was at, and others were physically at within 48 hours
25 of the original finding. And they were organizing to

1 be preparing to go start out and start doing the stuff
2 that we were doing very early that next week.

3 CHAIRMAN WALTON: Commissioner Fellner.

4 COMMISSIONER FELLNER: I appreciate
5 both of your being here. I had one very brief
6 question, which is, I assume everything you've said
7 you're doing for TYC includes also private facilities
8 with whom TYC has contracted? I just wanted --

9 MR. JAY KIMBROUGH: Yes, ma'am.

10 COMMISSIONER FELLNER: Okay. You
11 mentioned, Mr. Madden, a couple of times, you know,
12 before this situation broke or fell in or collapsed.

13 REPRESENTATIVE JERRY MADDEN: Right.

14 COMMISSIONER FELLNER: This is a
15 situation, as best I know, and I've been hearing about
16 sexual abuse in TYC since 1998. And it probably --
17 it's been around for a long time. Just as

18 Commissioner Aiken pointed out, it didn't get to the
19 press. So I'm particularly interested not just in
20 what steps you're taking now to respond to prior
21 wrongdoing, but the steps that are being put in place
22 to prevent future and to really change the culture.

23 So one of the questions I have has to
24 do specifically with training. It is my understanding
25 that many, many TYC employees did not have appropriate

1 training or background to be working with troubled
2 kids, so I wanted you to -- and I'll just tell you the
3 two things I would like you to address -- or three.

4 Second, use of force standards that not
5 only do you have rampant sexual abuse, it would seem,
6 but you have rampant abuse and violence, both inmate
7 on inmate and staff on inmate, whether or not it has a
8 sexual connotation. And that staff are using
9 excessive force, even if some force is permitted,
10 they're using excessively force. And our experience
11 is that when staff are using excessive force, you're
12 also going to find a lot of other problems that sort
13 of come with systems that are not being well managed.

14 So I wondered if you could address
15 training, what you're doing about use of force and
16 violence -- you know, violence by staff, excessive
17 violence and, finally, oversight. It's fine to have
18 congressional committees, but they have other jobs.
19 This is not full-time professional oversight. So I
20 wish if you could address what provisions you're going
21 to make for full, transparent, professional,
22 independent oversight that will have -- whether or not
23 it will have full-time access anytime, like you're
24 showing up at 6:00 a.m. or whatever, so that you have
25 a mechanism for prevention that is far going longer

1 than your -- perhaps your term.

2 MR. JAY KIMBROUGH: On that last
3 question first. Senator Hinojosa's omnibus bill has
4 many, many of those -- and it just would take too long
5 to go through them all, but let me tell you that
6 that's a -- that's a long list of things that I
7 believe will provide transparency and as I have talked
8 about these checks and balances. If I could --

9 REPRESENTATIVE JERRY MADDEN: And since
10 Senator Hinojosa has been asked me to be the House
11 sponsor on it, I think we'll --

12 MR. JAY KIMBROUGH: That looks good.
13 And as to training, for example, I
14 myself -- again, based on my own background -- was
15 surprised, there is no certification of juvenile
16 correction officers. They just have this local
17 training, if you will, that is these individual silos
18 that we spoke about. The Commission on Jail Standards
19 certifies correctional officers for county jails and
20 for TDCJ. There must be a standard curriculum that is
21 statewide, not one in west Texas and not one in east
22 Texas. There must be a standard curriculum that must
23 be certified by a state agency, which is, again --
24 yet, again, one of your other outside checks and
25 balances. A peace officer, for example, may work for

1 DPS, but his or her commission is carried by another
2 agency, the Texas Commission on Law Enforcement
3 Officer Standards and Education, TCLEOSE. Okay? So
4 that is yet again one of those checks and balances.

5 But when you talk about the absence of
6 that fundamental training, standard, and
7 certification, by definition then you get the problems
8 of consistency of use of force, et cetera, et cetera.
9 And you are right on it, and that's exactly what we
10 are right on.

11 REPRESENTATIVE JERRY MADDEN: That was
12 one of the flags obviously we saw early, was they had
13 about 40 hours of training when they went online. I
14 got one report that they just did down at one of the
15 facilities, down at the Evans facility, which
16 indicated they met with their new -- basically, their
17 Inspector General's people down there and they
18 reported that, well, two people that were there, last
19 time they were down they were gone. Both of these
20 other people, though, have been employed since
21 February of 2007 in the positions, and that they had
22 had an additional eight hours of training beyond their
23 40. And we wonder why we aren't getting kind of
24 consistency. And that's one of the things we are
25 demanding of the process is that they're going to have

1 to expand greatly the amount of training hours.

2 Now, you know, as a legislator, I
3 always get a little scared when I start saying, 200
4 hours of training or 300 hours of training. It's far
5 better to have 120 hours of really quality training
6 and then 200 hours of just fluff. So I want to make
7 sure I've got good training in there. But one of the
8 requirements we're looking at is specifics on the
9 training. So there will be training time.

10 COMMISSIONER FELLNER: And my final --
11 I guess one of my final quick question, or maybe --
12 and you can maybe say more in writing to us.

13 You could see this -- what's been
14 happening as not just a system in crisis, but it could
15 trigger a whole rethinking of the system. Facilities
16 like you operate, even with the best training, even
17 with supervision, checks and balances, by their very
18 nature, they lend themselves to abuse. It's just
19 inherent in that nature.

20 Is Texas looking at, is it going to be
21 looking at and considering seriously other models for
22 responding to the needs of the youth that are
23 currently being put in these facilities? Whether it
24 be the Missouri model or --

25 REPRESENTATIVE JERRY MADDEN: We

1 have -- very seriously, we've had the Missouri people
2 down here looking at our things. The problem,
3 obviously, you have there is buy-in by your local
4 officials. I mean, that was part of the thing that
5 they had to have in the systems that they had in
6 Missouri. We've had, at my request, Mr. Tom Stickrath
7 is down here. He is the Ohio Youth Commission
8 Executive Director. He is down here as our consultant
9 right now because -- I met Tom on the Council of State
10 Governments, which I'm on also, and on their executive
11 committee dealing with criminal justice issues. And I
12 met had Tom there and brought him down and recommended
13 him to the Governor's Office. I said, get Tom down
14 here. He would be a great resource because he has
15 gone through a lot of things that we have. So we've
16 got a lot of information going on out there. We're
17 trying to gather as much as we can. So this is an
18 engineer. He is going to gather as much information
19 as he can and just keep piling it in, because we need
20 more.

21 MR. JAY KIMBROUGH: The very entry into
22 the system, absolutely. That has to be closely
23 reviewed --

24 COMMISSIONER FELLNER: I'm sorry.
25 What --

1 MR. JAY KIMBROUGH: Entry into the
2 system in the first place, a very key element. Again,
3 addressed by Senator Hinojosa and Chairman Madden's
4 look here, that is a very key piece. That has changed
5 somewhat over the last decade, and so I'm pleased that
6 will be revisited.

7 CHAIRMAN WALTON: Commissioner Nolan.

8 COMMISSIONER NOLAN: In an interest of
9 time, I'll just make three points and then let you
10 respond.

11 First of all, by way of background. In
12 my day job, I'm with Prison Fellowship and we try to
13 meet the needs of inmates and their families and the
14 communities to which they return.

15 My life prior to that, I was a member
16 of the legislature in California. I was Republican
17 leader of the State Assembly, the minority party for
18 the 15 years I also in there. And I also went to
19 prison for two years as part of an FBI sting on
20 campaign contributions. So I've had a chance to see
21 it from all sides.

22 The first is, to follow up on
23 Commissioner Fellner's point, in revisioning the
24 system, it's important that you set the goal right.
25 And I'll just tell a little quick story. One of my

1 buddies in the legislature is a Democrat, and when he
2 became Chairman of the Senate Judiciary Committee, he
3 changed the name to the Committee on Public Safety.
4 And I said, Johnny, that's typical liberal nonsense.
5 You know, who cares what the name of the committee is.

6 And he said, no, Pat. It's really
7 important, because if we call it the Committee on
8 Judiciary, we'll view it as our job to build strong
9 judicial institutions. He said, that's good, but
10 that's not why we have those institutions. We have to
11 institutions to keep the public safe and we need to
12 set everybody's eyes on public safety as the goal of
13 these institutions. The institutions don't exist as
14 an end in themselves.

15 And your purpose in restructuring
16 things, this awful tragedy may be an incentive to get
17 locals to say, we do need to change. One of the
18 things to do is to get them to focus on, we don't need
19 stronger institutions. That may be one of the things,
20 but more important, we need institutions that result
21 in the people that return healthy, able to lead
22 contributing, law abiding lives. And if what happens
23 inside further abuses them, the public is less safe,
24 not more safe.

25 The second point is, it's not just the

1 system that's broken, people have been broken by this.
2 And I really applaud your efforts to go after and
3 prosecute those that have done these awful, awful
4 crimes. And then, from what we can see, tried to
5 cover it up. But also real care needs to be done to
6 think about the individuals in the institutions, even
7 those that have not been directly assaulted. I think
8 a community meeting in which it was acknowledged that
9 this is going to -- the Rohr inmate river mill is
10 very -- it's always going. If you get ahead of the
11 curve and have a community explain, this is what is
12 going on, this is what we're doing, that will reassure
13 them. And reassure them that their protection is your
14 top priority, and that the whole state of Texas --
15 now, and it's obvious that it is -- the whole state of
16 Texas is focused on protecting them. That will
17 reassure them. It'll calm them down.

18 But the second thing is, that in the
19 long term they need mental health, not just short
20 visits, they need follow up. If they're going to be
21 productive, contributing, healthy, law-abiding
22 citizens, the scars that have been left by this, even
23 just witnessing, even hearing somebody raped while
24 you're in prison, you know, you -- you weren't
25 physically assaulted. The scars that that leaves on

1 you are there with you forever.

2 Also, and I applaud you for looking at
3 those that have been held so long and maybe
4 considering releasing them. But for those that don't
5 have a home, don't hold them longer, but let's put an
6 individual plan together, how we can place them in an
7 appropriate setting that is not locked, and that there
8 be follow up.

9 And then the last thing is, at-risk
10 people need relationships far more than programs.
11 They need programs but they need healthy
12 relationships. They're like overdrawn checkbooks, you
13 have to make deposit after deposit after deposit
14 before you see any positive balance. And I would hope
15 that as part of your plan on helping these youngsters
16 transition, that you would engage the faith community.
17 And there aren't enough employees in Texas, the TYC,
18 and there is not enough money in the budget to hire
19 people to help them. But there are people of good
20 conscience in the faith -- and just in the community
21 that care about these youngsters. Train them as
22 mentors to help walk with them, to help through the
23 rocky stage that -- this is not going to be over in a
24 month, it's not going to be over in six months. The
25 nightmares will continue. The fears will continue.

1 And so I would hope that, you know, you would engage
2 the faith community in that.

3 And then, lastly, in thinking about
4 prisons, one of the rubrics we use is that prisons are
5 for people we're afraid of, but we've filled them with
6 people we're mad at. And if you look at the
7 youngsters under control at TYC, my hunch is, a lot of
8 them, we're just mad at. And there are other ways
9 than putting them in a secure facility, at risk of
10 abuse, no matter what steps we take.

11 REPRESENTATIVE JERRY MADDEN: You would
12 be shocked to hear how many of them, they said, the
13 community just got -- had them over and over and over
14 again and just probably couldn't do anything else.

15 COMMISSIONER NOLAN: Yeah. Those are
16 my points.

17 CHAIRMAN WALTON: Commissioner Kaneb.

18 COMMISSIONER KANEB: Gentlemen,
19 particular, Chairman Madden, this Commission and I in
20 particular, I think, I have -- have hoped that Texas
21 could be an example of how to move from a bad place to
22 a really good place. And this blow up is terrible and
23 there's a lot of blood spilled and you can't clean it
24 all up and all that stuff, but you're going to --
25 you're going to, I'm sure, come out with a much better

1 Texas Youth Commission.

2 What I would like to focus on in my
3 brief time is to tell you that we would like to work
4 with you, your counterpart, Senator Whitmire, is it?

5 REPRESENTATIVE JERRY MADDEN: Yes,
6 that's correct.

7 COMMISSIONER KANEB: And senior
8 officers of the Texas Criminal Justice system. We --
9 Doug Dretke, I believe, testified for us in Miami; we
10 had Gina DeBottis in Detroit. I understand
11 Mr. Dretke's successor is testifying right after you.

12 REPRESENTATIVE JERRY MADDEN: I believe
13 that's correct. Gina is here also, I know.

14 COMMISSIONER KANEB: We -- we would
15 benefit and we think the rest of the United States
16 would benefit if you would work with us in developing
17 our report and our standards that we have to come up
18 with. You have the credibility, being a very large
19 state, you have the credibility of having admitted
20 that you weren't doing well. My belief is -- and I
21 don't know this -- that some of the statistics showing
22 vastly increased reports of prison sexual violence is
23 because you're paying attention to it, not so much
24 because it's -- things are really worse.

25 But there is a whole problem of

1 taking -- and I'm now talking about your adult
2 system -- taking what -- to be what some of our
3 Commissioners have said, what really looks good on
4 paper and -- and you know this, you have got to make
5 it work, and that's peeling away layers of
6 indifference or bad behavior. We think you're very
7 much on the right track. We --

8 MR. JAY KIMBROUGH: Thank you.

9 COMMISSIONER KANEB: We hope we can
10 work with you, and we would like to be in touch with
11 you, as we move into our next phase. This may be the
12 last hearing we're going to do of this type, sort of
13 general public hearing on what is going on in a big
14 state. We spent time in California, we spent time in
15 Florida, and here we are in the Lone Star State of
16 Texas. A state I love, by the way, even though I'm
17 from Boston. And that's it. We would like to do.

18 REPRESENTATIVE JERRY MADDEN: John, I
19 would be, first of all, honored to do that and work
20 with y'all. Second of all, my up wife is from upstate
21 New York, so she's not too far from up there, and I
22 met her while I was up there at school.

23 COMMISSIONER KANEB: But she might be a
24 Yankee fan.

25 REPRESENTATIVE JERRY MADDEN: Well, I

1 was born in Iowa. Well, actually -- actually, she's
2 just not a baseball fan at all. Okay? And I was born
3 and raised in Iowa, so I'm somewhat of a Yankee
4 transplant here too.

5 But I need to comment a little bit
6 about what Pat was asking about, because, you know,
7 I'm the conservative Republican my friend, Senator
8 Whitmire is not a Republican. And -- and the really
9 interesting part about doing all this stuff is, when I
10 started working on the criminal justice stuff two
11 years ago, I quickly realized that whether the people
12 were coming in and were talking to me of liberal
13 advocacy groups or conservative interest groups or
14 conservative think tanks, that they were saying a lot
15 of the same things. That they were -- were saying, we
16 agree on an awful lot. And while there is a few
17 things we may disagree on, that there is a vast
18 majority of these things that, say, good public policy
19 is smart public policy and good things to do it that
20 are dealing with the system are also good things that
21 are dealing with the individuals that are within that
22 system.

23 And -- and so part of the interesting
24 challenge when I had a failed piece of legislation
25 that my Governor gave me one vote short of last

1 session on probation, that I learned, was to put those
2 groups together and to work on them in the interim.
3 And Pat has not heard my speech, but you certainly
4 sound like you were giving it there, of what I believe
5 in as far as the things that we can do to make a huge
6 difference in our community.

7 I've got four pieces of legislation
8 that I'm doing to start with, with nurses, with
9 mothers who are 26 weeks pregnant or less, as part of
10 the picture, how do we change the society, up to a
11 lady who does a prison entrepreneurship program, which
12 you may be aware of here in Texas, that takes people
13 coming out of prison to get them back to jobs and how
14 can we make a difference in our community throughout
15 all of it. So that whole ties that we have are
16 extremely important that we put those things together.
17 And I would be certainly, John, more than honored to
18 work with y'all.

19 COMMISSIONER KANEB: Thank you.

20 CHAIRMAN WALTON: We appreciate you
21 being here. I know you have another commitment. But
22 the State of Texas is fortunate to have you serving.
23 Thank you.

24 REPRESENTATIVE JERRY MADDEN: Thank
25 you, Mr. Chairman.