

1 also hear from Richard Stalder from the state of
2 Louisiana and also Mr. Joseph Oxley from the state
3 of New Jersey.

4 Would the four of you please stand and take
5 the oath?

6 (Panel sworn)

7 THE CHAIRMAN: I assume we'll proceed in
8 the order in which you appear on the agenda. Mr.
9 Horn.

10 EFFECTIVE MANAGEMENT: THE CORRECTIONS OVERVIEW

11 MR. HORN: Good morning. Chairman, it's
12 a privilege for me to be here this morning
13 representing the American Correctional Association
14 and I do want to acknowledge the presence in the
15 room of our president, Gwendolyn Chunn.

16 Let us begin by agreeing on one simple thing.
17 That is that sexual assault in prisoner's jail is a
18 violent crime and it is devastating to its victim.
19 That's something we all agree on.

20 You mentioned in your opening remarks about
21 obtaining our buy. We are hopeful today that we
22 will be able to obtain your buy-in as well.

1 Because we take a back seat to no one as a
2 profession in our performance of prison rape and
3 sexual assault, we take seriously our daily morale
4 and legal responsibility for the men and women who
5 are committed to our custody. Our policies, our
6 standards, the activities of our professional
7 organizations, reflect our commitment to keeping
8 our prisons and our jails safe.

9 You have a historic opportunity, an
10 opportunity to support those efforts. We ask you
11 to help us by promoting adoption throughout the
12 nation of stands and practices that are, in fact,
13 best and which reflect and incorporate the
14 standards and policies of our professional
15 organizations.

16 You can urge the state and federal governments
17 to commit the resources, the money, necessary to
18 operate prisons and jails in accordance with these
19 standards and practices. Most importantly, you can
20 help us to engage in a constructive and meaningful
21 dialogue with the American people about the culture
22 of prisons and jails we operate in our democratic

1 society.

2 It's all about the culture. Only a culture
3 that respects all incarcerated individuals as
4 persons with rights, as our community's children,
5 as our neighbors, temporarily confined will afford
6 the level of protection that we see. No laws, no
7 rules, are a substitute for a healthy culture.

8 As you consider the issue of prison rape, we
9 urge you to distinguish what we think we know, what
10 the media may have sold us, from what we truly
11 know. As Congress aptly noted in your enabling
12 statute, much is unknown about the extent and the
13 nature of this problem. And this is particularly
14 true for jail systems. There has been precious
15 little research down.

16 Jails tend to be smaller in rural areas, not
17 as well funded. It's an area of serious concern.

18 We ask you to consider the harm that it does
19 to allow the media to perpetuate the stereotype of
20 inmates and to demonize them. Important as it is
21 that we put the frequency and prevalence of prison
22 rape and sexual assault in perspective, in the

1 final analysis, it doesn't matter. Even one
2 instant is an incident too many.

3 Collectively, our organizations, the agencies
4 we represent, have zero tolerance for all violence,
5 including sexual assault. We know what we have to
6 do and we ask you to support it.

7 First of all, let me say this: The best way
8 to reduce the incidents of sexual assault and
9 prison rape is to reduce the number of people in
10 prisons and jails. If your commission fails to say
11 that, it will be a deafening silence. Elected
12 officials have to bear responsibility for the
13 sentencing practices, the sentencing laws, and the
14 budgetary decisions that they make.

15 That said, we. Prison managers, know what to
16 do. We know we need to identify and monitor those
17 who would be predators and we know too that we
18 must, on occasion, isolate them from others. We
19 ask you to recognize this reality. There are
20 inmates who are predatory, who by virtue of their
21 behavior forfeit their right to live among other
22 inmates. It's difficult to manage.

1 We have to figure out good ways to manage it,
2 but we have to recognize that truth. We have an
3 obligation to the greater number of inmates and we
4 can't allow our concern for the single predatory
5 inmate to overwhelm our obligation to the vast
6 majority of inmates.

7 We must have sufficient capacity to ensure
8 that inmates are going to be housed at their
9 appropriate classification level, that the
10 architecture of prisons and jails we manage ensures
11 good observation and control. We must make
12 protective custody available for the most
13 vulnerable inmates, but only when all other choices
14 fail to do the job.

15 We must house adolescents and adults
16 separately. We must pay attention to the unique
17 challenges faced by transgender inmates. We must
18 develop thoughtful ways to provide custody for them
19 that is not more oppressive than the general
20 restraints of imprisonment, and we need help
21 figuring that out.

22 We must provide better for the needs of the

1 mentally ill. Today, close to 20 percent of the
2 inmates in prisons and jails have a significant
3 mental illness. This is not about stigmatizing the
4 mentally ill. The decisions that have led to the
5 policies that create this situation are beyond our
6 control and call for the creation of community base
7 safety nets for the mentally ill and legal
8 provisions to ensure that when a mentally ill
9 person violates the law, the law takes cognizance
10 of their condition and responds in a thoughtful
11 way. No one wants that more than we.

12 The experience of in prison must be especially
13 cruel to a person who is mentally ill. Nobody
14 likes double selling, certainly we don't, but we
15 must be given sufficient resources to end the
16 practice.

17 Legislators who enact criminal statutes and
18 sentencing laws must provide the necessary funding
19 to go with it if we are to be successful and your
20 commission must say that. Inmates should be
21 offered meaningful orientation upon entry to
22 prison, orientation designed to encourage reporting

1 a sexual assault or sexual abuse by staff.

2 This is an area where resource needs to be
3 done to determine what works to reduce under
4 reporting and we ask your support for initiatives
5 of this type. Prisons and jails should provide
6 multiple avenues for inmates to report assaults.

7 Every allegation should be investigated
8 properly and comprehensively. Prisons and jails
9 should have policies that impose on staff the duty,
10 the duty, to report any information regarding
11 sexual assault or abuse with special procedures to
12 ensure that independent parties outside the prison
13 or jail investigate allegations against staff.

14 There should be written protocols for the
15 creation of crime scenes and the preservation of
16 physical evidence. Staff must be better trained in
17 investigating and reporting allegations. Inmates
18 complaining of sexual assault should be referred to
19 medical and mental health clinicians and where
20 appropriate, rape kits should be promptly
21 administered by specially trained medical staff.

22 This takes time, this takes staff, and this

1 takes money. And you must ask Congress to provide
2 it.

3 We have to vigorously enforce the law. And
4 when assaults occur, we must ensure they are
5 prosecuted when substantiated. To do this, we need
6 the enthusiastic support of prosecutors' offices
7 wherever prisons and jails are located.

8 We urge you to call upon prosecutors to take
9 these allegations seriously when they occur and
10 prosecute vigorously when they can. Unfortunately,
11 it has been my experience that local prosecutors in
12 jurisdictions where prisons are located are
13 overburdened and choose not to prosecute crimes
14 when committed behind bars by individuals already
15 serving a long sentence. This sends the wrong
16 message and financial support must be provided to
17 ensure local prosecutors are not overwhelmed by the
18 presence of prisons in their communities and can
19 assist us when we bring these cases to them.

20 We all need to become better in investigating
21 allegations. We know there are too many cases
22 unsubstantiated cases and we have to learn how to

1 reduce that number. We ask you to examine what can
2 be done when there are no witnesses and no physical
3 evidence of a rape or where an inmate won't name
4 his or her assailant.

5 The statutes of every state must be clear.
6 Inmates have no capacity to consent. Any sexual
7 contact between a staff member, uniform or
8 civilian, volunteer or contractor and an inmate
9 must be made illegal. We urge to support
10 legislation necessary to accomplish this.

11 Our professional standards support these
12 policies and practices. Can they be improved?
13 Certainly. We are continuing to revise them. Our
14 standards also call for sound and sufficient
15 training, continuing inservice training for staff.
16 To achieve this, our organizations require more
17 than the eager willingness of ourselves. It
18 requires the financial support only elected
19 officials can give. We look forward to your
20 support for that funding.

21 More than any other institution in society,
22 prisons are proof of the observation that

1 Government rules by consent of the Government. On
2 any given day, in every prison and jail in this
3 country, the inmates outnumber the officers
4 watching them by a significant order of magnitude.
5 Yet each day we are able to obtain the cooperation
6 of inmates, and most jails and prisons operate
7 smoothly.

8 We are able to do this because the inmates, by
9 their cooperation, vest us with legitimacy. We
10 earn that legitimacy by operating prisons in a fair
11 manner and by keeping inmates safe. When inmates
12 feel unsafe, they let us know it. If prisons and
13 jails were profoundly unsafe, if inmates were
14 regularly subject to rape and assault, there would
15 be signs. It would be reflected in other measures
16 of institutional violence. It would be reflected
17 in medical records. Yet, all the data points to
18 the inescapable conclusion that America's prisons
19 are safer than ever, and probably safer than most
20 other prisons in similar large industrialized
21 nations.

22 One can't look at that data objectively and

1 reach any conclusion other than with isolated
2 exceptions. America's prisons are safe and getting
3 safer. We are achieved this through leadership,
4 leadership that values life and respects the law.
5 We can always do better. And as a profession, we
6 aspire to improve. Your support for our efforts by
7 calling on Congress and the states to support the
8 work we do will be deeply appreciated. Thank you.

9 MR. CHAIRMAN: Thank you, Commissioner
10 Horn. We'll now hear from the Timothy Ryan.