

1                   COMMISSIONER SMITH: Okay. I'm not shy,  
2 as many of you know. I guess what I'd like to  
3 start with, first of all, I appreciate all of your  
4 statements. I think that in terms of really what  
5 I'm hoping to come out of this hearing with is some  
6 really solid directions that we might go in based  
7 on your expertise. And so given that, I think  
8 there's a remarkable amount of agreement around  
9 training, policy, curriculum, those things that  
10 everybody agrees on, but I want to ask you some of  
11 the really hard questions.

12                   My sense is that at your level there's a lot  
13 of agreement about what should happen, but  
14 following up on what the judge said, I think one of  
15 the things that I've heard from all of your  
16 statements is this issue about solid recruiting,  
17 right, and some sort of way to do prescreening of  
18 staff because I believe that that's where a  
19 tremendous amount of vulnerability comes in.

20                   And so I would be interested in hearing from  
21 you whether there are programs or projects that you  
22 know of who have started addressing that issue

1 because certainly that's an issue that we hear of a  
2 lot. So, hiring and selection tools that people  
3 are using and then also sort of methodologies for

4 supporting people once they're in because, again,  
5 another thing that we hear is that when people come  
6 out of the training academy, they're great, but  
7 that what happens is that they may need coaching or  
8 mentoring once they're in the environment. And so  
9 I would be interested in hearing something about  
10 that.

11 MR. STALDER: I'll be very, very brief in  
12 turning over to the colleagues. I would hope that  
13 this commission would advocate for equitable and  
14 fair pay for the people who work in the justice  
15 system in the United States. And I will use  
16 Louisiana as a horrible example. We're probably  
17 the lowest paid in the nation. If you're a  
18 correctional officer in Louisiana, you start at  
19 \$18,000 a year. Your group insurance is \$400 a  
20 month.

21 You pull up to the gas pump and pay the same  
22 \$2.50 a gallon that we pay for gas and our ability

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1 to recruit and retain the caliber of staff that are  
2 required to assure safety and stability in our  
3 institutions and in our justice system is a  
4 function of what we pay and I simply would ask this  
5 commission in its report to advocate for a decent  
6 wage for the hard working men and women in the  
7 justice system in America.

8 MR. HORN: I would echo that. I think to

9 key off it, I think staff turnover is a killer and  
10 so you've got to make corrections working in a  
11 prison or jail a rewarding career, one in which a  
12 person has a professional identity. So the  
13 starting salary has to be adequate. In New York  
14 City our entry salary today is \$25,100. That's the  
15 city of New York, \$25,100. The poverty rate in New  
16 York City for a family of four is \$20,000. So  
17 we're paying just about a little bit more than the  
18 poverty rate. We've got correctional officers on  
19 food stamps. That is unconscionable.

20 The more you have turnover, the more you don't  
21 provide for act of pensions and incentives for  
22 employees to remain with you and to make an

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1 investment in your culture, the more you're going  
2 to have to recruit and it's just going to drive a  
3 problem.

4 I want to go back to what I said. It's about  
5 creating a culture. It's about getting people to  
6 internalize a value system that understands that  
7 they have a responsibility, a morale and legal  
8 responsibility as professionals.

9 I think in New York City we administer  
10 psychological screening to our staff. Our  
11 correctional officers attend a five-month basic  
12 training program before they're assigned to the

13 jails. Each year they take an additional 40 plus  
14 hours of inservice training, but it all has to be  
15 around culture.

16 I think we have to look at the training  
17 curricula that we use. I think we have to look at  
18 the language that we use. I think we all have to  
19 learn to become more comfortable talking about one  
20 of the issues we're dealing with in New York,  
21 speaking in a sensitive and thoughtful way about  
22 transgender inmates, figuring out a way to deal

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1 with the special problems that they present. Those  
2 are training challenges.

3 Training takes time, training takes money.  
4 You'll have to have sufficient staff to relieve the  
5 staff that go to training, which means that you've  
6 got to be budgeted to have that relief. You've got  
7 to have the money to pay and the place for training  
8 and the people to do the training. And beyond  
9 that, I think that it's about creating a value  
10 system and every manager at every level has to talk  
11 about it every day.

12 MR. RYAN: Let me just add a couple items  
13 to it. To put it in perspective for jails our  
14 size, which has just under 4,000 inmates. I have  
15 1,027 officers. We select one out of 47 every  
16 applicants. So, essentially, last year we had  
17 5,000 applicants and 100 people were selected out

18 of it. So we have a pretty sincere and appropriate  
19 selection process. We try to pick the right people  
20 for the right job. Obviously, at times we do not  
21 do that.

22 I would add that one of the areas that you

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1 mentioned. Once they really leave the academy,  
2 they come and they connect with the officers that  
3 are on site. One of the areas that we have is a  
4 jail training officer program where a senior  
5 officer has been previously trained and takes you  
6 under their wing to ensure that you know what the  
7 rules are. The catch with that one is to make sure  
8 you've selected the right officer to be the  
9 training officer.

10 As a follow-up to that, your supervisors, as  
11 well, needs some specialized training in leadership  
12 and not simply be promoted because they're the most  
13 senior person on the line, but to have some skills  
14 and ability to lead people in the proper way. So  
15 the modeling in the supervision environment is an  
16 important area there as well. So I will leave that  
17 as a thought.

18 MR. OXLEY: I think we do a good job of  
19 selection, but the problem with the turnover,  
20 you're constantly going through that pool,  
21 constantly looking for additional folks. But I

22 think as the wages have come up, we've seen at

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1 least in Monmouth County in New Jersey more and  
2 more folks are choosing corrections as a career.  
3 And they're actually staying with us.

4 I can tell you ten years ago when I first  
5 started as sheriff, a lot of folks used it as a  
6 stepping stone, but now because the wages are  
7 better in Monmouth County, it's viewed more as a  
8 profession. But I can tell you that certainly at  
9 the state level, federal level, county level,  
10 corrections has always been kind of the stepchild  
11 of Government. The first places that legislators  
12 and the first places that our policy decision  
13 makers are looking to make cuts is generally in  
14 corrections. I can proudly tell you that I haven't  
15 taken a dime out of our training budget, which is a  
16 good thing because we are able to do above and  
17 beyond, are able to do inservice training.

18 I believe that training cannot stop once you  
19 get out of the academy, that that is just the  
20 beginning. But whatever comes out of this,  
21 wherever we go with your commission and wherever we  
22 go with our charge, you need to bear in mind that

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1 whatever training we're doing is generally at  
2 overtime, whatever training we're doing, we're

3 generally pulling people off post. So it does cost  
4 money. It is going to be a factor. As county,  
5 state, municipal budget folks are looking at this,  
6 it is going to cost. And I believe that that's  
7 something that has to be factored in there and has  
8 to be emphasized. At most facilities the training  
9 is either done at overtime or you may be able to  
10 pull some folks off line, but for the most part the  
11 facilities, larger facilities in any event, you're  
12 pulling enough folks off line to put a class  
13 together and there is going to be a financial  
14 component to getting the training done.

15 THE CHAIRMAN: Yes?

16 COMMISSIONER FELLNER: First I want to  
17 thank you all for being here. The ability of the  
18 commission to do its work is going to depend  
19 greatly on the good faith and wisdom which you  
20 share with us, so thank you.

21 I wanted to turn to the question of the ACA  
22 standards. Secretary Beard provided some and my

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1 printout didn't have all of that related to sexual  
2 abuse, they may or may not, so I can't be sure.  
3 But it seems they primarily dealt with inmate on  
4 inmate sexual abuse, and there was only one or two,  
5 if I recall, that dealt with staff sexual abuse.  
6 And as you know, the commission is concerned about

7 the staff sexual abuse, as well as inmate on  
8 inmate. So I wanted to hear your thoughts as to  
9 whether we should have and, perhaps, the ACA itself  
10 should have other standards. And later I hope we  
11 talk about what it means to have performance based  
12 standards, but simply standards that would help  
13 address staff sexual abuse.

14 For example, Commissioner Horn, you mentioned  
15 that there should be a duty for officers to report  
16 misconduct. We all know that code of silence is a  
17 major problem. Should there be a standard, a  
18 mandatory standard that it is in the rules that the  
19 officers will be terminated or sanctioned for  
20 failure to report and that officials take every bit  
21 as seriously to investigate failure to report or  
22 failure to provide honest testimony when asked as

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1 misconduct itself? Should there be standards that  
2 require confidential hotlines and reporting systems  
3 so that inmates who fear retaliation have some  
4 place to go? Should there be standards that  
5 require some kind of independent oversight to  
6 prevent the kind of in sort of dynamic that can  
7 occur in closed institutions? Are there other  
8 standards that you would recommend that we consider  
9 that will help strengthen your ability and the  
10 ability of correctional administrators across the  
11 country to put an end to staff sexual abuse?

12                   MR. HORN: Let me answer you this way. I  
13 want to be very clear about what I said. I said  
14 that the law should create a duty to report, that  
15 there should be a legal duty to report imposed by  
16 law. So I wouldn't even go to standards. It  
17 should be a legal standard in every state.

18                   With respect to some of the other things that  
19 we spoke about, certainly policies requiring -- and  
20 I said in my statement, I'll repeat again, I  
21 believe very deeply, and we do this in New York,  
22 that there must be multiple avenues to report and

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1                   there must be confidential means of reporting. I  
2 also said that I believe that there should be  
3 independent investigations of allegations of staff  
4 assault conducted by personnel from outside the  
5 facility where it occurred, either Inspector  
6 General's office or Internal Affairs unit or a  
7 prosecutor's office.

8                   So certainly to the extent that our standards  
9 can be improved by including provisions for  
10 confidential hotline reporting, for requiring  
11 investigation of these assaults by staff from  
12 outside the facilities, certainly those would be  
13 improvements.

14                   COMMISSIONER FELLNER: And would you  
15 recommend those improvements?

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MR. HORN: Yes.

COMMISSIONER FELLNER: Would you make them mandatory or voluntary standards?

MR. HORN: We have a process that we go through and I'm not going to hazard an answer to that today. We have a process that I think is a fairly sophisticated one, committees that consider

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these things and make the decision about whether they should be mandatory.

I think one of the things that you have to be sensitive to as you get into this is like management relations. There are issues that are unique in every jurisdiction that are governed by contract and by civil service law, and so you would want to be careful about what standards does not create a situation where in order to comply, an organization is out of compliance with its own statute or by virtue of complying with its statute or its contractual obligations can't meet the standard. And in those cases I think that changes to state law can fix that problem.

COMMISSIONER FELLNER: Well, I hope today or at other hearings we will take on those questions of labor contracts and civil service rules and how they help or hinder your ability to respond to sexual abuse. But I wondered if other members of the panels have thoughts as to what

21 standards should be in the ACA standards regarding  
22 sexual abuse.

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1 MR. STALDER: I think I would like to say  
2 two things, I guess. First of all, Glen Goord, who  
3 is the third chairman of the standards committee  
4 for the American Correctional Association will  
5 testify later today and speak, I think, very  
6 directly to these points.

7 But as a past president of the American  
8 Correctional Association, as the current president  
9 of ASCA, I can assure you that I will advocate  
10 strongly that the American Correctional Association  
11 and the Commission on Accreditation of Corrections  
12 through the standards committee promulgate, adopt,  
13 implement and operationalize sophisticated  
14 standards that will help to minimize the incidents  
15 of abuse in our prisons. It's a very dynamic  
16 process, which Commission Horn pointed out. And I  
17 think you'll find that we will advocate for  
18 partnership with your commission to develop  
19 standards that the standards committee can review  
20 and implement and operationalize that will affect  
21 literally hundreds of thousands of lives in our  
22 justice system.

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1                   COMMISSIONER FELLNER: I appreciate that.  
2                   I wonder if you have any specifics based on your  
3                   experience, long experience in corrections, or  
4                   would you like to send them in, perhaps, in a  
5                   letter or follow-up? And I hope everyone will  
6                   follow up.

7                   We need specifics. What standards that are  
8                   not currently in the ACA standards do you think we  
9                   should recommend to strengthen correctional ability  
10                  to prevent and respond when it happens just outside  
11                  of the --

12                  MR. STALDER: I would be delighted to  
13                  work with President Chung (ph.), with Standards  
14                  Committee Chairman Goord and with Executive  
15                  Director Gondals (ph.) to propose to this  
16                  commission a very specific set of standards that  
17                  will address the concerns that you have.

18                  MR. HORN: And if I may, let's draw your  
19                  attention in my written statement. In my written  
20                  statement I said, Inmates must go along with  
21                  meaningful orientation upon entry to prison, that  
22                  is done and designed to encourage reporting of

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1                  sexual assault or any sexual abuse by staff or  
2                  other inmates. I don't know what more of a  
3                  recommendation you need. They should be advised  
4                  that they don't have to the victims, that they have  
5                  the right to be safe. That should be a standard

6 policy. They should be told what they can do to  
7 make themselves safer and what not to do to avoid  
8 situations that are unsafe.

9 Prisons and jails must provide multiple  
10 avenues for inmates to report assaults. Every  
11 allegation must be investigated properly and  
12 comprehensively. Prisons and jails, I say it,  
13 should have policies that impose on staff the duty  
14 to report any information regarding sexual assault  
15 or abuse. The special procedures to ensure that  
16 independent parties outside the prison or jail  
17 investigate allegations against staff. There  
18 should be written protocols for the creation of  
19 crime scenes and preservation of physical staff.  
20 Staff must be better trained. It's there.

21 MR. CHAIRMAN: Commissioner Nolan.

22 COMMISSIONER NOLAN: I just met Mr. Oxley

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1 today. Your dedication to safety and to running  
2 top-notch institutions precedes you and your  
3 dedication to professionalizing the corrections  
4 profession.

5 Secretary Stalder, you said that we need to  
6 have an accurate count. I agree. Commissioner  
7 Horn said one is bad. But to deal with it, we need  
8 to know the extent of the problem and the nature of  
9 where it's coming from.

10           You mentioned the BJS survey. And I would  
11           just like to tell you one of the sticking points  
12           with them is the survey they they have developed  
13           asks a lot of prequestions about consensual sex in  
14           prison. And in the studies and surveys of which in  
15           my politic life I was very developed in, you do  
16           that. You soften up the person you're interviewing  
17           with a bunch of just generalized questions before  
18           you get to the meat of the question.

19           Our concern, though, is for the inmate  
20           population asking a whole bunch of questions about  
21           consensual sex, many of us feel will be a barrier  
22           to their completing the survey, because in the

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1           prison context the only sex that's allowed is  
2           forced sex. Consensual sex is always a violation  
3           of the rules. And so if you start the  
4           questionnaire asking about consensual sex, you're  
5           asking every inmate to rat on himself, to say he's  
6           violated the policies. And knowing the suspicion  
7           that inmates have of authority any time they're  
8           asked anything, we feel that may, indeed, impede  
9           the accuracy of the survey and I would like your  
10          reaction.

11          Based on the inmates you have, if you ask a  
12          whole bunch of questions questioning asking them to  
13          admit to consensual sex before you've got the part  
14          about forced sex, might that not, indeed, impede of

15 participation in the study and, therefore, degrade  
16 the quality of the results.

17 MR. STALDER: I want to answer your  
18 question and I am going to go way out in left field  
19 on you to start with, so please forgive me for  
20 that.

21 One of the things that y'all have enabled us  
22 to do as a business, have helped us to do, is to

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1 promote the accreditations process of focus on  
2 outcomes, you know, not the process. It's not what  
3 is your process, but what outcomes do you have, or  
4 are you really safer with those outcomes.

5 One of the things we have a done through the  
6 Association of State Corrections Administrators is  
7 work very hard over the last five years to adopt  
8 uniformed methods of performance measurement so  
9 that you as commissioners can ask a question of us  
10 as practitioners how much does this happen and we  
11 can answer you from a common denominator, a common  
12 definition.

13 One of the things that your congressional  
14 authority gave you the ability to do was to say to  
15 the Bureau of Justice Statistics, go out and help  
16 everybody count the same. Because as simplistic as  
17 it may be, we argued for a year about what an  
18 escape was four years ago. I mean you would think

19 everybody knows that. But when you really get down  
20 to how do you count, it becomes very difficult.

21 So, what you have done is pushed us faster and  
22 further along the path of uniformed reporting. And

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1 I can tell you systems across the country are  
2 adapting their inmate rule books and their employee  
3 rule books to the definitions that you subscribe to  
4 and to the effects of the abusive behaviors that go  
5 on. Now that, I think, Commissioner Nolan, is very  
6 meaningful. I think that's very important. I  
7 think you're helping us do that.

8 Now, you also enabled different branches of  
9 justice to go out and do the very type of surveying  
10 that you're talking about. And what's being done  
11 through the Urban Institute and ASCA in  
12 partnership. It's been done by NIJ. It's been  
13 done in a way that I can't speak to the methodology  
14 for you technically, but I can say that one of the  
15 things we spent two years on was audio computer  
16 self-reporting where the design of the researcher  
17 was to make sure that the inmates didn't have to  
18 face the very problem that you raise, a very  
19 legitimate problem, so that they could do it in a  
20 way that did not imperil them in terms of their  
21 status within the institution either to admit to  
22 something, to provide a factual basis for

1 something.

2 COMMISSIONER NOLAN: But in your  
3 experience of inmates, given their suspicions of  
4 authority, you think asking about them consensual  
5 sex, which is not part of the purview of the Prison  
6 Rape Elimination Act, asking them questions, will  
7 that make it more likely or less likely that  
8 they'll complete the survey?

9 MR. STALDER: Well, I'm going from left  
10 field back to the pitcher's mound. I think it's  
11 probably less likely. And I think that that is an  
12 area that you bring forward that's a very  
13 legitimate area and I think that's why the  
14 researchers have spent so much time trying to  
15 figure out how do you interview, how do you ask,  
16 how do you talk about --

17 COMMISSIONER NOLAN: My only point is you  
18 said "cooperative with the BJS. They turned a  
19 blind eye to that. And I think corrections needs  
20 to weigh in because we need a valid survey. We  
21 need as much participation as possible. And if  
22 something, because they don't understand the inmate

1 mentality, leads them to ask a whole bunch of  
2 questions that will turn inmates off and have them  
3 not fulfill the survey, we won't have an accurate

4 baseline. And so this is something, I think,  
5 corrections needs to weigh in with BJS and say, we  
6 have real concerns about the methodology you're  
7 using because of the inmate mentality.

8 MR. HORN: If I may, let me just say one  
9 of the reasons that I'm correctional administrators  
10 is that I'm really not a good statistical  
11 methodology type of person. I don't know what your  
12 background in methodology is, but I'll tell you who  
13 I think is a really sensational statistician and  
14 that's Alan Beck.

15 COMMISSIONER NOLAN: I'm asking your  
16 experience as a correctional officer would an  
17 inmate be more -- because he doesn't have  
18 experience with inmates. This is behavior of  
19 inmates. Will inmates be more likely or less  
20 likely to fill out a survey if you ask them about  
21 consensual sex.

22 MR. HORN: He answered that. He answered

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1 that. Sitting here today, I don't know the answer  
2 to that question. They may be. They may be. They  
3 may not be. What I do know is this: Mr. Beck and  
4 his colleagues take their responsibilities under  
5 the statute extraordinarily serious.

6 New York City, the New York City jails, are  
7 one of the test sites for the ACOSI (ph.) survey.  
8 We've done the first run.

9           The reason that they're doing it is to  
10       validate it, to determine its reliability. I  
11       believe that if those statisticians believe in  
12       their professional judgment that the manner in  
13       which questions are being asked or the order in  
14       which questions are being asked are skewing the  
15       results that they will change them to avoid skewing  
16       the results.

17                    COMMISSIONER NOLAN: I will just end on  
18       this comment. Please, all of you that are  
19       correctional administrators, don't blow past this  
20       concern. Think about from your professional  
21       experience dealing with inmates what the impact of  
22       this will be. Don't be blind to bureaucrats

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1       because we need real accurate baseline statistics.  
2       So listen to the concerns this commission has  
3       expressed and whatever you can, work with those  
4       that are administrating this so we get accurate  
5       baseline surveys. And just all of what we do will  
6       depend on the accuracy so we know what we're doing  
7       dealing with, you and us.

8                    MR. OXLEY: Could I just jump in right  
9       here, kind of putting the two questions together?  
10       I agree that the baseline statistics are certainly  
11       critical, but I think once we start to look at  
12       policies and procedures, it's been said certainly

13 we have to change laws throughout the United  
14 States, whether it's at state or federal level  
15 because the ACA is a voluntary process. We're  
16 nationally accredited by ACA because we chose to do  
17 that. But I did mention earlier that we are  
18 inspected. Because we house federal inmates, we  
19 have a federal inspection, we can make it part of  
20 the federal inspection that these policies and  
21 procedures are in place. State of New Jersey, the  
22 New Jersey Department of Corrections comes in and

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1 inspects our facilities. I think if we make  
2 whatever standards they want part of that, then we  
3 will ensure compliance throughout the United  
4 States. And I think it's wonderful that the people  
5 get involved in the ACA. I think as an  
6 administrator it's outside eyes and ears coming to  
7 look at my facility. That's a good thing, same  
8 thing with the National Commission on Correctional  
9 Health Care.

10 It's a good thing when outsiders come in and  
11 take a look at the place and there may be something  
12 that I can be doing a little bit better. There may  
13 be something, quite frankly, I'm doing very well  
14 and they take back with them. But I think to  
15 change this, to address the problem across the  
16 United States, we've got to do something to change  
17 the laws and we need to do something, whatever

18 mechanisms are in place from state to state when  
19 they're doing the state wide inspections.

20 MR. RYAN: Several states have now put in  
21 place relative to Ms. Fellner's comments laws  
22 talking about a duty to tell the truth and respond

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1 and so forth appropriate. California, I think, was  
2 one of them who was willing to do that. We  
3 shouldn't have to do that. If we do our job right  
4 and teach the code of ethics and all of that, it  
5 would be very nice. Unfortunately, we live in  
6 reality. Sometimes we have to do those types of  
7 things, so I'm supportive that.

8 Relative to the adult local facility  
9 standards, I think the ones that you see attached  
10 to my statement, section 7B-10 is probably  
11 important. It's in there, sexual assault. It's in  
12 there. Probably, you need to take a look at the  
13 curriculum to make sure it's strong enough.  
14 There's some other places to do that. So that's  
15 it.

16 Relative to Mr. Nolan's comment, I take those  
17 very seriously. We look at the Casio (ph.) report.  
18 But I would offer you one of the things to keep in  
19 mind from the commission. After the report is in,  
20 it's very valuable to me, as I mentioned, NIC and  
21 your commission allowed a focus group to come in

22 and talk to our inmates outside of myself standing

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1 there or any officer to talk to them about what  
2 they felt about them, what the truth was. I need  
3 to say that I was very unfortunate because the  
4 story that I thought was out there was actually  
5 what they said, which was kind of nice. But, in  
6 fact, that is a way to support whether we're  
7 getting the right information. And all of us are  
8 very concerned with the information to tell the  
9 truth. And I would be concerned that the inmates,  
10 for whatever reason, would not tell the truth or  
11 would skew it in some fashion.

12 My hope is that, as Mr. Horn indicated, that  
13 our folks can fair that out. And one of the ways  
14 to do that is allow us to have focus groups come in  
15 and take a look at the truth and see what happens.

16 COMMISSIONER KANEB: Mr. Stalder, we all  
17 listened carefully to the needs that you folks have  
18 from salaries to the obvious things. If \$18,000 a  
19 year is all you can get as a salary, and we see  
20 \$25,100 a year is what New York City starts with,  
21 you've got a huge problem, talking what you know.  
22 Just speaking for myself, I would certainly urge my

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1 fellow commissioners to make very, very strong  
2 points in our final report, and outside of that

3 report in conversations with, hopefully, a way to  
4 get the federal government to put some of its money  
5 into state programs that will help you do a number  
6 of the things that you want to do to have quality  
7 staff and make it a more attractive profession.

8 I mean we understand that asking people to  
9 administer systems when they can pay the salaries,  
10 you're talking about is asking, I don't want to say  
11 the impossible, but it's asking the very difficult,  
12 and you understand that very well.

13 We will be very urgent in working with you. I  
14 read Mr. Horn's statement last night and it set off  
15 a lot of the things that we would like to see  
16 happen. But, actually making them happen on the  
17 ground three to five to ten years from now is a job  
18 that we won't be around to see occur.

19 So what we need to do is to ask you to work  
20 with us not just in developing standards that we  
21 will recommend, but trying to separate matters such  
22 as has been raised here criminalizing under state

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1 law a false testimony or unwillingness to give  
2 testimony. That's going to be very difficult.  
3 States that are required to do it, obviously will  
4 do it. There has to be a way that the commission  
5 working with you guys in your accreditation process  
6 can, frankly, put the heat on states to criminalize

7 it if that's the way you feel it should go.

8 For the obvious ways, you won't accredit a  
9 prison in the state of, I don't know, Missouri that  
10 if Missouri has enacted legislative. I don't know  
11 if that's a practical political solution, but  
12 that's something that we would like to dialogue  
13 with you about on an ongoing basis.

14 What I think we hope is that with you folks  
15 and others we're going to hear from, but  
16 particularly ACA, ASCA, we want to work with you in  
17 developing the standards and listen to what you  
18 need and we want help from you.

19 And second, Pat Nolan, I will tell you right  
20 now that the most taxing problem, the majority the  
21 commissioner faces today in their opinion, is the  
22 order of questions in this questionnaire, putting a

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1 whole bunch of questions about have you committed  
2 or I should say participated in this sort of sex  
3 act, that sort of sex act before you even get to  
4 forced sex. So I'm not professional opinion  
5 diviner, I'm not a poll taker, but my common sense  
6 tells me that if I'm looking at an institution  
7 where sexual activity is against the rules, and I  
8 really don't have a lot of trust in authority  
9 anyway, the fact that I'm punching answers into a  
10 computer or I've been told no one is ever going to  
11 see it except God knows who, I'm not sure I believe

12 that when they start off asking me have I ever  
13 participated in consensual sex in prison.

14 We are very, very fearful of having a huge  
15 opportunity gather accurate data on a broad scale  
16 badly compromised and we've gone on record as  
17 saying that. But we're just looking to cooperate  
18 with you guys.

19 COMMISSIONER PURYEAR: I want to come  
20 back and follow you a little bit on the questions  
21 earlier and, in particular, Chief Ryan's questions.  
22 And to follow up on what John said, I think all of

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1 us understand the pressures that you have alluded  
2 to and the challenges that present. Of course, one  
3 of the things that Congress does when they set up  
4 commissions like ours is say, fix this problem and,  
5 oh, by the way, you can't spend any money doing it.  
6 So that's not to say we can't advocate outside of  
7 the formal standards that we submit, but there are  
8 some limitations on what we can actually attempt to  
9 require from standards.

10 But, there are a lot of highly compensated  
11 individuals in the press today who have made bad  
12 ethical choices in the running of their businesses,  
13 for instance. And so pay alone is not a measure of  
14 the susceptibility of staff to misconduct. And I  
15 guess, Chief Ryan, you talked about one out of 47

16 that you have a screening process where you filter  
17 out. I want to explore that with you, what your  
18 screening process is, and with the other panel  
19 members if you have prescreening testing or if  
20 you're aware of other systems that use prescreening  
21 testing that are particularly effective because it  
22 seems to me that gauging the susceptibility of an

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1 applicant, be a correctional officer, their  
2 susceptibility to misconduct or to just making  
3 errors in judgment compound themselves, whether  
4 it's introducing contraband with inmates to other  
5 issues is one way to get at this problem that it  
6 doesn't fix the problem in pay, but it may at least  
7 help fix the problem of people who just make  
8 compromised ethical decisions. Could you speak  
9 some to your process, Chief Ryan, because that was  
10 an amazing statistic that you had?

11 MR. RYAN: Most all of us have some sort  
12 of process that sounds something like this.  
13 There's recruiting, and we clearly go out and  
14 recruit from all kinds of places. And I'm sending  
15 my team up to Georgia for people getting out of the  
16 service right now, just to talk to some folks up  
17 there. So we recruit locally, from colleges, and  
18 we recruit all around.

19 We get the applications, and the application  
20 is an extensive process to say you want the job,

21 obviously. And there's a test that comes right  
22 after that.

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1 Now here's where we lose our first group.  
2 About only 60 percent of the folks actually show up  
3 for the test, so there's a huge number that leave  
4 at that point. You're sitting in the test, one of  
5 the first questions they ask are drug screening  
6 questions, have you had drugs in the last ten  
7 minutes or the last two hours or the last two  
8 years. And if you have, you may not want to take  
9 this test, and a group of folks will leave. Then  
10 you have your test.

11 on a rate of passage, it's generally between  
12 70 and 80 percent. So once you actually take the  
13 test, and that's the written test that passes  
14 pretty good, but that's also followed up by an oral  
15 interview and a video test in which we have had  
16 some situations going down and we ask the person to  
17 evaluate the rules and write about them, so we can  
18 see writing skills as well. So you're doing that  
19 part of the process.

20 Now the oral part of it, our staff sits there  
21 and talks to the folks to see and get a feel for  
22 what they're all about. There's an extensive

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1 background that is followed by that with a  
2 polygraph and a physical exam as part of that. And  
3 then we get to that point of it and they're  
4 actually hired. We're talking about one out of 47  
5 that actually get through that process to go into  
6 hiring at this point.

7 Then we have an orientation week, at least  
8 that, and there may be an extended period of time,  
9 depending on where the academy is, but we actually  
10 hire them in advance. They have a preofficer that  
11 sort of walks around and we lose a couple here and  
12 there saying, boy, I didn't know this was the job  
13 that I was getting into.

14 And so they, in fact, then go from there to  
15 the academy, a 16-week academy. There's a  
16 curriculum there. And your commission may want to  
17 look at curriculums to make sure because it starts  
18 off with the Code of Ethics, the expectation of  
19 being a correctional officer. What does that mean?  
20 And there's one area that I have seen that needs to  
21 be strengthened is that first hours when they walk  
22 in and say, oh, I'm now in this business, what is

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1 it really all about. So we then go through 16  
2 weeks of that. We lose a couple throughout that  
3 period time. And then right after that for  
4 Florida's purposes, there's one week of  
5 reorientation back into the business.

6           There is then a test, a certification test,  
7           that you actually have to take and pass to be  
8           licensed in Florida. It takes 30 days for that  
9           assessment. There's a 16-month overall  
10          probationary period. And the first period out of  
11          the academy is a three to 12 week, depending on how  
12          quickly you go through it, what we call JTO, jail  
13          training officer program in which we have the  
14          officer that walks with you and talks with you.  
15          And then from there on, there's a supervisor.

16                 And then after you're off of probation, you  
17          received tenure. Then, in fact, every year, as  
18          mentioned here, there's 40 hours of training  
19          associated with it.

20                 So that's kind of a process to go through, but  
21          we do cut out a whole bunch of folks along the way.  
22          As we get closer to the end, we're really refining

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1           it to the sense that the folks that are there  
2           should be our best expectation of meeting the  
3           standards and expectations of the job.

4                         THE CHAIRMAN: What's your starting  
5           salary issue.

6                         MR. RYAN: In essence, between 12 and 13  
7           to \$14 an hour, depending on where your experience  
8           has been. We pay higher than the Florida  
9           Department of Corrections and so we, in fact, have

10 folks coming from the Florida DOC in order to --  
11 locally, to take jobs with us because our salaries  
12 are -- and that includes corporals and sergeants in  
13 their ranks that will come over to us to start.

14 THE CHAIRMAN: And what's the salary once  
15 the person becomes tenure?

16 MR. RYAN: Actually, you know, I can't  
17 remember in my head, but you can get up to \$24 an  
18 hour, but it takes you between 12 to 18 years to  
19 get there.

20 MR. HORN: And, if I may, I do think  
21 salary matters. First of all, salary is going to  
22 affect the size of your applicant pool. The larger

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1 applicant pool, the more likely you are to get good  
2 quality people.

3 Secondly, salary and salary structure, as Judge  
4 Walton just referenced, has to do with turnover.  
5 Frequent staff turnover is inapplicable. Frequent  
6 staff turnover, you lose experience, you lose  
7 maturity, you lose judgment, and you have spent  
8 cost because you're constantly retraining and  
9 recruiting.

10 In New York City, I won't bore you with all  
11 the debates, but, first of all, there is a civil  
12 service examination. Secondly, every applicant is  
13 subject to an exhaustive pre-hiring background  
14 examination. It's a field investigation. It's a

15 field investigation, the same background  
16 investigation that is done for New York City police  
17 officers. Every applicant is subject to a  
18 psychological evaluation. I'm not prepared to tell  
19 you today the content of it or what it was  
20 screening for, but obviously it's screening out  
21 behaviors that we would prefer not to see in a  
22 jail.

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1 Every applicant is subject to medical  
2 examination, including a urine test for drug use.  
3 And then in addition to, as I said, a five-month  
4 training academy. Every new officer is on  
5 probation for two full years during which time  
6 their performance is being monitored and assessed.

7 THE CHAIRMAN: We have about five minutes  
8 now.

9 COMMISSIONER STRUCKMAN-JOHNSON: Welcome  
10 and thank you for coming today. I have just  
11 several comments. First of all, we have the hearts  
12 and minds of people from South Dakota and Louisiana  
13 and Gulf Coast victims. Students from our  
14 university are regularly going down participating  
15 in clean-up efforts, and the university has a book  
16 drive going. They're trying to replenish some of  
17 your libraries. We think of you every day.

18 Second comment: As well as doing surveys of

19 inmates, I have also done surveys of correctional  
20 staff and I do know that one of the main concerns  
21 that correctional officers have told me in my  
22 surveys is that kind of beyond recruiting and

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1 getting good people in, because the people look at  
2 themselves as good people, a big problem was the  
3 numbers.

4 For example, I had one survey from Nebraska in  
5 which the correctional officer said what do you do  
6 when there are only three to four officers watching  
7 three to 400 men out in the yard, how can you do  
8 it? You can have good people, but if you don't  
9 have enough good people, then where do you begin.

10 And one the primary concerns of inmates in the  
11 survey were that they be put in like -- for  
12 example, when they stay in the barracks is that  
13 they felt that sexual assault could be tamped down  
14 if there were enough people to make rounds at  
15 night. And over and over I have heard the comment,  
16 please get more officers, get them out making the  
17 rounds at night, and this would help enormously.  
18 So I do believe if you would -- well, I just think  
19 everybody here knows that we need more staff. So I  
20 would like that to be part of one of the  
21 recommendations that we push forward.

22 Now, here's this question. Guidance from

1           you would be appreciated. What do you think about  
2           segregating or not segregating openly gay men  
3           coming to the system either for detention in jails  
4           or longer term detention? Do you think there  
5           should be -- would you consider them a vulnerable  
6           population? How, for effective management, would  
7           you deal with this population?

8                         MR. STALDER: Madam Commissioner, I  
9           believe that we have many, many special needs  
10          populations in our jails and prisons. We have very  
11          youthful offenders. We have very elderly  
12          offenders. We have female offenders who are  
13          special needs population. We have people with  
14          significant mental health problems as Commissioner  
15          Horn pointed out. And the population you described  
16          is a special needs population, and our  
17          classification systems have to be designed to  
18          promote the safety of that special needs  
19          population.

20                        Now, I don't think that any of us would  
21          conclude that on a blanket basis segregation or no  
22          segregation should take place, but I can assure you

1           that if someone is fragile, then they're going to  
2           need a different kind of attention than someone who  
3           is not fragile, and I don't think that we could

4 suggest that that vagility can be based solely on  
5 sexual orientation.

6 We have people who have to be dealt with in  
7 protective custody environments. And it is our  
8 responsibility and our duty to have the systems in  
9 place that will make sure that those who can adjust  
10 and live safely in general population do so, and  
11 those who can't, we have different opportunities to  
12 make sure that they're safe. And I just don't  
13 think that --

14 COMMISSIONER FELLNER: I'm not sure.  
15 Were you asking segregation -- putting them in  
16 disciplinary or administrative segregation or just  
17 a special -- because I think is what Secretary  
18 Stalder thought you were saying as opposed to a  
19 separate housing unit, for example, this general  
20 population for its own needs. Is that what you  
21 were asking?

22 COMMISSIONER STRUCKMAN-JOHNSON: Or it

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1 could go the other way.

2 MR. STALDER: I would speak -- as  
3 secretary of public safety and corrections in  
4 Louisiana, I'm continuing to speak for ASCA on this  
5 because I don't know what our membership believes.  
6 I will tell you that in my opinion labeling people  
7 is bad, that if you try to say we're going to have  
8 a housing area and everybody there is mentally

9           retarded and you're going to have another house  
10           here and everybody there is gay, we're going to  
11           have another housing area and everybody there is  
12           very young, that those kinds of things lead to  
13           labeling and lead to dysfunction later, and that  
14           what we need to do is try to figure out can people  
15           live safely together, make sure that we promote  
16           that level of safety, and make sure that our  
17           classification systems are objective and rigorous  
18           in order to ensure that we don't place people in  
19           situations where they are at risk.

20                     And, again, I don't think you can simply say  
21           that sexual orientation is the factor that would  
22           determine that. I mean one of our biggest issues

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1           now is cross gender supervision. I would ask this  
2           commission to consider very carefully the issue of  
3           cross gender supervision. And I would suggest to  
4           you again solely as secretary of public safety and  
5           corrections in Louisiana that cross gender  
6           supervision of showering and toileting is dangerous  
7           and that it promotes people not being supervised  
8           properly because the cross gender person doesn't  
9           want to look or watch, that it promotes building  
10           all kinds of barriers so that you don't have sight,  
11           that you need to be able to properly supervise  
12           people in showers and toileting, and that today the

13 stigma of sexual abuse, staff on inmate, is not a  
14 stigma that we all kind of conceptionalize as men  
15 are doing bad things to women in prison, that if --  
16 we have to be very careful and very attentive to  
17 our female staff who work with male inmates as well  
18 as our male staff who work with females.

19 Those are the kinds of issues, when we look at  
20 classification, when we look at assignment, when we  
21 look at training, that we've got to really pay  
22 attention to. And I know I went out in left field

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1 on the cross gender supervision, but I just hope  
2 you make a note of that because that's something  
3 that could be very important for this commission to  
4 explore.

5 MR. HORN: And if I may, I want to align  
6 myself 100 percent with everything that Richard  
7 said, I could not have said it better, and add one  
8 thing for your consideration. The city of New York  
9 today, right this day, 40 percent of the  
10 correctional officers in the New York City  
11 Department of Corrections are women, 40 percent.  
12 With a population of 14,000, only 1600 of them are  
13 women. Forty percent of my officers are women.

14 My last three recruit classes, approximately  
15 50 percent of the new officers are women. In the  
16 next three years, 1/3 of my workforce is eligible  
17 to retire. Three years from today more than 50

18 percent of the officers in New York City will be  
19 women supervising men. We're going to have to deal  
20 with this issue of cross gender supervision.

21 COMMISSIONER AIKEN: Mr. Chairman, I have  
22 one comment and one question and I'll be very rapid

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1 with it. My comment is this: I know what  
2 cooperation is all about in the prison context.  
3 Director Lappin of BOP, all of you that know me  
4 know that I've taken over facilities and agencies  
5 that were best terms as critical and unstable. And  
6 I've called the BOP and asked for help. And I  
7 didn't get meetings; I didn't get a policy manual;  
8 I didn't get a standards manual; I got boots on the  
9 ground. Those people were there on a Sunday  
10 morning at 2:00 a.m. on the third shift. And some  
11 of them stayed for years and I didn't have to pay  
12 for them. That's the cooperation from the BOP.

13 ACA [Exec Dir] Jim Gondles, when I called him for  
14 help, he didn't send me a policy manual or  
15 standards, he came personally with a team, and they  
16 were there, not just one day, but around the clock  
17 to help address the culture issues. And NIC with  
18 Morris Thigpen, you know, I didn't have to wait  
19 six, seven months and paperwork flying back and  
20 forth. I have made requests on the telephone and  
21 experts who were in the air, literally, that

22           afternoon to help deal with crises. So I know what

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1           cooperation is all about and, yes, this commission  
2           has a mandate as set forth by congress and signed  
3           into law, and we're asking for the same openness  
4           that I have personally experienced and I know that  
5           you'll receive, and I want to publicly thank the  
6           agencies and people that I just named as well as a  
7           multitude of others.

8           The question is this: We talk about  
9           standards; we talk about the policies; we talk  
10          about overcrowding; we talk about the lack of  
11          resource, but in reality, what about our culture?  
12          And that was mentioned earlier. What do you do and  
13          what are some no nonsense practical things that you  
14          would recommend, and this is an open question, that  
15          will impact the culture, not just the formal chain  
16          of command, I'm talking about the informal culture  
17          that exists in just about any organization. What  
18          are some of the practical no nonsense approaches  
19          would you recommend for us to address the informal  
20          cultural aspects of prison rape and sexual  
21          intimidation and violence within confined  
22          facilities?

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1           MR. RYAN: Let me offer a quick thought.  
2           When I began in the Orange County corrections

3 department as a leader of the organization, I sat  
4 down and outlined six expectations that I had every  
5 officer, every employee, every person who was in  
6 the department. And within the first 30 days, via  
7 that video, because I would not be with them all, I  
8 had them sign a document indicating that they  
9 understood the expectations from the code of ethics  
10 to truthfulness to no sexual discrimination to  
11 retaliation and that they had all to seek and  
12 understand. And then I had to follow through the  
13 last four years in ensuring that if you want to  
14 have a meeting to ensure the expectations, the  
15 leaders like all of us need to sit down and tell  
16 all of our staff our expectations, and we do, and  
17 that was one way that we used to do it.

18 MR. HORN: I would certainly agree. The  
19 first thing, it has to start at the top and you  
20 have to talk about it. And if we don't talk about  
21 it, the people under us won't. We have to talk  
22 about it all the time. You have to promote people

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1 who internalize that culture and reflect that  
2 culture and not promote people who don't. You have  
3 to hold people accountable as far as their  
4 evaluation process.

5 Potentially, culture is passed by word of  
6 mouth and by behavior. You have to walk the walk

7 and talk the talk. You have to do it consistently.  
8 You can't sell out. You have to be willing to take  
9 the anger that people may direct at you for trying  
10 to change the culture.

11 In New York City in the last three years, we've  
12 tried to increase the penalties, for example, for  
13 officers who use force improperly, including  
14 termination where it's called for, tremendous  
15 backlash from the public employee unions. But  
16 three years have come and gone and the city and the  
17 mayor have held the line and we've got things where  
18 we want them or at least we're moving in that  
19 direction. You have to hold your breath for a  
20 while.

21 THE CHAIRMAN: We are off schedule, so we  
22 will have to stop at this time, but I want to thank

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1 all of you for your testimony. I think the fact  
2 that we're off schedule is a reflection of how much  
3 you have to offer to us. And we hope that your  
4 dialogue will continue. I can assure you that we  
5 look forward to being active and attending your  
6 meeting and continuing to talk to you and we  
7 welcome further victim comments from you or call us  
8 any time you'd like to if you have ideas about what  
9 you think we should be doing. And I can assure you  
10 as we write our standards and as we prepare our  
11 report, we will have further discussions with you

12 on the issues that are of mutual interest and  
13 importance to us. So we will take a ten-minute  
14 break rather than 15. Thank you.

15 Oh, one other thing. I was asked to ask the  
16 panelist if you could supply to us your staff's  
17 screening test that you use for new employees.

18 MR. HORN: A Copy of what?

19 THE CHAIRMAN: Your staff screening test  
20 that you use to screen new employees if you have  
21 one, civil service test, and if you have a video on  
22 the six expectations. If you could get us that,

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1 we'd appreciate it.

2 (Brief recess at 10:37 a.m.)

3 THE CHAIRMAN: Our next panel is entitled  
4 Effective Corrections Management: Sexual Assault,  
5 the Indicators and the Impact on Institutional  
6 Stability. Our three panelists are Director Lappin  
7 from the Federal Bureau of Prisons; Jail  
8 Administrator, Cynthia Malm from Idaho and  
9 Commissioner Kathleen Dennehy from Massachusetts.  
10 We thank all of you for your presence.

11 If you could please stand and take the oath,  
12 we'd appreciate it.

13 (Panel sworn)

14 THE CHAIRMAN: We'll proceed in the order  
15 in which you're listed on the agenda with Director