

1 appreciate your testimony. I think I owe you an
2 apology. I think I had you coming from New
3 Hampshire. That was not a slight against
4 Massachusetts.

5 MR. GARVEY: Well, I'm very close.

6 THE CHAIRMAN: That's just old eyes, so I
7 apologize.

8 MR. GARVEY: I'm very close to New
9 Hampshire and I'm not offended at all,
10 Mr. Chairman. Matter of fact, I wouldn't mind
11 moving up there on many days.

12 THE CHAIRMAN: Thank you.

13 I had a couple of questions that I would start
14 off with.

15 Are there barriers as it relates to sexual
16 assault that currently exist to appropriate
17 classification determinations being made? If there
18 are, what are they and what can we do to try and
19 have our standards address that?

20 And the other question I had was several of
21 the panelists have made mention of the growing
22 population of mentally ill inmates. And I assume

1 as it relates to sexual assault, you're saying that
2 that population or that they are at greater risk of
3 victimization or predatory behavior. And I assume
4 that's how you relate this problem that problem to
5 this problem that you're addressing.

6 MR. BEARD: I would address that second
7 part of your question there. I think that is
8 incumbent in the act that mentions that the
9 mentally ill are more likely to be victimized. And
10 I think that's true to a large extent, that many,
11 not necessarily all, but many of the mentally ill
12 inmates need to be in some way protected. That's
13 why you've heard talk about classification systems
14 when they come into our system. Right off the van,
15 the people are evaluated. Anybody who has a mental
16 illness is put into a segregated unit. We even
17 have a special unit for people who maybe have more
18 serious problems. They go right into that unit.
19 They begin dealing with it.

20 All of our institutions have special needs
21 units where we can segregate the mentally ill away
22 from the general population and provide them an

1 element of protection. There's also other people
2 that might need protection too, but that's
3 certainly one population.

4 THE CHAIRMAN: Do you think your numbers
5 are going up because of the difficulty in securing
6 civil commitment and; therefore, the criminal
7 justice system is being used as an alternative?

8 MR. BEARD: Well, actually, the way it
9 works in Pennsylvania is I operate five licensed
10 short term inpatient units in a forensic hospital.
11 So, when we've committing people, we're committing
12 people to my facilities that we've developed over
13 the years to be able to handle this growing
14 population of mentally ill.

15 MR. GARVEY: Unfortunately, I think that
16 an awful lot of people who are coming into our
17 system are people that would be more appropriately
18 served in other ways, and those are mentally ill
19 people. My facility, for example, is built on
20 surplus Massachusetts Department of Mental Health
21 property. Massachusetts several years ago, as many
22 states chose to deinstitutionalize their mental

1 health facilities and put people in the community,
2 unfortunately, without a level services that would
3 accommodate or support them in the community, and
4 as a result they become problems to the police in
5 the community. As a result, they become a problem
6 to the courts. Frequently, the judge's hands are
7 tied. They don't have other areas to send them and
8 they send them to the local detention center and
9 it's unfortunate. It is unfortunate because most
10 of us do not have the level of services that's
11 required to take care of mental health patients,
12 and as a result they can be victimized and they
13 have to be isolated. And, certainly, the treatment
14 programs for this population probably are not
15 nearly as sophisticated and they should be for
16 treating them. You know, it's a really travesty in
17 society.

18 And I mean, you know, as Reggie Wilkinson said
19 today, it's a societal problem. And,
20 unfortunately, it's really had a serious affect on
21 incarceration.

22 MR. GOORD: I would like to add to that,

1 Mr. Chairman, answer your question as far as
2 challenges. As far as classification, I think that
3 that's one of the areas that you've heard a lot
4 today about issues such as overcrowding, double
5 celling, you know, what type of facilities you
6 have. New York is unique. You know, we have
7 63,000 inmates in it, and probably not more than 25 or
8 26,000 of them that are in cells. So most of our
9 inmates are housed in large dormitory type of
10 barrack settings. So the answer is yes, there's a
11 challenge in the classification of where you can
12 safely put these people.

13 Since you opened the door, to add to the issue
14 of civil commitment, my system sees a lot more sex
15 offenders coming into the system to start off with.
16 I don't think the issue of civil commitment drives
17 it. I think the issue is we don't control the
18 front door. We don't control who comes into our
19 system. We don't control the inmates that come in,
20 like Jeff said, as far as the number of mentally
21 ill people that come in and what standards the law
22 requires to look at a person mentally ill or not

1 mentally ill in the eyes of the courts. And we've
2 had to spend a lot of years, most of us, reacting
3 to changes in the mental health system that in some
4 ways could have driven our numbers up for the
5 number of people that are mentally ill.

6 COMMISSIONER AIKEN: Just one question in
7 relationship to the mentally ill situation. And
8 this is primarily addressed to those of us that
9 have run long-term facilities, correctional
10 facilities.

11 You have licensed infirmaries or licensed
12 psychiatric care facilities, and then you have
13 general population. And oftentimes, at least a
14 number of people say, there are inmates that are in
15 between the two. In other words, the general
16 population security is saying this individual needs
17 to be in another environment and the licensed
18 psychiatric care facility says this person does not
19 meet the criteria. And so, therefore, it's a
20 swings door back and forth. Has any consideration
21 been given in developing an intermediate care
22 facility or transition care facility to help this

1 individual that can be helped reintegrate into the
2 general population as well as to bring them back in
3 for reassessment as required?

4 MR. GOORD: We do that now. You had a
5 number of questions there.

6 COMMISSIONER AIKEN: Yes. I'm sorry
7 about that.

8 MR. GOORD: No, no, that's okay.

9 The fact of the matter is that at least in New
10 York our sense has always been -- it gets back to a
11 discussion that I found very interesting you had
12 this morning about isolation of different groups.
13 It came up in a different context today.

14 In New York we try to take the tack of saying
15 just like the community says they're doing, the
16 mentally ill should not be put into institutions,
17 the results was putting more resources in community
18 mental health treatment. And we could debate that
19 another day. But the fact of the matter is what we
20 tried to do in New York is to say, depending on
21 what your needs are, our goal was to reintegrate
22 them back into GP, to provide them treatment not

1 separate from the rest of the population, but to
2 provide them treatment within the general
3 population.

4 Now, the other part of your question, when
5 they have episodes, when people have episodes, or
6 when they need more treatment than, let's say, day
7 treatment within the institution, we have exactly
8 what you call them. We have ICP facilities where
9 people go and get more intensive type of mental
10 health care there. And even at that point, if they
11 need additional mental health care, they'll go to
12 other places or to a mental hospital and then work
13 their way back into the system through ICP back to
14 the goal of general population. But the system
15 isn't perfect. But certainly in the same vein, we
16 recognize the fact that when the people need to be
17 released eventually to community, they need even
18 more resources than we acknowledge that all inmates
19 need, and we process every one of our mental health
20 inmates through one particular facility where they
21 could work with parole mental health care to make
22 arrangements so that their challenge and success to

1 the community is certainly a lot more challenging.
2 So I think we do some of the things you talk about.

3 MR. BEARD: I think we do in Pennsylvania
4 too. I mean the problem you mention here is a
5 difficult one. And many of these mentally ill
6 people, what ends up happening to them is they end
7 up going into our restricted housing units and they
8 languish there. And some of them languish there
9 for years.

10 We've done a couple of things in Pennsylvania.
11 Number one, as I said, I operate a forensic
12 hospital. I have a lot of experts up there. So
13 when I have a case like this in any of the
14 institutions in my system, I send them up to what I
15 call the special assessment unit. And they go up
16 to that unit, they get assessed by the experts up
17 there over a 30 to 90-day period of time and then
18 they tell me whether this person is just really --
19 it is a behavioral driven problem or whether this
20 person is acting out because of a mental health
21 problem.

22 A number of inmates who had been languishing

1 in our restrictive housing units for years ended up
2 getting directly committed into our forensic unit
3 once they went to the special assessment unit.

4 COMMISSIONER AIKEN: So, in other words,
5 we're talking about the record that says
6 personality disorder that you're saying that you
7 identify those people and then present those people
8 to the proper level of evaluation and care; is that
9 correct?

10 MR. BEARD: That's correct.

11 MR. GOORD: But I would add to that the
12 issue that you raised at the end of the debate
13 between the bad and the bad is a debate that goes
14 on in correctional institutions all the time. And
15 I think that it's something that when your mental
16 health professional says there is nothing mentally
17 wrong with them, you know, they are the experts.
18 You know, and you could debate the access one and
19 the access two, and what their levels are.

20 But, you know, we've tried to put ourselves on
21 a model of mental health and health care. Medical
22 health care is simply if the doctor says that

1 person needs treatment, that person gets treatment.
2 There's no if, ands or buts. The same standard
3 should be in mental health, and our system does
4 that. When the doctor says they need treatment,
5 they get the treatment. But a lot of times, you
6 know, the mental health person doesn't agree with
7 that corrections officer or that person working on
8 the unit about the need for treatment.

9 COMMISSIONER AIKEN: And you want to
10 minimize the probability of a critical event, of
11 course?

12 MR. GOORD: I want to minimize the
13 opportunity or even the possibility of that person
14 being victimized. I want to minimize the
15 opportunity of that person to hurt another inmate
16 or another staff. That's what we're paid to do.

17 MR. GARVEY: The larger systems, however,
18 have much more options than the smaller systems.

19 MR. GOORD: Exactly.

20 COMMISSIONER FELLNER: As some of you
21 know, I care very deeply about the problem and the
22 tensions of the overincarceration -- or the growing

1 proportion of mentally ill in prisons and the
2 challenges it poses to you. And I think I would
3 love to continue this conversation, but I wanted to
4 take advantage of the opportunity of you being here
5 to ask you some questions about performance
6 standards and the ACA standards.

7 In the material that you submitted to us, and
8 I don't remember whose it was, there's a list of
9 ACA standards. Only one of them had to do directly
10 with staff sexual abuse. Most of them had to do
11 with classification of inmates, the more likely to
12 be victimized, et cetera, et cetera, et cetera.
13 But then I was curious even under those how do you
14 assess. For example, on the one on sexual conduct
15 should be prohibited, the process indicator, which
16 I assume is what the auditors look at as evidence
17 of what's going on, it simply referred to
18 documentation of awareness, EG annual inservice
19 training curriculum.

20 So my question would be if you're trying to do
21 a performance based audit of the prohibition, how
22 do you determine if, in fact, the conduct isn't

1 happening? Because, presumably, the ultimate
2 performance goal is it's not happening or the
3 indices are going down, not whether staff is aware.
4 Similarly, you say that you want policies,
5 procedures, that protect inmates from personal
6 abuse. Well, how do you determine whether inmates
7 are, in fact, being protected as opposed to whether
8 the policies say so and whether there's some
9 surrogate records?

10 MR. GOORD: Sheriff, me or you?

11 MR. GARVEY: Well, there's several ways
12 through the audit. But probably the easier way to
13 find out what's going on inside of a facility
14 during the audit is to interview inmates away from
15 staff. And inmates will tell you, matter of fact,
16 much more, sometimes, than you'd even like to hear.

17 The second, obviously, is then you would go to
18 the policies and procedures and in numbers and find
19 out whether or not those reported cases were, in
20 fact, followed up, and how they were followed up,
21 what the policy, procedure and practice of the
22 facility is that would indicate that they are

1 aggressively and actively participating.

2 And I think that it becomes very, very clear
3 once you look at that. And you also interview
4 staff. You know, it all starts at the top. And if
5 the individual at the top -- and that is why I say
6 the mission of the American Correctional
7 Association is to improve the management and
8 administration of correctional facilities. And if
9 there's not the commitment at the top to do this in
10 a manner in which it is intended, then it probably
11 is not going to happen. But you do everything that
12 you possibly can in terms of interviewing inmates
13 and staff, in terms of looking at policies and
14 procedures and practices, in looking at numbers,
15 and it becomes very evident in my experience as an
16 auditor.

17 MR. GOORD: And what have you looked at?
18 I'm sorry.

19 COMMISSIONER FELLNER: No. Please.

20 MR. GOORD: The one standard you talked
21 about, the auditor would go in. There are other
22 standards that maybe -- maybe you're looking at my

1 stuff and maybe I didn't do the right thing because
2 there are other standards that lay out what people
3 are supposed to count, people injured.

4 The answer to your question is the auditor
5 would go in and say, okay, how do you make sure
6 your staff are aware of our policies and procedures
7 on sexual abuse and things of that. Well, what the
8 auditors would do is -- first of all number one
9 is -- and that standard is not here, they would
10 look to make sure that every employee at that
11 facility received 40 hours of training. And then
12 they would say -- because that's the standard. You
13 must receive 40 hours training. That's not in
14 here.

15 Part of that 40 hours of training, which that
16 standard that you discussed addresses, is that that
17 person has to have some type of training or the
18 training that that agency outlines on sexual
19 assault or the sexual abuse. What the auditor
20 would do is go to that facility, number one, check
21 to see if they have 40 hours training, then look at
22 the training records to see, okay, how did they get

1 the 40 hours of training and, hopefully, to pass
2 this standard, they'd have to show that every
3 employee at that facility got 40 hours of training
4 in this topic, and then probably look at the
5 curriculum of what we'll do and for how long.

6 MR. GARVEY: The lesson plan.

7 COMMISSIONER FELLNER: No. I'm sorry.
8 Maybe I was misput. I'm looking at the standard
9 that says, Sexual conduct between staff and
10 detainees, volunteers, bla, bla, bla, regardless of
11 consensual status is prohibited and subject to
12 administrative and criminal disciplinary sanctions.
13 Process indicators, documentation of staff
14 awareness. So it seems to me --

15 MR. GOORD: That's the training piece.

16 MR. GARVEY: That's the training piece.

17 COMMISSIONER FELLNER: Oh, this is all
18 just training?

19 MR. GOORD: No.

20 MR. GARVEY: No. No. But the training
21 piece would address that particular issue.

22 COMMISSIONER FELLNER: But I'm asking how

1 do you and how would you advise us commissioners to
2 then put in standards where you get to it is, in
3 fact, not just prohibited, but it's not happening
4 as much as possible? There's a difference between
5 saying it's prohibited and then what's actually
6 happening. And I'm saying how does the ACA find
7 out what's actually happened?

8 MR. GOORD: I think the sheriff answered
9 that when he initially spoke. The base line is
10 what those auditors see when they walk in there,
11 some documentation that, yes, you have a system to
12 count these issues. And then three days later they
13 would come back and say, okay, how many sexual
14 assaults did you have. Let's hope it's none, which
15 you've heard a lot today, but it's 10. Okay. When
16 they come back in three years, how many do you have
17 now? Well, obviously, as Sheriff Garvey presented,
18 if you have 20, they have a problem. You know,
19 what do you have? Now we have four or five. Okay.

20 Then the next question is, which as I see the
21 standard, what did you do with them; when you had
22 these allegations of staff involvement, what did

1 you do with them? And we talked a lot about this
2 today, but, you know, did you prosecute them?

3 First of all, before we blame the DAs and
4 everybody, did you refer it to the DAs, did you
5 refer it to the state police, what was the DA's
6 action? Because after you've done that, it's out
7 of our hands, this standard to say not only did you
8 find out that that staff member was involved, but
9 what did you do with that information.

10 COMMISSIONER SMITH: Director Goord, I
11 guess the question is are those things included in
12 the current performance base measures because what
13 we have doesn't seem to suggest that they are
14 included.

15 MR. GOORD: I will have to go back and
16 show you what we count. What I did was I gave you
17 the standards that directly affect -- if you looked
18 at the standards, the commissioner's question is
19 right, it doesn't show that we count. And the
20 sheriff made reference to it earlier. Yes, we
21 count. I'll explain to you how we count and so
22 forth.

1 understand.

2 MR. BEARD: -- but that would be
3 available. That information would be available
4 then to the ACA auditors who come in that would
5 say, well, how are you counting and what are you
6 doing.

7 COMMISSIONER FELLNER: But I wanted to
8 get -- so, let's say you have ten allegations of
9 sexual misconduct and there are ten investigations
10 and you count ten and ten. Do you actually then do
11 a quality assessment of the investigations to read
12 through to see if, in fact, the investigations were
13 just signing some forms and all the witnesses said
14 exactly the same thing and it got filed? How deep
15 does ACA in it's accreditation effort go into an
16 effort to determine how good a job that's actually
17 being done at the versus functions?

18 MR. GARVEY: That would be addressed in
19 the narrative of the report from the auditors. The
20 auditors, while they're visiting the facility, if,
21 in fact, that hypothetical actually occurred, the
22 auditors would, in fact, trace the action taken by

1 the agency and would comment on its success or its
2 failure or anything that they found was
3 inappropriate in the investigation or in the
4 reporting.

5 And as I say, besides meeting standards of 100
6 percent mandatory and 90 percent nonmandatory,
7 there is also a section that is on the Performance
8 Base Standards that you're really evaluating the
9 conditions of confinement. And that's where that
10 would come in in the narrative of the report.

11 MR. GOORD: But I would say unless they
12 saw an anomaly, unless they saw the numbers
13 drastically increase or something like that, you
14 know, the auditors do a tremendous job. They do
15 most of the large facilities in two days, two or
16 three days. So, when you say, do they thoroughly
17 go through this standard to the level that you
18 asked the question, probably not, not to the point
19 where unless they saw something on Performance Base
20 Standards that would lead them to think that when
21 the numbers increased that there was a reason that
22 that policy and procedure was just a policy and

1 procedure and not a practice.

2 COMMISSIONER FELLNER: So they'll do two
3 days? How many auditors?

4 MR. GARVEY: Usually three. Audits
5 usually would start on a Sunday evening with the
6 interview and the meeting with the administrator of
7 the facility, a tour on Monday morning or sometime
8 Monday, and the checking of the files and the
9 records.

10 The thing that I would saying to you about do
11 they check, if you saw something -- for example, if
12 a facility had four suicides and they --
13 unfortunately, the auditors are pressed for time,
14 but they would give that special attention, just
15 they would if you had an inappropriate number of
16 sexual assaults. That's going to get more
17 attention. And I don't know how to say this, but
18 it's very, very easy once you get into an
19 institution to find out how that institution is
20 being run and how serious they are about these
21 issues. In those institutions where the
22 administration is serious about them, usually do a

1 commendable job.

2 And the accreditation process is not a
3 policing process, but a monitoring process.

4 COMMISSIONER SMITH: Go ahead, John.

5 COMMISSIONER KANEB: Secretary Beard, you
6 observed, I think others did too, but you observed
7 quite clearly that you think there may be a lot of
8 people incarcerated who probably don't need to be
9 incarcerated. And what that -- I mean that may
10 well be true, but what, if any, hopes would you
11 have that this commission could get action taken at
12 least of a federal level in terms of not
13 incarcerating nonviolent criminals, et cetera, that
14 you might think is appropriate given that we have
15 somewhat of a narrow mandate?

16 MR. BEARD: Well, you know, I don't know
17 if it's within your mandate or not, all I know is
18 that what I see in my state and I know people see
19 it around the country, is over the last seven
20 years, for instance, the admissions of what we call
21 the part two offenders, which are the less serious,
22 primarily the property and drug offenders, has gone

1 up 49 percent. The admissions of the part one
2 offenders, which are the rapists and the murderers,
3 has gone up 2 percent. So more and more of my
4 prison space, which is very expensive -- it's
5 \$31,000 a year in Pennsylvania to lock somebody up.
6 Seven years ago, one quarter of the population were
7 these less serious offenders. Today one-third is.
8 So we're seeing more and more of those people
9 coming into the system. The vast majority of them
10 have drug problems, many of them have mental health
11 problems.

12 What needs to be done from a federal level is
13 there needs to be, I think, more guidance to the
14 states, more funding, perhaps, to help things like
15 drug courts and mental health courts and the like,
16 but the money, for instance, for drug courts, I
17 think this past year, pretty much dried up. I
18 think there's recommendations to restore some of
19 that this coming year, but whether or not it
20 happens or not, I don't know. But that's the kind
21 of leadership that I think we need from the federal
22 level. We need the federal government to say that

1 drug treatment is effective, that just taking a
2 drug offender and putting him in prison for two
3 years and not addressing the criminogenic factors
4 that ended up putting them there isn't doing us any
5 good. They're going to come back out and they're
6 going to come back in again. And so it's both not
7 an effective way of dealing with it, and it's also
8 a very expensive way, because it's much cheaper to
9 divert the people. So, I don't know. To the
10 extent that this commission can influence the
11 federal government in how they, you know, put out
12 some of that funding, that's where I would see the
13 help could be given.

14 COMMISSIONER KANEB: Okay. But correct
15 me if I'm wrong and I may be. Aren't most of the
16 laws that are sending class two offenders to prison
17 state laws?

18 MR. BEARD: Oh, yes. That's true.

19 MR. GARVEY: Yes.

20 COMMISSIONER KANEB: So when you say
21 "leadership," it's some sort of --

22 MR. BEARD: Well, you know, what's

1 we'd like to talk to you further or like to have
2 staff talk to you further in articulating that
3 approach. I mean I think we're -- I can't speak
4 for everybody.

5 MR. BEARD: I would be very happy to work
6 with the staff and provide information that I
7 think, you know, shows the effectiveness of drug
8 treatment, that shows the folly of our ways over
9 these past years with how we've dealt with some of
10 these people and how that is now leading to some of
11 the problems that we have within some systems,
12 because we're not willing to pay, particularly the
13 smaller jails, the county jails. I think that's
14 where some of the real problems are, you know, but
15 throughout.

16 I mean we see states cutting their drug and
17 alcohol treatment. We see states pulling out of
18 accreditation. We see states cutting back on
19 training. Well, everything you've heard here today
20 is going the other way. We should be doing all --
21 all these -- and they're doing it because they
22 can't afford to continue to lock these people up.

1 COMMISSIONER FELLNER: Secretary, there
2 was the truth in sentencing, which was a federal
3 initiative that tied a lot of money as a way of
4 encouraging states to keep more people locked up
5 longer, and that was a federal initiative which had
6 a huge impact on states. I guess it affected
7 construction funds, and it was very much sort of
8 the heavy hand of the federal government, we could
9 say, regarding criminal justice policies. So I,
10 for one, don't have a problem sort of trying to get
11 the federal government to use its leverage in other
12 directions.

13 I wanted to go, though not -- is it just a
14 question of -- we've talked about the mentally ill,
15 which I agree with everything you said, and we've
16 talked some about drugs. What about on the back
17 side? We haven't talked about, for example,
18 elderly. You have growing populations, which are
19 hugely expensive, of elderly because of these long
20 sentences, which also takes up resources. I
21 believe prison should be reserved for the most
22 dangerous and that will enable you to control all

1 kinds of violence. And I'm just wondering if
2 you're seeing in your prison systems or jail
3 system -- probably not so much in the jail systems,
4 but certainly in the prison systems, are you having
5 a growing percentage of your population that is
6 past the age of violence, lets say?

7 MR. BEARD: Absolutely. There's no
8 question about that. I mean we've seen a
9 tremendous growth. I think in the last two years
10 we had like a 4 percent growth in our overall
11 population and the over age 50 grew by 20 percent.
12 And we use age 50 as being elderly.

13 COMMISSIONER FELLNER: Wait a minute.
14 Wait a minute.

15 MR. GOORD: That's what our medical
16 people tell us to do.

17 MR. BEARD: Now, I know myself being over
18 age 50, I find that hard, but no. Inmates age five
19 to ten years faster than people in the general
20 public primarily because of their lifestyles and
21 that's what the medical people say. And so,
22 nationally, age 50 is the age that you're looking

1 at. Yes, we see that population growing.

2 But, you know, the problem, when I look at
3 those people in my system, like I take, you know,
4 people that are say over age 60 and who makes up
5 the primary part of that population, the murderers
6 and rapists. That's not a group of people that the
7 public feels very warm and fuzzy about. So as soon
8 as you start talking about letting those people
9 out, doing something differently with them, then
10 you have the DAs and you have the victims groups
11 out there screaming that we can't be doing this,
12 these people have to be locked up.

13 I also, in addition to the forensic hospital,
14 operate a nursing home. Okay. I have a 120-bed
15 nursing home. And some of those people are in
16 fetal positions and sitting in these chairs
17 drooling out of the side of their mouth, they're
18 obviously not a danger any more to anybody else.

19 If you want to go visit, I'd be happy to take
20 you to go visit facility, very well-run facility.
21 These people probably get better care than they
22 would out in a nursing home in the community. But,

1 should I be running a nursing home, should I be
2 running a forensic hospital? I mean you're right.

3 MR. GOORD: We don't always disagree
4 around here. Number one is the question of -- I
5 think what we try to present to you is that what
6 you look at has to be in a holistic look. You just
7 cannot look at one piece of what we do for a
8 living. So when you talk about what -- yes, the
9 feds gave money to the states, and their thrust,
10 and I think appropriately so, was reducing violence
11 in this country. And the results in a lot of
12 states has been that you incarcerate people and you
13 reduce violence.

14 Most of the money they gave us was addressing
15 those violent types of people. Now, of course,
16 after they gave us the money, people started to
17 say, well, if you're going to lock up people
18 longer, what are you going to do when they get old?
19 Well, you should have thought about that before you
20 gave us the money.

21 But the fact of the matter is, those
22 initiatives work. And some of us have had

1 different experience. In New York, in my tenure in
2 the last ten years, there used to be more
3 nonviolent inmates in the system than violent
4 people. That's not what prison should be for.
5 Prison should be for violent people. And we've
6 been able to swap that around where there's
7 probably, I think, 53 or 54 percent of the inmates
8 in the New York state system that are now violent
9 versus the other way. So, we see that trend going.

10 So, back to your question, Commissioner,
11 about, you know, what you could do about population
12 and the type of people coming to prison, we're
13 talking about -- you have to look at everything.
14 It's a holistic look. It's just like our --

15 COMMISSIONER KANEB: No. It wasn't what
16 you can -- it's what we can do and I think we got
17 some answers --

18 MR. GOORD: Okay.

19 COMMISSIONER KANEB: -- because we are a
20 special purpose commission. In fact, if those of
21 us who worked on the legislation had tried to
22 broaden this as some urged us to do, to be, you

1 know, all prison problem, this wouldn't have ever
2 come to a vote. This particular form of violence
3 in prisons, for better or for worse, managed to
4 unite liberals and conservatives right across the
5 board, and so we're doing what we can.

6 MR. GOORD: No, and I agree. When we
7 talk about things that you can look at, especially
8 in the area of mental illness, that's why we all
9 spoke up, because we look at the people that have
10 come into the system as mentally ill, as the
11 legislation does, as possibly being more
12 vulnerable. So as we move forward and we have that
13 data and statistic, when we see, if we see, that
14 more mentally ill inmates are effected by this or
15 victimized by this, we think that's an area that
16 you could work on with us.

17 COMMISSIONER KANEB: I think it's
18 something we can work on. Again, it's going to be
19 like other things, aged people taking the place of
20 people who should be locked up, and that causes
21 more overcrowding, which causes more violence which
22 causes more rape. Yeah, that is true, that is

1 true.

2 COMMISSIONER NOLAN: Jamie brought up the
3 truth in sentencing law and I don't want to delay
4 our departure, but I would ask all of you that see
5 federal policies that have increased your
6 populations, if they would help me very much as
7 we're pressing for the passage of the Second Chance
8 Act, which I think will pass, we're getting growing
9 resistance from some who say this is not the
10 federal government's job, that the federal
11 government should oversee the Bureau of Prisons,
12 but they shouldn't be involved in assisting
13 mistakes in dealing with reentry.

14 My rejoinder has been, well, the federal
15 government already interfered with truth in
16 sentencing, which increased the population, which
17 sucked up money that could go for programs.
18 Interestingly enough, when I made that argument to
19 Judge Gomer from Texas, he said no, no, no, that
20 didn't affect Texas. And it turns out, Texas
21 didn't accept the truth in sentencing money. But I
22 know there are other ways the federal government

1 does it.

2 For you that are running systems, if you can
3 tell me the way federal policies have increased
4 your cost and your population, that will help me a
5 lot in giving them a bill of particulars of gee,
6 they created the problem. Because my point to them
7 is you have a moral obligation having increased
8 overcrowding in states and diverted money from
9 reentry programs, you have a concomitant
10 responsibility to remediate that.

11 So if you could just email me with it, that
12 would be very, very helpful. In fact, one of the
13 people is Senator Colbert who heads up the
14 correction subcommittee, and I'm going to be
15 meeting with him on the 3rd. So if you could get
16 it to me by then so I can say to him, look, you
17 guys have messed things up. This is just a small
18 step to help balance.

19 MR. GOORD: I will try. I'll try to work
20 on some data. I could certainly tell you, I know
21 this is not going to help you, they created the
22 issues because it was after truth in sentencing

1 that the same groups that did that started saying,
2 oh, by the way, now that we sent everybody to
3 prison, what are you going to do when they get out?
4 Oh, by the way, now that you sent them to prison,
5 what are you going to do with the mentally ill?
6 Oh, now that we sent them to prison, what are you
7 going to do with the elderly? So, we can give you
8 the numbers.

9 COMMISSIONER FELLNER: Could I ask you,
10 also, in terms of data, when I did the research on
11 the mentally ill and prison report we did, there
12 was sort of gross data suggesting that the mentally
13 ill had higher disciplinary and certainly higher
14 representation in your segregation. But if you
15 institutionally have data that would tend to show
16 that the mentally ill, in fact, have higher rates
17 of victimization and/or sexual victimization, do
18 you have that or can you do that?

19 MR. GOORD: I don't have that yet.

20 COMMISSIONER FELLNER: I don't know if
21 Texas does because they take such -- Texas? Texas?
22 But if any system can, that would be very, very

1 helpful for us if we are going to make some kind of
2 argument about the mentally ill.

3 MR. GOORD: I agree. Good point.

4 THE CHAIRMAN: Other questions?

5 (No response.)