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1 them at arbitration because of their poor
2 investigations.

3 Thank you for inviting me. It's been a
4 pleasure. Thank you.

5 CHAIRMAN WALTON: Thank you very much for
6 your testimony, Mr. Meyers.

7 Mr. Harrison, you were the lead
8 investigator, as I understand, in the case that's
9 known out here as the "Booty Bandit" case.

10 And can you tell us about the investigation
11 of that case, what was done right, what may have
12 been done wrong, why there were problems? I know
13 there was ultimately an acquittal of the
14 correctional officers who were charged, but can you
15 give us some insight as to that situation and any
16 other that you want to relate to us regarding the
17 investigation of these type of cases?

18 MR. JOHN HARRISON: Yes, sir.

19 And thanks, again, for inviting me to
20 testify today.

21 Again, my name is John Harrison. I am a
22 special agent, and I am employed by the California
23 Department of Corrections. I am assigned to the
24 Redding Police Department in Redding, California, to
25 a street crimes unit right now.

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1 I have been with the Department of
2 Corrections for about 20 years. I've worked in the
3 capacity of correctional officer, sergeant, parole
4 agent. I was a counselor for a short period of
5 time.

6 And I'm now a special agent, and I have
7 been in this classification for about seven and a
8 half years.

9 During my tenure, probably a little over
10 half of my career has been spent conducting criminal
11 investigations for the department. I've
12 investigated hundreds of in-custody crimes, hundreds
13 of crimes that have occurred on the street that have
14 a nexus to our prison system in California.

15 So I have a pretty lengthy experience
16 conducting criminal investigations in the venue of
17 corrections in California.

18 The "Booty Bandit" case or the
19 Dillard-Robertson case, as I prefer to call it,
20 occurred several years ago.

21 And before I begin talking about it, I
22 would like to give a little bit of context to what
23 I'm about to say because this case was pretty
24 egregious. There were a lot of failures in a lot of
25 areas with regard to this case for a variety of

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1 reasons.

2 But that was -- the actual incident
3 happened almost 14 years ago. A lot has changed
4 since then.

5 And while this particular case allegedly
6 involved complicity by staff or overt acts by staff,
7 I would like to make it clear that in my experience,
8 the vast majority of these acts are bad acts of
9 inmates committing them against inmates. That is my
10 experience.

11 It's not -- I don't want to give the
12 appearance here that the majority of these are staff
13 members committing these crimes, because that's not
14 the case. Not in my experience, that is not the
15 case, and I want to be clear about that. I just
16 want to give a little levity to what I'm about to
17 say.

18 In my experience, as I've said, it's mostly
19 inmate on inmate. This does happen. I'm not -- and
20 I'm not trying to mitigate prison rape. It occurs.
21 It's a terrible crime. It needs to be properly
22 investigated. And it needs to be successfully
23 prosecuted where it can be.

24 There are a lot of hurdles with
25 investigating these crimes. The largest hurdle is

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1 the prison culture itself.

2 Inmates by their own rules are not supposed
3 to talk to the staff. They're not supposed to talk
4 to the police. And there's the embarrassment of the
5 crime. Many inmates don't want to come forward and
6 tell that they have been sexually assaulted or are
7 victims of any crimes in prison.

8 You have the credibility issues with the
9 inmates themselves. Even if you're able to get
10 enough to go forward and get a criminal complaint or
11 a filing, they're difficult to prosecute because you
12 have often -- your victim is a convicted felon, the
13 defendant is a convicted felon, so you oftentimes
14 have credibility issues along with the witness
15 issues.

16 And if you don't have good physical
17 evidence, if you don't have good witnesses that were
18 correctional officers who have some credibility,
19 then they can be very difficult to prosecute.

20 Another problem that we have in our state
21 is there is a prison prosecution fund that funds
22 district attorney's offices to prosecute these
23 crimes.

24 Many of our prisons, you know, they're --
25 prisons aren't the most popular thing to have in

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1 your neighborhood, so many of them are located in
2 rural areas with small district attorney offices.

3 So the fund, I don't believe, has increased
4 in probably 15 years, maybe longer than that. So
5 there's a very small pool of money to reimburse
6 these D.A.s to prosecute these crimes because it
7 takes a large toll on their resources and personnel
8 to do them, like it would investigating any case.

9 So as a result of that, oftentimes what
10 happened -- and this happened when I was working in
11 a custody investigations unit in '92 and 1993. You
12 would get -- you would have several cases completed
13 and ready for submission to the D.A. for a filing,
14 but we would have to sit on them until the fiscal
15 year, which would be in July.

16 And we might be sitting on cases in
17 February and March, earlier that year, waiting to
18 get them filed because there just is no -- there was
19 no money to do it. And the D.A.s just were
20 overburdened to do it. And that is a real problem.

21 Another large problem that I think needs to
22 be addressed is that in California we have our --
23 our investigative process is a bit diffuse. We have
24 investigators at each prison that are tasked to
25 investigate in-custody crimes.

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1 There are also investigators at each prison
2 that were tasked to investigate internal affairs
3 investigations that were the lower level internal
4 affairs, and I'm speaking about how it exists today.

5 In addition to that, we have an Office of
6 Internal Affairs that investigates the more serious
7 criminal acts that are alleged to have been
8 committed by staff members.

9 And then we have our unit, which is
10 essentially kind of the police force for the
11 Department of Corrections. We investigate crimes
12 that have a nexus to the prison. We investigate
13 escapees. We assist outside agencies in criminal
14 investigations. I investigate parolees who have
15 committed crimes. And so it's a bit diffuse in how
16 it is -- in how it's set up.

17 It's my understanding now that the Office
18 of Internal Affairs is going to take over all
19 investigations. And they are remote from the
20 institutions. And they will do all criminal and all
21 administrative Internal Affairs investigations.

22 So the issue, I think, that is most
23 important, as Mr. Meyers said, is training and
24 retention.

25 For this agency, for our agency, we really

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1 cannot rely on outside law enforcement to do our
2 investigations.

3 As I said, many of these prisons are in
4 smaller, rural areas, and the local agencies, or the
5 Attorney General's office for that matter, doesn't
6 have the staffing or the personnel to go and
7 investigate all the in-custody crimes that occur in
8 California prisons. It would be impossible. You
9 would get a terrible product if we were to do that.

10 In order for us to function and to police
11 the crimes that occur in prison, you must have
12 investigators at each institution, which we have.

13 But what's necessary for it to be effective
14 is that they have to be retained. They have to be
15 standardized in their training.

16 We oftentimes have institutions where they
17 go in, they're in there for two years conducting
18 their -- doing criminal investigations, and they're
19 out. So just about the time they kind of get an
20 idea of what they're doing, they're gone, and we
21 have a new person in.

22 That's ineffective.

23 The issue there is that each warden of each
24 prison -- and we have -- I'm sorry. I have been out
25 of institutions for a long time -- 32 or 33 in

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1 California. But each warden really has the autonomy
2 to direct these investigative units because they're
3 ultimately supervised by that warden.

4 So there's not a lot of -- oh, God, what
5 word am I looking for? They don't tend to --
6 there's not much levity. I mean, there's
7 differences in the level of experience and what they
8 do and what type of investigations they're doing
9 because there's no standardized training, really.

10 We do that basic events, criminal
11 investigators courses we put on, but one is two
12 weeks and one is one week and that's probably not --
13 that is not sufficient experience to be effective as
14 an investigator.

15 So there needs to be more standardized
16 training, and they must be retained.

17 And I think to make it effective, there
18 really should be a career progression through the
19 department in a specialized investigative unit to
20 investigate these in-custody crimes. Whether it's
21 from officer, all the way to my position as a
22 special agent, there needs to be a career
23 progression so you get a better product.

24 So I'll talk about the Dillard case.

25 The Dillard case was initiated in early

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1 1997. And it came as a result of a -- the
2 Department of Corrections taking a special
3 investigative team of picked people throughout the
4 department, of which I was one, to go to Corcoran
5 prison and investigate allegations of staff
6 misconduct.

7 At the time the allegations were that the
8 staff there were staging fights and pitting inmates
9 against each other. And that's the -- those are the
10 allegations that we were initially looking into.

11 How the Dillard case was found was that one
12 of the investigators on our team was in the -- I
13 believe it was the investigative captain's office in
14 Corcoran state prison and gained access to a file
15 cabinet. And in a file cabinet in the back in a
16 little slough of files he found an inmate appeal.

17 And in -- the inmate appeal was dated 1993,
18 I believe. And this is early 1997 when we were
19 starting this investigation. And the inmate appeal
20 talked about the fact that this inmate had been
21 raped, that staff had known he was being raped and
22 had left him in the cell with this predator, and he
23 was appealing the fact -- appealing and requesting
24 redress and action against the officers.

25 The officer who initially answered that

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1 appeal was one of the defendants in the case. So
2 that -- obviously the appeal was denied. And it sat
3 there in this captain's file. No one ever looked at
4 it. No one ever did anything with it.

5 So we initiated the investigation by we, of
6 course, went and talked to the victim. He was on
7 parole at that time down in the L.A. area. He told
8 us his account as to what happened and how he was
9 raped, I believe, at least two or three times by the
10 defendant and how he told the staff members that the
11 defendant -- or the predator who raped him was his
12 documented enemy, which we found out from a prior
13 incident, which was true; he was. So they never
14 should have been housed together in the first place.

15 But that he had told staff he had to get
16 out of the cell. That he finally ran out of the
17 cell when the raper was let out to a disciplinary
18 hearing. And he told them then that he had been
19 raped. He had told officers at that point he had
20 been raped and that he had told other officers he
21 needed to get out of the cell and couldn't be in
22 there.

23 And what ended up happening, based upon
24 interviews and the evidence that we found, was that
25 he was initially supposed to go out to a hospital in

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1 Corcoran to be examined, to have a sexual assault
2 examination. It was canceled by someone, and he did
3 not go. He was simply rehoused into another cell
4 away from this inmate. He never saw a doctor.

5 There was no disciplinary report because --
6 against the raper. There was no incident report.
7 As is customary in our agency, when there is a crime
8 or a felony, there's an incident report initiated.

9 Robertson, the raper, was serving life
10 without parole for a murder. And while probably he
11 wouldn't be successfully prosecuted for a rape,
12 certainly there's disciplinary sanctions that could
13 have been taken against him for doing that act.

14 None of these things happened. He was
15 simply moved to another cell, and that was the end
16 of it.

17 He later was interviewed by another one of
18 the defendants about the incident. And that
19 happened about four or five months later. And I
20 believe there's just a little report that noted that
21 he should be considered an enemy of the person who
22 raped him, which he already was in the first place.
23 So that was the end of it.

24 Subsequent to that, I ended up interviewing
25 the person who perpetrated the rape, and he admitted

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1 that he had, in fact, raped Dillard, the victim.
2 And he also indicated that he had asked the sergeant
3 who was one of the defendants in this case to be
4 placed in the cell with him so he could teach the
5 victim how to do his time and alluded that they were
6 aware of what was occurring.

7 At any rate, we continued this
8 investigation until about May of 1997. We submitted
9 it to the district attorney's office in Kings County
10 with the hope -- there was additional investigation
11 that needed to be done because it was a massive case
12 and there were dozens of witnesses and evidence to
13 go through and we worked as hard as we could. There
14 was only myself and another investigator working on
15 this case up until May of '97.

16 It was submitted to the district attorney's
17 office. They declined to file on it at that point,
18 and there it sat until the state legislature had
19 hearings on Corcoran state prison the following
20 year, I believe, in '98. This case came up.

21 At that point the Attorney General's office
22 got involved. They started reinvestigating the
23 case. They convened a Grand Jury in 1999 and handed
24 down indictments against, I believe, four officers,
25 and it finally went to trial. Ultimately they were

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1 acquitted of the crime.

2 And I believe there was also a civil case
3 that they also prevailed on with regard to this
4 incident.

5 There were several problems with this case.
6 The first one, obviously, is the timeliness of the
7 case. It didn't -- the investigation didn't even
8 begin until four years later. So that -- what that
9 did to us essentially is that there were a lot of
10 other lesser-included offenses that could have
11 fallen within the statute of limitations had it been
12 investigated in a timely manner that probably could
13 have been prosecuted.

14 The glaring one, of course, was the fact
15 that the victim was denied medical care and denied a
16 sexual assault examination, I mean, for no good
17 reason.

18 There were other crimes that could have
19 been filed, but we were left with one crime that was
20 still within statute, which was sodomy in concert.
21 And in order to prove those elements of the crime,
22 we had to prove some specific knowledge and
23 agreement between the unindicted codefendant, the
24 raper, and the officers.

25 And that was just too steep a hill to go

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1 up. It was just impossible to get a conviction.

2 So that was where we were left with.

3 The victim did send flags up that this had
4 occurred. And, in fact, the victim sent an appeal
5 that went all the way to Sacramento.

6 In California we have an appeals system
7 that goes through different levels, ultimately up to
8 what is known as the director's level of review
9 where an appeals examiner examines the appeal.

10 He was able to get an appeal all the way to
11 that level, to the director's level of review, and
12 the appeal was denied because the reasoning by the
13 appeals examiner was, well, there was no incident
14 report, so I guess there was no rape, so your appeal
15 is denied. In essence, that was the crux of what
16 the appeal was.

17 There was the issue of classification. The
18 raper had, I believe, 15 different instances of
19 sexual assault noted in his file. So how he ever
20 ended up in a cell with another inmate at that time
21 is kind of hard to understand, but he did.

22 From a physical standpoint, the raper was a
23 large man. He was probably 215, 220 pounds. He was
24 a large, muscular man. The victim was probably my
25 height and 130 pounds, and he suffered from sickle

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1 cell anemia, so he was slight. And that was another
2 issue.

3 But that -- he was able to at least get
4 this report out, but, unfortunately, it didn't go
5 anywhere.

6 The other obvious glaring problem was the
7 fact that he's making this appeal and the appeal
8 goes to the same persons he's alleging placed him in
9 the situation in the first place. So that,
10 obviously, probably stymied the case.

11 It was a difficult case to investigate. We
12 interviewed lots of people. We had a hard time
13 getting statements. They were -- almost all of them
14 had representatives.

15 I will say this. I think the question
16 sometimes is asked, you know, did the union
17 interfere?

18 I don't know about above my level, but I
19 can tell you on my level, what the union did was
20 what they were allowed to do per their MOU, which
21 was -- and they vigorously represented their
22 clients. And to me it is what it is. They did
23 nothing more than what they could do.

24 Did they go and hide evidence? No. I
25 don't have any knowledge of them doing anything even

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1 remotely like that. They defended their clients.

2 Now, because this was -- this was a
3 criminal investigation, but it is also -- you can't
4 get away from the fact that we are the employer
5 investigating our own employees, so it becomes an
6 administrative personnel investigation also. So
7 those rules apply.

8 In this case, per our MOU, the officer, if
9 he or she believes that something they say might
10 lead to punitive or adverse action, they have a
11 right to have a representative present. Most of
12 them exercise that right. And most of them wanted
13 to be compelled to speak so that their statement
14 would be immunized.

15 The obvious problems with that in
16 conducting a criminal investigation is you have all
17 of these immunized statements, and it becomes
18 incredibly confusing and incredibly difficult to try
19 and determine what statement you can use against
20 another person because you can't use it against the
21 person who gave it.

22 So that makes it very difficult.

23 In the end they were acquitted.

24 I believe that the department as a whole
25 has learned some lessons from this. Could it happen

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1 again? I suppose it could. I do want to think -- I
2 do think, however, that there are better mechanisms
3 in place today than there were then to prevent it.

4 And I would like to stress again, this was
5 the exception and not the rule, this particular
6 case. This is not typical. 99 percent of our
7 officers, just as Mr. Meyers said, are good people
8 that work hard in a terrible environment where they
9 get feces and urine thrown on them or they get beat
10 senseless or they're stabbed or bludgeoned. It's a
11 very difficult environment to work in.

12 So at any rate, that was the crux of the
13 case.

14 With regard to our changes that I would
15 like to stress, after this, the hearings, the
16 Department of Corrections created the Office of
17 Internal Affairs.

18 At that time period, all the Internal
19 Affairs were conducted by lieutenants or captains at
20 each respective institution. It has since been
21 decentralized -- or taken away and placed remotely
22 from the institutions.

23 I think that's a much better arrangement
24 for obvious reasons. I don't think anybody can
25 suggest that there's, you know, collusion which,

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1 obviously, is suggested from time to time between
2 the investigator and the person being investigated
3 or persons who might have a vested interest for one
4 reason or another in the outcome of the
5 investigation.

6 So we now have an Office of Internal
7 Affairs that has been in existence since, I believe,
8 1997, that is separate and conducts -- and is tasked
9 only with conducting Internal Affairs
10 investigations.

11 Again, in my opinion, the most important
12 thing -- on the Internal Affairs side of the house,
13 I think that the department has made pretty good
14 strides. It's not perfect by any means, and I'm not
15 going to sit here and tell you that it is.

16 But on the side of the house that conducts
17 criminal investigations of inmate-on-inmate crime or
18 parolee crime, we could be much better. And I think
19 we could be much better by having, as I've said,
20 retained investigators who are trained in this.

21 Conducting in-custody crimes is a very
22 unique animal. It's -- they're difficult crimes to
23 investigate to begin with because of the environment
24 you're in.

25 And a person who works in a prison

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1 understands those unique elements of conducting
2 these investigations. They're far more effective, I
3 believe, than they would be from some police agency
4 coming outside the institution and doing the
5 investigations.

6 So, again, I think that we have the right
7 answer as far as having our own investigators
8 conduct these criminal investigations of
9 inmate-on-inmate crime. It's just that there needs
10 to be some standards in training. They need to be
11 retained. There needs to be some sort of career
12 progression to ensure that we retain the kind of
13 folks that are good at doing these types of
14 investigations. I think you would get an even
15 better work product than you get now.

16 Thank you.

17 CHAIRMAN WALTON: So as I understand, the
18 correctional officers are still on duty, involved in
19 that case.

20 MR. JOHN HARRISON: Yes.

21 CHAIRMAN WALTON: And there was an
22 administrative proceeding that was pursued but it
23 was not successful in having them removed?

24 MR. JOHN HARRISON: There was a civil.
25 There was no administrative proceeding because the