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1 COMMISSIONER STRUCKMAN-JOHNSON: Okay.

2 How is Mr. Dillard doing these days?

3 MR. JOHN HARRISON: I don't know. To be
4 honest with you, I have not been in contact with him
5 for several years.

6 COMMISSIONER STRUCKMAN-JOHNSON: A general
7 question or two -- I think to Mr. Meyers.

8 You said that you fully support female
9 officers going into the male --

10 MR. WAYNE MEYERS: Yes.

11 COMMISSIONER STRUCKMAN-JOHNSON: Is there a
12 different atmosphere now or --

13 MR. WAYNE MEYERS: I would tell you that
14 inmates -- in my experience, there's a couple of
15 subgroups that they treat automatically with
16 respect. People that look like me, older people --
17 if I come in as a correction officer, they
18 automatically give me respect. I don't have to gain
19 it from the inmates. They don't see me as a threat.
20 They see me as kind of their grandpa, you know.

21 And I would tell you in the facilities
22 where I worked, female officers are treated the same
23 way, with a lot of respect from the inmates in the
24 housing units. There are some exceptions to that,
25 but...

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1 And I think that, again, having the female
2 officers in the male facilities has had a calming
3 effect. I can tell you that we have a lot of female
4 officers in -- 30 percent, I believe, and they don't
5 have the problems in the housing units that we do
6 with young male officers.

7 COMMISSIONER STRUCKMAN-JOHNSON: Is there
8 some -- is there -- are you careful to work with the
9 privacy issues in the showers and that for both
10 ways, that men do not go into the female showers and
11 vice versa?

12 MR. WAYNE MEYERS: Well, women do go into
13 the male bathroom. What happens is when they get to
14 the entrance to that bathroom, they say, "Woman on
15 deck," and everybody has to cover up. And we
16 haven't had a problem with that.

17 We -- over the years we've had inmates
18 expose themselves to female officers. That's a
19 significant event if they do that. In other words,
20 they're moved out of that housing unit, they're
21 boxed, they're disciplined. They know that they
22 don't cross that line.

23 COMMISSIONER STRUCKMAN-JOHNSON: We've had
24 testimony from -- in another hearing that many
25 female prisoners do not like the idea of -- it's not

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1 necessarily male supervision, but in the privacy --
2 in the areas that are requiring privacy, that the
3 male correctional officer presents a problem.

4 MR. WAYNE MEYERS: Again, the only thing --
5 my point of reference, I've never worked in a female
6 facility. I just have represented people, and I
7 have been in that female facility a number of times.

8 Our union is of the opinion that
9 cross-gender supervision is good. And we are going
10 to maintain that position.

11 In the female facility, we would tell you
12 that if we got predators in there, we're going after
13 them. Let's get them. We got predators, males
14 preying on females, go get them. We're with you.

15 But we think that cross-gender supervision
16 is good, and we're going to hold that position. And
17 I know it's not a popular position in some states,
18 but that's our position.

19 COMMISSIONER STRUCKMAN-JOHNSON: Okay. A
20 question to Mr. Meyers and Mr. Aides.

21 MR. BRIAN ALDES: Aldes.

22 COMMISSIONER STRUCKMAN-JOHNSON: Aldes.
23 Sorry.

24 How do you think -- I know that -- this is
25 to the issue of correctional officers identifying

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1 that inmate-on-inmate sexual exploitation may be
2 going on.

3 Do you think that officers' attitudes
4 toward gay men has any effect upon their ability to
5 correctly identify a sexually exploitive
6 relationship going on with inmates? How does that
7 play in? That perhaps they don't recognize sexual
8 assault going on because they assume it's consensual
9 because perhaps the victim is gay.

10 Is that a scenario that would play -- that
11 plays out, in your opinion?

12 MR. BRIAN ALDES: I haven't -- I have not
13 experienced that. So I would have to say no.

14 MR. WAYNE MEYERS: I worked in a facility
15 that was a county jail where the inmates would not
16 allow a homosexual man to stay in that jail. In
17 other words, when he got into that housing unit,
18 they would tell him, pack up, you can't stay here.
19 This was when we were a presentenced county jail.

20 And then it was really interesting. When
21 we went sentenced and we got a whole bunch of
22 sentenced inmates in, I had three or four obviously
23 homosexual men, dressed like women, wore makeup in
24 that facility. It does add another dynamic because
25 you're constantly watching to see what's going on

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1 there.

2 I a lot of times felt that they were being
3 preyed upon. I never saw them being preyed upon
4 sexually. I never saw it. But I saw them being
5 used almost as slaves. They're going to do all the
6 laundry. They're going to clean your cube. You're
7 going to do this, you're going to do that.

8 And, yeah, it is -- it's an uncomfortable
9 situation, but we -- as a state, we house homosexual
10 men in general population.

11 And overall, even with its problems, I
12 think it's a good idea to keep -- than rather
13 keeping them in protective custody. It requires an
14 officer who is in that block to really keep a close
15 eye on what's going on.

16 I would tell you that there's kind of an
17 unwritten rule that in the blocks where we -- in the
18 dorm situation where we have homosexual men, usually
19 you'll see seasoned officers. And it's an unwritten
20 rule that we use seasoned officers in that
21 situation.

22 COMMISSIONER STRUCKMAN-JOHNSON: Would any
23 training help?

24 MR. WAYNE MEYERS: Oh, I think it would
25 help tremendously. I think it would help

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1 tremendously.

2 COMMISSIONER STRUCKMAN-JOHNSON: Thank you.

3 CHAIRMAN WALTON: Commissioner Fellner?

4 COMMISSIONER FELLNER: I have several
5 questions. I would first like to follow up on
6 Commissioner Struckman-Johnson's question.

7 You see a man who has been very feminized.
8 You point out that he's doing the slave work.

9 Wouldn't it cross the officer's mind to
10 suspect that he's in an exploitative relationship
11 and that he is obliged to perform sexual favors as
12 well as do the laundry?

13 And wouldn't -- if you saw that situation,
14 shouldn't there be action taken to remove that
15 person from that relationship and protect him?

16 Our research shows that -- which we have
17 done, our Human Rights Watch, not -- and the
18 Commission has heard testimony that when you see all
19 those signs, those are signs that there's an
20 exploitative relationship going on, that the guy is
21 doing it because if he doesn't, he's at risk of
22 violence. He's been either bought, owned, whatever.
23 He's now in a relationship where coerced sex is part
24 of the deal.

25 I don't -- I'm surprised by your saying

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1 well, you see him doing the laundry, but, hey, you
2 know, that's the way it is.

3 MR. WAYNE MEYERS: Well, what I would tell
4 you is that if I'm that block officer -- when I take
5 the block, I tell them there is no -- they used to
6 call them, you know, the laundry person. I say
7 there is no laundry person. Everybody does their
8 own laundry.

9 I would try to minimize those things as
10 much as I can. But I'm telling you that that's the
11 way it is. That's the way it goes.

12 COMMISSIONER FELLNER: I understand that.
13 I'm saying that that's clear evidence to me of a
14 sexually exploited relationship. That's coerced
15 sex. That is rape under the definition of PREA.
16 And doesn't the staff have an obligation to break
17 that up? Are you aware that that --

18 MR. WAYNE MEYERS: I'm not talking about
19 sexual activity at all.

20 COMMISSIONER FELLNER: But what I'm saying
21 is what you are describing are signs of a
22 relationship in which the guy has been turned into
23 the wife. And sex is part of that relationship.
24 And it's not voluntary, because if he's not in that
25 relationship, he is going to be hurt in one way or

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1 another.

2 There are endless stories like that and you
3 know that. So I'm just surprised by your saying
4 that you would say, well, nobody does anybody's
5 laundry, but in an example like that you're not
6 taking steps to end the abusive -- you know, to
7 protect the victim.

8 MR. WAYNE MEYERS: I don't have a victim
9 yet. I don't know of any sexual abuse that happened
10 here. We watch that inmate -- we watch that inmate
11 close, if he's homosexual, to make sure that there's
12 nothing going on, whether consensual or -- but I
13 don't have -- somebody doing laundry keys me to look
14 at something, but if we -- you know, if we have
15 evidence of sexual abuse and that he's being
16 sexually abused, of course we're going to do
17 something. We're not going to ignore that.

18 And we do -- I do look at a sign. I look
19 at that as a sign, I got to watch him. Whose
20 laundry is he doing?

21 COMMISSIONER FELLNER: Yeah. I would think
22 so because it's not very often that you're going to
23 see actual -- the actual penetrative acts or the
24 actual blow jobs or whatever. You're going to have
25 to look at signs. And signs are what tell you and

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1 what tell other inmates. All the other inmates know
2 what -- that's going on.

3 I don't want to belabor, but I was
4 surprised by your response to that, which struck me
5 as ignoring a very obvious sign. The way you
6 described it, a guy decked out as a woman, doing
7 somebody's laundry? Something's going on there.

8 Okay. I would like to move on for a minute
9 to -- I'm just curious in the Dillard case -- and
10 it's perhaps too unique to the case so I don't want
11 to take much time -- why there couldn't have been an
12 argument in terms of the administrative, that the
13 statute doesn't toll until the misconduct has been
14 discovered, and the misconduct wasn't discovered
15 until 1997.

16 But I will follow up with you afterwards
17 because that just strikes me as an odd thing and
18 that clearly there should have been some
19 administrative sanctions there. And I'm surprised
20 that they didn't happen.

21 I would be curious from all three of you as
22 to your belief as to whether or not the prevalence
23 of inmate-on-inmate sexual violence, sexual abuse --
24 and I include the range from coerced to violent
25 rape -- is -- coexists with or is connected to

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1 violence in general.

2 Or to put differently, do you think
3 facilities which have a higher rate of coerced sex
4 between inmates are also facilities in which they're
5 just generally higher rates of inmates, extortion,
6 violence, other misconduct by inmates? And do you
7 think they go hand in hand so that cleaning up or
8 ending prison rape also involves putting sort of
9 efforts to deal more with the broader problem of
10 violence?

11 And I would like to start with Mr. Harrison
12 and your sense from California, and then have all
13 the -- each of you answer that.

14 MR. JOHN HARRISON: Thank you.

15 My sense is that these types of crimes
16 occur regardless, really, of the custody level or
17 classification of the inmates.

18 I have seen them occur in minimum custody
19 facilities, medium, and maximum security facilities.

20 I don't think that the nature of the
21 custody of the inmate necessarily will give you a
22 correlation as to where the crime -- you know,
23 whether a higher percentage of crimes are going to
24 be committed.

25 I will preface that, though -- or not

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1 preface it, but qualify it with the statement that
2 higher custody inmates are there because they're
3 more violent and because they commit more crimes.

4 Maximum security prisons have more violence
5 than minimum security prisons. That's a given fact.
6 They do because you have people that have either
7 come to prison for a very violent or serious crime,
8 or they have managed to work their way up the ladder
9 in custody levels because they're very violent or
10 predatory while they're in prison.

11 So in my personal experience, I have seen
12 these types of sexual assaults occur at all custody
13 levels. I just -- that has been my experience.

14 COMMISSIONER FELLNER: Let me just -- I
15 wasn't asking just about custody levels. But when
16 you -- there can always be the random and isolated
17 case. That's going to happen in any institution.

18 But some facilities -- and I'm sure you all
19 know this from your experience -- have more -- have
20 a greater prevalence at whatever level. There's
21 more violence and there's more sexual violence and
22 that can occur in lower custody as well or higher
23 custody.

24 I'm just wondering if in your experience
25 there tends to be a correlation. And I think you

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1 were suggesting yes, at least for the higher
2 custody, that facilities that are -- let me phrase
3 it somewhat differently, and that might make it
4 easier for you to answer.

5 There are better managed and worse managed
6 facilities. In worse managed facilities there tend
7 to be more inmate violence of various sorts and
8 inmate misconduct and contraband and extortion and
9 all sorts of things in a less well-managed facility.

10 Would you agree with that?

11 MR. JOHN HARRISON: Well, that would stand
12 to reason, yes.

13 COMMISSIONER FELLNER: Yes.

14 And I'm asking in a less well-managed
15 facility do you also, then, tend to -- do you think
16 that there is more likelihood of inmate-on-inmate
17 sexual abuse in less well-managed facilities,
18 whatever the custody level?

19 MR. JOHN HARRISON: Well, I mean, on its
20 face, you know, we're going to just take it for
21 license here that, yeah, you have a badly managed
22 facility, you're probably going to have more
23 problems and more violence.

24 But having said that, I don't personally
25 know of any correlation that, okay, there's more

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1 violence in a prison, so there are more rapes as a
2 result. I don't know if that kind of correlation
3 exists. I have never seen raw data or stats that
4 have been gathered that show that.

5 COMMISSIONER FELLNER: I'm not asking
6 stats. I'm asking your experience, what your
7 sense -- as a seasoned person who has been in
8 corrections for a long time, what's your sense?

9 MR. JOHN HARRISON: My sense is that in
10 higher custody prisons, the problem is inmates
11 killing each other and stabbing each other and
12 murdering each other.

13 I don't recall in -- large numbers of rapes
14 that jumped out in my mind occurring in higher
15 custody facilities that somehow seemed to be a
16 radical departure from a lower custody facility. My
17 experience has been that they happen in all levels.

18 COMMISSIONER FELLNER: Okay. All right.
19 Thank you.

20 MR. WAYNE MEYERS: There was a discussion
21 yesterday on leadership.

22 COMMISSIONER FELLNER: Yes.

23 MR. WAYNE MEYERS: And I would tell you
24 that I can graph certain facilities as we move
25 people around. And if a certain warden's at one

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1 facility, I can tell you that workers' comp is going
2 to go down, discipline's going to go down,
3 disciplinary reports for inmates are going to go
4 down, violence is going to go down, inmate fights
5 are going to go down.

6 And other wardens, as they move from
7 facility to facility, those things all go up.

8 Now, we -- I don't have a graph of sexual
9 violence, but my sense is yes. My sense is I agree
10 with you, that if you take a look at a facility
11 where you got a high incidence of violence among the
12 inmates and a high rate of codes for us to respond
13 to and a high rate of extortion and gangs, then,
14 yeah, I would think that that would lead you
15 straight to believe that that place was wide open.
16 People can get away with a lot more there than they
17 could in another facility. I would agree.

18 COMMISSIONER FELLNER: Okay. Thank you.

19 Mr. Aldes?

20 MR. BRIAN ALDES: My experience -- my work
21 experience is in pretrial facility, and where I
22 represent correctional officers are also all
23 pretrial facilities. They're jails. They're county
24 jails. They're joint powers, correctional
25 facilities. So I may not see as much of it as you

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1 may in a prison because those are long-term
2 settings.

3 But what I do see is there are periodic
4 instances or incidences of violent crimes in all
5 jails. I don't know if there is a correlation
6 between poorly run or better run or -- you know,
7 they all house violent inmates.

8 And I believe that anytime you have a
9 setting that's housing predatory offenders, there's
10 going to be an incidence of violent crime.

11 COMMISSIONER FELLNER: Okay.

12 I also wanted to follow up. I know,
13 Mr. Meyers, you said in your testimony and you said
14 to me yesterday that you don't think there is a code
15 of silence in Connecticut.

16 MR. WAYNE MEYERS: I do not. I would tell
17 you that, and I think I was pretty frank with you.

18 COMMISSIONER FELLNER: You were very frank,
19 and so I wanted -- so I know -- I wanted to go to
20 California where there have been a lot of concern, a
21 lot of writing in the Deukmejian report, for
22 example, which we're going to hear later on today
23 more about that, that there is a problem of code of
24 silence. That the officers simply -- you saw that
25 even in the Dillard -- and it's not just because

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1 they're with their union representatives urging them
2 not to talk, but there is an unwillingness to talk.

3 And I wondered if you have seen any
4 change -- certainly that was true in the Dillard
5 case.

6 And I wonder if you have seen any change of
7 that in the years since or if you think that is
8 still a problem with -- in California in terms of
9 being able to go after and get proper discipline for
10 rogue officers.

11 MR. JOHN HARRISON: Well, I think that
12 the -- I think that the system is better designed
13 now to deal with rogue officers. I think there's
14 been a change. I do. I really do think there has
15 been a change.

16 I don't -- officers by their nature,
17 regardless of whether you're a police officer or
18 you're a correctional officer or what kind of
19 officer you are, do not relish the idea of telling
20 on other officers.

21 COMMISSIONER FELLNER: Uh-huh.

22 MR. JOHN HARRISON: A lot of them don't for
23 various reasons. Peer pressure, you know --

24 COMMISSIONER FELLNER: Right.

25 MR. JOHN HARRISON: -- having to work in

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1 the facility, what have you.

2 COMMISSIONER FELLNER: Watch your back.

3 MR. JOHN HARRISON: Sure.

4 But I think the -- I think there has been a
5 change.

6 Can it still occur? Well, it could. I
7 mean, there certainly -- still a crime could occur,
8 and people would either decide not to talk about it
9 or be reluctant to talk about it.

10 But I think the Department of Corrections
11 has put a lot of emphasis into that. And I think
12 the line officers, by and large -- if they know that
13 an officer has committed a crime and done something
14 like that, the majority of them are going to tell.
15 They're going to tell.

16 COMMISSIONER FELLNER: Can you give an
17 example in your recent work of a case in which an
18 officer has been accused of sexual misconduct -- or
19 if you don't have a sexual misconduct, of other
20 misconduct -- in which officers have, in fact, been
21 willing to testify -- I'm using that term loosely --
22 against him or her?

23 MR. JOHN HARRISON: No, I can't. The
24 reason I can't is because filing the Dillard case,
25 that was the end of my doing Internal Affairs

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1 investigations.

2 Since that time, I do criminal
3 investigations involving parolees, inmates, and
4 crimes that have a nexus with the prison. So my
5 experience is no longer in that venue.

6 COMMISSIONER FELLNER: So why do you say,
7 then, you think there have been a lot of changes if
8 since then you have mostly been working with parole
9 and whatnot so you haven't been -- I mean, I'm
10 curious, then, what the basis for your --

11 MR. JOHN HARRISON: Well, I work with
12 institutions all the time. I know -- being part --
13 I work for the Department of Corrections. I'm not
14 completely isolated from them. I know that the very
15 nature of the fact that the Internal Affairs
16 investigations and the mechanism by which they are
17 done has changed, has made an improvement. There's
18 no doubt in my mind about that.

19 COMMISSIONER FELLNER: But you're not
20 working in that department on staff misconduct cases
21 anymore?

22 MR. JOHN HARRISON: No. No.

23 COMMISSIONER FELLNER: All right. Thank
24 you.

25 CHAIRMAN WALTON: It's time for us to

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1 break, but I did have, I guess, one question.

2 I assume that what you were saying in
3 reference to the statute of limitations, that the
4 statute of limitations as it operated then and maybe
5 now started to run from the time the event occurred.
6 It was not a statute that didn't start to run until
7 the event was discovered.

8 MR. JOHN HARRISON: Correct. In both the
9 criminal and the administrative case.

10 To answer your -- if I may, Judge.

11 COMMISSIONER FELLNER: Yeah.

12 MR. JOHN HARRISON: To answer your question
13 regarding the statute on the administrative
14 personnel investigation, the attorneys from the AG's
15 office vigorously prosecuted this case, and they
16 also looked at every aspect including giving counsel
17 to the Department of Corrections regarding the
18 administrative personnel investigation.

19 I'm not an attorney, but I recall that the
20 issue was that the Government Code in California,
21 which codifies what we can do in an administrative
22 personnel investigation, simply had no provision for
23 tolling this particular bad act by the officers.
24 That was it.

25 COMMISSIONER FELLNER: Well, that's

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1 something I think the Commission will need to look
2 at to see if it's an odd problem for California or
3 general.

4 Because here you have a man who complained,
5 who did everything he was supposed to. The agency
6 doesn't act. So years pass, and then there can be
7 no consequences or sanctions for the misconduct by
8 officers, if indeed there was, because they managed
9 to keep it hidden for four years.

10 I mean, that seems sort of -- it's an odd
11 result, and I would be interested to know -- and
12 maybe you could actually find out for us -- whether
13 or not that would be the case today, whether or
14 not -- and I don't know if -- or if we can find out
15 otherwise, because that's -- that obviously is not a
16 desirable situation. If you can succeed in keeping
17 something hidden, then there's no remedy.

18 CHAIRMAN WALTON: And I assume -- I don't
19 know what your collective positions would be, but if
20 you do have that type of complicity that's inhibited
21 information from becoming known, would you be of the
22 view that under those circumstances, the statute of
23 limitations for administrative actions, at least,
24 should not start to run until such time as it
25 becomes known?

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1 MR. JOHN HARRISON: I would agree a hundred
2 percent. Absolutely. Yes.

3 MR. WAYNE MEYERS: Yeah. I think I would
4 have to agree. Our collective bargaining agreement
5 says that the clock doesn't start for our grievance
6 process until we're aware of it.

7 So conversely, I would think that, you
8 know, that would be the opposite too.

9 CHAIRMAN WALTON: Okay. Well, thank you
10 for your testimony. We'll take a recess until
11 quarter to 11:00, and we'll proceed with our next
12 panel.

13 (Recess taken from 10:31 a.m. to
14 10:45 a.m.)

15 CHAIRMAN WALTON: Okay. Our next panel
16 will address the issue of staff sexual misconduct
17 and will provide information about survivors'
18 experience.

19 And we will hear testimony from Ms. Kathy
20 Hall-Martinez, who is co-director of Stop Prison
21 Rape here in Los Angeles, California.

22 After she presents her testimony, then we
23 will have the written testimony, which is under
24 oath, of a Jane Doe witness who is currently
25 detained in a California female facility, who will