

24

CHAIRMAN KANEB:

25

Ladies and gentlemen, it

1 appears to me that our four witnesses
2 are seated, so I would ask that all of
3 you also be seated.

4 I now ask the -- all of the
5 witnesses to stand and be sworn in.

6 (Four witnesses sworn in.)

7 CHAIRMAN KANEB:

8 Thank you all.

9 As you all know, we can read
10 the agenda. This is entitled -- this
11 panel is entitled, Best Practices and
12 Emerging Trends: The Community
13 Corrections Field's Response to the
14 Prison Elimination Act.

15 Since the enactment of the
16 Act, many community corrections
17 professionals have worked to identify,
18 and so on. We've heard a lot of that
19 in the last panel, so I will go
20 directly to indication -- to an
21 introduction, I'm sorry, of our panels.

22 The first is Anadora Moss.
23 Andy Moss is president of the Moss
24 Group and NIC PREA/Moss Group Project
25 Director, and a valuable resource for

1 this Commission.

2 Antonio Booker, Director,
3 Adult Residential Services, Johnson
4 County Department of Corrections (New
5 Century, Kansas).

6 Jacqueline Kotkin -- Kotkin,
7 I'm sorry. Field Service Executive,
8 Probation and Parole, Vermont
9 Department of Corrections (Waterbury,
10 Vermont.)

11 And Eugenie Powers,
12 Director, Probation and Parole,
13 Louisiana Department of Public Safety
14 and Corrections in Baton Rouge.

15 I thank you all. I'll start
16 with Ms. Moss.

17 MS. MOSS:

18 Thank you, Mr. Chairman.

19 The later it is in the day it goes, the
20 shorter testimony it might need to be,
21 but I look forward to being with you
22 this afternoon. I am going to read
23 parts of my testimony because I'm so
24 full. And some of you know my history.
25 I think my books is going to be from

1 scandal to national policy, but I'm
2 honored to have the opportunity to
3 speak with you today.

4 For much of my career I've
5 been involved in addressing the issues
6 of sexual violence and abuse in
7 correctional settings. First in my
8 role in Georgia -- Georgia Department
9 of Corrections where in the early 90s I
10 was asked by the Commission to be the
11 Commissioner's representative on-site
12 at the women's prison in Georgia. My
13 role is to oversee the department's
14 response of allegations of widespread
15 sexual assaults of female prisoners by
16 correctional staff, which emerged
17 during the Cason v. Seckinger lawsuit.

18 The investigation of these
19 allegations culminated in the
20 indictment of 17 staff members, the
21 relocation of women's prison, and a
22 commitment to massive reform. During
23 the lawsuit, issues are raised on how
24 court orders policies and lessons
25 learned would impact the area of

1 community corrections, specifically
2 women under community supervision.
3 This was the beginning of the theme,
4 I've heard repeatedly in my work,
5 related to sexual violence and abuse,
6 what about the community corrections?
7 It was 1992.

8 Since my early experience in
9 Georgia, I've had the opportunity as a
10 program manager for the National
11 Institute of Corrections, and now as a
12 consultant to remain involved in the
13 emerging practice and national dialogue
14 as it pertains to that question, what
15 about community corrections.

16 By now experience should
17 tell us sexual violence and abuse is
18 not a prison and jail problem only,
19 just as it is not a women's issue only.

20 With any population under
21 the law, I believe the first step is
22 simply naming the issue, that is
23 acknowledging the sexual violence and
24 abuse exist within that particular
25 correctional setting. Naming -- naming

1 in prisons and jails has not been easy;
2 however, in community corrections,
3 naming sexual violence as a
4 correctional management priority
5 requiring a systemic set of strategies
6 is more difficult. It has been well
7 over a decade since major lawsuits in
8 women's prison emerged to name the
9 issue as a correctional management
10 priority.

11 Human Rights Watch play a
12 key role in naming staff sexual
13 misconduct and male rape as national
14 issues of concern in its landmark
15 reports. Stop Prisoner Rape
16 established in 1980 by male survivors
17 of prisoner rape has a long history of
18 naming sexual violence in prisons and
19 jails. But they face community with
20 key and recognizing the importance of
21 the issue, and they were key to the
22 legislation. Advocates like Bob Dumond
23 (phonetic) and T.J. Parsell has written
24 and spoken powerfully about the traumas
25 facing the nation in prisons. And in

1 my own experience, many correction
2 professionals have admirably responded
3 to the naming of sexual violence and
4 abuse in prisons and jails.

5 In community corrections,
6 similar naming of sexual violence and
7 abuse has not been as apparent, perhaps
8 partly because it is challenging to
9 neat -- to neatly approach the
10 community corrections field as a
11 collective group. As you heard today,
12 community corrections representative
13 diversity of settings, and there is
14 very little language within the law to
15 explicitly address community
16 corrections.

17 The very name of the act has
18 been a major barrier to gaining
19 response from community corrections
20 practitioners. In fact, with PREA, the
21 questions just won't go away, what
22 about community corrections? Even so,
23 there has been considerable response by
24 leaders within the community
25 corrections field not only to PREA, but

1 the area of staff sexual misconduct
2 predating PREA.

3 Professional organizations
4 have stepped up with resolutions
5 prohibiting staff sexual misconduct and
6 community corrections. And you're
7 hearing from individuals today who are
8 some of the champions of the work in
9 community corrections.

10 In preparing for today, I
11 reviewed the last eight years of work
12 done by the National Institute of
13 Corrections in the community
14 corrections area, so there is more good
15 news. Because in 2000, the National
16 Institution of Corrections acknowledged
17 the importance of developing strategies
18 to assist the community corrections
19 field in the area of staff sexual
20 misconduct. Since that time, resources
21 for community corrections have included
22 technical assistance, training, and
23 information dissemination. These
24 efforts have continued under PREA.

25 Through the Moss Group's

1 work, which began in 2003, we continue
2 to work closely with Commissioner Smith
3 under the NIC initiative that she is
4 project manager for at American
5 University Washington College of Law.
6 We continue to work to build resources
7 to support best practices and promising
8 practices specific to community
9 corrections and working with
10 professional organizations. Susan
11 McCampbell's earlier work through NIC
12 also should be noted for its
13 contribution. I provided an overview
14 of NIC's activities to the Commission
15 in my written testimony.

16 Through these strategies
17 over the last eight years, I believe a
18 foundation for building best practices
19 under PREA is solid. New York is
20 underway. I think one of the -- there
21 is, in addition to the work that Carrie
22 Abner talked about with BJS and grants,
23 I know that Commissioner Smith is also
24 working on a handbook for community
25 corrections. And we are funded to

1 provide a relearning program that will
2 be available to the field, specifically
3 to all staff's role as first
4 responders. So there is emerging work
5 as well.

6 Now, there are gaps. And
7 after doing many technical assistance
8 out in the field, it's easy to
9 recognize some of these gaps. And we
10 provided a list of those to you as
11 well. But most notably, we've noticed
12 that there is a lot of confusion about
13 safe communities part of the act. Many
14 folks think -- think that that is
15 directly related to sex offenders. And
16 we have done the safe communities part
17 of the act. If we are addressing the
18 management of sexual offenders,
19 ignoring the concerns or not,
20 recognizing the concern of -- of really
21 trying to treat people who have been
22 victimized and also to create no more
23 victims.

24 I want to speak a little bit
25 more specifically to best practice.

1 And I think for the Commission to note
2 best practice, I added one as I was
3 sitting here today.

4 We have several PREA
5 coordinators here from across the
6 country who has made it a point to come
7 to listen to the commission hearing.
8 There may be more, but I'm very aware
9 that Idaho is here, Oregon is here,
10 Louisiana is here, and the director of
11 Women's Services from New Mexico is
12 here. So there are many systems that
13 are really working hard on PREA in
14 community corrections.

15 Particularly important is
16 the leadership. It's important to have
17 leadership in any area of correction.
18 But specifically because the law is so
19 ambivalent, or the feeling about the
20 law in community corrections create a
21 lot of ambivalence. It's very
22 important to have leaders such as
23 Barbara Broderick, who is speaking up
24 and really trying to specifically
25 address not only PREA but the

1 responsibilities to eliminate sexual
2 violence.

3 We talked about policies and
4 importance of clarity with policies.
5 In our work, we provide a policy -- a
6 policy guide to address PREA. We're
7 working with many jurisdictions around
8 the country. I think though that the
9 federal standards will be a tremendous
10 help as we continue to refine policy,
11 because people still want to understand
12 what the parameters are of PREA. We
13 feel like the best practice is to
14 really employ multiple strategies
15 systemically, because eliminating
16 sexual violence and fulfilling the
17 intent of PREA cannot be done by a
18 single person, a single training
19 program that can't be mandated from the
20 top down with no further involvement
21 from the leadership.

22 NIC's systemic approach to
23 employ multiple strategies is an anchor
24 in a well-known model. The components
25 of the systemic approach are well

1 documented and articulated in the
2 position they have produced by the
3 workers of statewide directors of
4 probation and parole attached to my
5 written testimony.

6 In partnering with groups,
7 such as faith-based organizations,
8 sexual assault experts, counseling
9 professionals, and law enforcement, the
10 community corrections universe must
11 wrap these partnerships around mission
12 of reentry and, therefore, the concerns
13 for all clients and offenders suffering
14 from victimization. And I think that
15 looking at a systemic approach and
16 thinking of community corrections, that
17 collaboration is even more important.

18 Sexual violence is
19 destructive, disruptive, and counter to
20 evidence based practices rallied in
21 reduction of risk and rescinding
22 principles of the core of the community
23 corrections.

24 In closing, the message I
25 would hope to leave with you today is

1 this: Prisoner sexual violence
2 significantly impacts community
3 corrections. There are experts, tools
4 for the field, federal resources, and
5 many proactive leaders in community
6 corrections. There's an absence of
7 research prevalence in community --
8 community settings has not been
9 addressed, and there remains much work
10 to be done.

11 In my opinion, your role is
12 pivotal in raising awareness and
13 expectations for best practices and
14 moving the field for community
15 corrections forward in addressing
16 prison sexual violence. The standards,
17 the commitment of professional
18 organizations, and the role of federal
19 agencies must all find common ground
20 and commitment to an effort with
21 community correction officials are the
22 opportunities to present, to
23 acknowledged and address sexual
24 violence in corrections under the
25 Prison Rape Elimination Act will be

1 considerably -- considerably
2 diminished.

3 Thank you. I look forward
4 to the discussion.

5 CHAIRMAN KANEB:

6 Thank you, Ms. Moss. You
7 are testifying or have testified in
8 respect to community corrections. But
9 with a number of references, if I may
10 say, upstream into confinement
11 facilities, 'cause it is a continuum.

12 MS. MOSS:

13 Yes.

14 CHAIRMAN KANEB:

15 So if I can go all the way
16 to take this matter a little further
17 back downstream to a non-confinement
18 community corrections situation, let's
19 say a halfway house or parole. This
20 strikes me -- and you and Brenda Smith
21 and a lot of other people, I guess,
22 know this. But the opportunity for
23 inmate on inmate problems is probably
24 minimal, but we -- we seem to have
25 somewhat of a hole in our potential for

1 enforcement against really bad behavior
2 by parole supervisors or, I guess as we
3 heard this morning in this rather lurid
4 and spectacular case in New Hampshire,
5 someone in charge at least during
6 certain hours of the day of a -- of a
7 halfway house.

8 Would you please, and you're
9 willing to help us out, make sure you
10 focus us on whatever we can do, whether
11 it's standards, recommendations, or a
12 combination thereof of plugging some of
13 these holes. I realize that's a very
14 narrow aspect of what you talked about,
15 but I ask you to do that.

16 MS. MOSS:

17 Well, I think that it's --
18 there's sort of two issues here in
19 terms of what does PREA cover, which
20 we've heard a lot of discussion today
21 in terms of community corrections, and
22 then the issue of the outcome. Are we
23 trying to eliminate sexual violence in
24 community -- in correctional settings?
25 And in the particular case in New

1 Hampshire, I know that our group worked
2 there before the incident, so I'm
3 pretty familiar with that -- with that
4 case.

5 And I think that -- the
6 reason I wanted to focus on naming the
7 issue in my testimony is that I think
8 it's -- it's still very difficult for
9 people to -- for community corrections'
10 personnel, not all, but many to
11 recognize how far out sexual violence
12 and sexual misconduct really does go.
13 And so I think that -- to me, I think
14 clearly I'm comfortable that the
15 setting you're talking about is
16 residential, you know, is covered under
17 the law.

18 I appreciate what Barbara
19 Broderick was saying in terms of we
20 need help in terms of after it moves
21 out of that area, and particularly
22 reporting mechanisms.

23 I'm not sure I'm responding
24 to your question, but I think that
25 The -- the gray area that would be

1 really helpful for the Commission to
2 address is -- is how are we going to
3 work with probation and parole
4 officers. And remember, we're talking
5 about not only adult but juvenile in
6 knowing how to respond to the reporting
7 aspect of it.

8 CHAIRMAN KANEB:

9 I won't take more time
10 because really what my -- what the
11 question is a request. And that's
12 exactly what I was requesting, that you
13 work with our staff to make sure we
14 focus on that particular area of what
15 I'm calling a way downstream part of
16 community corrections.

17 MS. MOSS:

18 I think that's a really
19 critical area.

20 CHAIRMAN KANEB:

21 Thank you.

22 Other questions for
23 Ms. Moss?

24 COMMISSIONER FELLNER:

25 I don't know if it's a

1 question, Andy, for you now or maybe
2 for all the panelist. But I was
3 thinking of how in the last session we
4 were talking about how PREA applied to
5 community corrections. And I think it
6 will be helpful to this Commission if
7 we also have the benefit of your
8 insights into what does custodial
9 sexual abuse, the impact it has on
10 reentry. So this is slightly different
11 than whether PREA applies to you. But
12 you have -- you know, Congress has
13 spoken to a levy to address the
14 concerns of the public that this is a
15 serious matter of individuals in
16 communities. And I was thinking, of
17 course, that probation -- or parole,
18 especially post-incarceration, you
19 probably have a lot of wisdom about
20 that because you work directly with
21 individuals.

22 So whether it's a question
23 to -- and whether it's in this session
24 or maybe our staff talked to you but we
25 should mind your experience with some

1 of that information for our report if
2 not for our standards as well. I just
3 wanted to get that on the table.

4 MS. MOSS:

5 I would like to respond
6 quickly to that. And I know that my
7 colleagues have a lot of experience
8 with that as well.

9 But to me, it's -- it's
10 really so superficial to think that we
11 can be successful in reentry if we're
12 working with people who have been
13 traumatized and we're not addressing
14 the trauma, and we're not even
15 understanding that they are
16 traumatized. And so I think that we --
17 we have so much interest in reentry
18 now, and that's an area that we're
19 trying to build capacity. But if we
20 don't recognize the trauma -- and I've
21 had the opportunity this week to be
22 with the juvenile system here, the
23 Office of Abuse Development. And I
24 have walked through their facilities
25 this week and spoken to their probation

1 and parole officers. And when you walk
2 through and also speak to those young
3 men, particularly, and recognize their
4 histories -- I've been in this work a
5 long time as you have, Commissioner.
6 But whenever I think we're not making
7 progress or that it's discouraging
8 walking through and talking to those
9 young men and knowing their histories,
10 we have to start addressing the trauma
11 before we can expect successful
12 reentry.

13 COMMISSIONER FELLNER:

14 Thank you.

15 CHAIRMAN KANEB:

16 Other questions of Ms. Moss?

17 Thank you.

18 Mr. Booker.

19 MR. BOOKER:

20 Thank you, Commissioner.

21 First, I'd like to thank the Commission
22 for allowing me to come and speak
23 today. I feel real honored the fact
24 that, considered my department, I was
25 one of the department that have some

1 initiative with the PREA initiative.
2 For one thing, I have to say is that
3 our introduction, the staff sexual
4 misconduct, did not come from the PREA
5 initiative. I basically would like to
6 say that probably came from our policy
7 of just doing what we felt was right.
8 when we look at headlines
9 from my department of the same
10 probation officer who have preyed on
11 probationers sentenced to prison, I
12 think that shows that our department
13 took the initiative of doing what was
14 right when we found that one of our own
15 was preying upon our clients that we're
16 supposed to be serving.
17 Just to kind of give you a
18 little history of how we became part of
19 the PREA initiative but -- not only of
20 this initiative, but the fact that one
21 of our own -- our own clients came to
22 us to say that one of our probation
23 officers had -- had sexual misconduct
24 with her. And this was after she had
25 been placed in incarceration, come back

1 to community corrections to be
2 supervised again, and felt comfortable
3 enough to tell one of our own staff
4 that one of our staff had had sexual
5 improprieties with her. That just goes
6 to show that with our department, we
7 have to build that trust with our
8 clients for them to be able to report
9 that. One thing that I see as far as
10 community corrections is involved, is
11 that we are seeing a change in our
12 population of who we're serving. And
13 those individuals are coming from
14 incarcerated settings.

15 To kind of give you an
16 overview of that complexity of what
17 we're talking about earlier about
18 community corrections programs.
19 Our department not only has community
20 corrections program for adults, but we
21 also serve juveniles as well. Our
22 program operates a 70-bed juvenile
23 detention center that serves as a last
24 resort for juveniles which would other
25 be placed -- which with other places

1 would provide another structure for
2 juveniles. In addition to detention,
3 we provide community field services for
4 juveniles offenders. Our intensive
5 supervision program provides probation
6 services for higher risk offenders as
7 ordered by the court. We have a case
8 management unit that provides
9 supervision and case management
10 services for juveniles. And most of
11 these juveniles are currently under the
12 custody of our Kansas Juvenile Justice
13 Authority, and many of them have
14 recently been released from Kansas
15 Juvenile Justice Authority facilities.

16 Our adult division operates
17 a community-based residential center,
18 which I'm director of, that provides a
19 structure environment for both male and
20 female adult offenders when the court
21 orders this as a condition of
22 probation. Our residential center has
23 a capacity of 449 beds, which includes
24 a 40-bed therapeutic community
25 treatment facility which is a six-month

1 substance abuse treatment facility for
2 those with high risk drug offense.
3 Also, we have a work release program
4 that provides the ability to serve
5 custody time while continuing to work
6 in the community. Our residential
7 facility provides in-house services,
8 including substance abuse treatment,
9 mental health counseling, and
10 educational programs. And all these
11 services are geared toward providing
12 offenders many tools to successfully
13 complete their supervision.

14 But as I -- through the
15 years that I have been with this
16 department and my 20 years of being in
17 community corrections, as I said, I see
18 this change in population to where now
19 we're also serving individuals that
20 have not only had an opportunity to be
21 on probation, but now have in
22 incarcerated settings and then given
23 opportunity to transition through our
24 programs. So I see us definitely being
25 a first-line personnel to be able to

1 identify some of those things that we
2 have addressed here, and some of the
3 testimony I've heard.

4 Kind of in closing, because
5 I know I want to try to cut my opening
6 remark short 'cause I am very
7 interested in hearing some of the
8 questions you may have of us. One of
9 the things that I can say is that part
10 of our initiative could not have been
11 taken advantage of if it wasn't for the
12 things that NIC has put in place.

13 One thing that we've done
14 because of the situation that we had in
15 our county, and not because of the PREA
16 initiative, was we want to do what's
17 right. We could have stopped at that
18 first individual that came to us and
19 said, I had a problem with one of your
20 officers, but we didn't stop there. We
21 interviewed every client that that
22 officer had under his supervision to
23 see if there were any more allegations
24 or any more incidents that we need to
25 address.

1 One thing that made this
2 very complex is that we had a satellite
3 office in another state so that
4 individuals that were victimized were
5 victimized at another state. So we had
6 the partnership with another state to
7 make sure that that investigation was
8 done thoroughly. We need to make sure
9 that we partnership with that other
10 state, because the State of Kansas at
11 that time did not have community
12 corrections staff as part of their
13 statute to convict them or to have
14 prosecution.

15 I'll be happy to say that
16 because of some of the initiatives that
17 we took, the State of Kansas now has
18 included community corrections and
19 court services personnel in those
20 statutes to where if those things
21 happen, as far as staff sexual
22 misconduct, they can be prosecuted by
23 the court of law.

24 With our situation, the
25 State of Missouri did prosecute the

1 individual. And a lot of that came
2 about -- of our -- of us initiating
3 that conversation with those
4 individuals, and then piggybacking on
5 that was to go out and find the
6 training that we needed to make sure we
7 were covering all of our basis, and
8 then also partnership with individuals
9 like the center -- Center of Innovative
10 Public Policy, Susan McCampbell. We had
11 training come in for preventing and
12 addressing staff sexual misconduct. I
13 am now a trainer for NIC on that. I'm
14 then also training with Brenda Smith
15 and her team on investigating staff
16 sexual misconduct has given us
17 definitely a lot of tools to put in
18 place that we've incorporated into our
19 department.

20 So with that, I am very
21 anxious to hear whatever questions or
22 maybe guidance I could possibly give to
23 my testimony. Thank you.

24 CHAIRMAN KANEB:

25 Thank you, Mr. Booker.

1 Questions from Commissioner

2 Smith.

3 COMMISSIONER SMITH:

4 One of the things that it
5 sounds like, in listening to both this
6 panel and the last panel, that if you
7 sort of think about this issue, and I
8 think that Commissioner Kaneb talked
9 about it, is a continuum. And you
10 talked about it eloquently sort of
11 people moving up and down that line and
12 coming back and forth.

13 One of the things that I'm
14 quite concerned about, and we talked
15 about it in last panel, is around
16 reporting, okay? So I can imagine a
17 situation where -- I guess what I'm
18 trying to figure out is, I can imagine
19 a situation where somebody reports
20 something to you, right, this person
21 who came back. And then you get that
22 information. And after you get it, it
23 sounds like you reported it up to the
24 prison. Well -- no, in this situation
25 it was involving you. But I guess I'm

1 concerned about where that information
2 goes, and if there -- if you have
3 policies in place or protocols for what
4 happens, for example, when you get that
5 information and it's not in your
6 agency. Where do those reports go?
7 You know, what does the prison do with
8 it in terms of their full data
9 collection? Is all of that information
10 about what -- what happened? Does that
11 go into what they report? I mean, do
12 you have any information about that?
13 Because that's one of the things that I
14 keep struggling about, the reporting in
15 the community corrections role.

16 MR. BOOKER:

17 That's the gap. That's
18 where the gap lies. I think that we
19 know that we have a moral obligation.
20 And then as officers of the court, we
21 have an obligation to report
22 misconduct, be it staff with
23 offenders or offenders on offenders. I
24 think that gap, so to speak, is --
25 because now we are becoming those first

1 responders. We need to be training our
2 staff on who to report that to.
3 They're very clear on who to report to
4 if it's a staff on client situation.

5 COMMISSIONER SMITH:

6 In your agency?

7 MR. BOOKER:

8 In our agency. But I
9 believe in the State of Kansas,
10 especially when they took the
11 initiative to include us in their
12 statute. That's a big step for us.
13 They know that if we have a situation,
14 that we will report it. I think it
15 even goes to the fact that a lot of the
16 folks within the community corrections
17 agencies, there are a lot of different
18 entities of who you report to and those
19 types of things.

20 The big thing with the State
21 of Kansas is that they are big
22 supporters of community corrections in
23 the State of Kansas. And because of
24 that support, we have a good
25 relationship when we had NIC come in

1 and do the training on addressing
2 preventing staff sexual misconduct. We
3 had the director of community
4 corrections from the Department of
5 Kansas come down and sit in on that
6 training. We had individuals from
7 Lansing Penitentiary come in and sit
8 down in training. So they are
9 knowledgeable of not only PREA but the
10 fact that -- what community corrections
11 are doing as well.

12 So I think one of the things
13 that we can do is piggyback on those
14 education opportunities that we've been
15 given, and take that even farther to
16 say that we are getting those
17 individuals out. And if we're
18 trained -- training our staff on how to
19 ask questions, how to ask about their
20 experiences that they had while they
21 were incarcerated, we can quickly close
22 that gap.

23 COMMISSIONER SMITH:

24 And so what you're saying is
25 that if you got a complaint in -- under

1 probation, you feel confident that, at
2 least in Kansas, you could report that
3 information back to the prison and
4 something would happen with it?

5 MR. BOOKER:

6 Yes, ma'am.

7 COMMISSIONER SMITH:

8 Or penitentiary?

9 MR. BOOKER:

10 Yes, ma'am.

11 COMMISSIONER SMITH:

12 Okay.

13 CHAIRMAN KANEB:

14 Any other questions from
15 our -- from our commissioners?

16 Commissioner Fellner.

17 COMMISSIONER FELLNER:

18 In your written testimony
19 you address juvenile field services.
20 And I wonder if you could say a little
21 more because that's something we
22 haven't talked about thus far, which is
23 children within a community corrections
24 framework. And you have this line,
25 it's lost -- PREA has lost it's

1 translation and purpose when it comes
2 to the juvenile justice system.

3 That was a very powerful
4 sentence and I wonder if you could, you
5 know, pack it a bit for us.

6 MR. BOOKER:

7 Well, the unique situation
8 we have with our county is that, as a
9 community corrections program, we did
10 offer community corrections program to
11 juveniles. I guess because we -- we
12 did that job so well, our county asked
13 us to be in charge of our juvenile
14 detention center, which is a different
15 animal when it comes to corrections and
16 community corrections.

17 When I made that statement
18 in my testimony, a number of juvenile
19 detention center directors that I
20 talked to only believe that the PREA
21 initiative dealt with the detention
22 setting.

23 In our situation, because we
24 offer so many services in the field, I
25 think we have to make a better effort

1 in -- in forming juvenile services that
2 part of PREA is the fact that not only
3 does it occur in -- it could occur in
4 juvenile detention settings, but
5 because of the time we have -- we have
6 with the clients in a juvenile
7 detention supervision program is just
8 as prevalent as it is with an adult.

9 I think because sometimes we
10 have a lot of safeguards for the
11 protection of children in juveniles
12 that we feel we don't have obligation
13 if there's a report. We have entities
14 that we can go to and they take the
15 ball and run with it, to deal with
16 those investigations. I think we need
17 to have a more parallel investigation,
18 because we understand our business. We
19 understand the unique situations that
20 we have in a -- a criminal justice
21 situation to where I think that
22 translation is lost because PREA has
23 that emphasis on detention when it
24 comes to juveniles as oppose to the
25 field service.

1 COMMISSIONER FELLNER:

2 Thank you.

3 CHAIRMAN KANEB:

4 Other questions of Mr.

5 Booker?

6 Ms. Kotkin, please.

7 MS. KOTKIN:

8 Thank you for the

9 opportunity to address the Commission.

10 My testimony today is based on my

11 experience as a probation and parole

12 officer, staff trainer, regional

13 director, and most recently, state

14 director of probation and parole. I'm

15 from Vermont.

16 Vermont is a small

17 integrated state, which means that we

18 have everything from low risk probation

19 to jails. We don't really have jails.

20 We call them jails. Prison, parole,

21 furlough, intermediate sanctions. It's

22 one stop shopping. So my lens is

23 through a system that at least should

24 be able to communicate internally. We

25 should be able to be elaborately in

1 which we can develop communication
2 patterns. And I was very interested in
3 listening to the panel earlier talking
4 about the different ways probation and
5 parole is set up nationally.

6 I'm from one of those 30
7 states that has had a statewide
8 probation and parole system. I'm one
9 of those states that is part of a
10 statewide department of corrections
11 under the executive branch.

12 In addition, I am a founding
13 member of our Vermont's PREA
14 implementation team. And that's --
15 that's an important factor. I was
16 asked to be on the team because PREA
17 has implications for probation and
18 parole in Vermont. In addition, I'm --
19 as a member of NIC's sponsored
20 executive for statewide probation and
21 parole network, I work with colleagues
22 from around the country to discuss the
23 implications of PREA on community
24 corrections.

25 Community corrections

1 practitioners schooled in the explicit
2 requirements of PREA are exploring its
3 less direct implications on what I call
4 nonresidential corrections programs.
5 We as a group of statewide directors of
6 probation and parole read PREA
7 carefully and saw our 24/7 facilities,
8 whether halfway houses to release
9 centers, clearly fit into the explicit
10 aspect of the law. What we were
11 looking for is what our role was in the
12 nonresidential arena.

13 At the May 2006 meeting of
14 Executive of Statewide Probation and
15 Parole Network, state directors
16 examined how probation and parole could
17 support PREA. And I was interested in
18 what Antonio Booker said earlier. Our
19 perspective was, let's do what we feel
20 is right as oppose to what the law was
21 telling us what we had to do. And our
22 discussion was surround, even if PREA
23 didn't exist, what are the practices we
24 want to put into place to assure that
25 offenders are safe? We look at PREA as

1 an opportunity as oppose to a set of
2 requirements, recognizing the persons
3 on parole and probation may have been
4 previously detained or may face future
5 incarceration. State directors may be
6 unanimous requested. NIC can be in a
7 work group to draft a model policy
8 direction.

9 This work resulted in a
10 written document setting a desired
11 direction for community corrections.
12 The document emphasize the use of a
13 systemic approach to correctional
14 management in support of PREA. This
15 language that I'm going to be using may
16 sound very familiar to some of you.
17 It's the same language we look at when
18 we talk about staff sexual misconduct
19 and keeping offenders safe within the
20 confines of prison and jail settings.
21 So with the report that we wrote,
22 identify the need for leadership,
23 commitment to zero tolerance of
24 offender exploitation, policy protocols
25 and legal requirements that are clear,

1 consistent, and support offender and
2 state staff safety, ongoing review of
3 operational practices, comprehensive
4 staff, volunteer, contractor, and
5 offender training, objective and
6 efficient investigator processes,
7 supports to victims, addressing agency
8 culture, mapping allegation reporting
9 past, and assurances that all
10 allegations are investigated. Again,
11 these are practices that we talk about
12 when we look at the implications for
13 24/7 facilities.

14 The document that was
15 written emphasize prevention
16 opportunities that exist for community
17 corrections. And some of the panelist
18 mentioned this in the last panel,
19 training staff and assessing offender
20 vulnerability and/or risk prior to
21 incarceration or re-incarceration.
22 Even without sophisticated assessment
23 instruments, we know that certain
24 offenders are more vulnerable to be
25 victimized, the young, the small, those

1 who are incarcerated for the first
2 time. We know that the first 24 hours
3 provides greater vulnerability to
4 offenders.

5 We talked about, as a
6 prevention activity, educating
7 offenders on probation and parole
8 regarding their right to remain safe
9 and right to report abuse. We also
10 encourage formal linkages between
11 community corrections and facility
12 staff, recognizing that in a unified
13 system that's a lot easier. We also
14 highlighted the challenge that
15 community corrections and residential
16 corrections have in establishing
17 appropriate MOU's and other
18 communication linkages so that the
19 information goes two ways.

20 So on a national level,
21 state directors of probation and parole
22 continue to explore the implications of
23 PREA linking them to a multi-strategy
24 approach.

25 I'm from a very small state.

1 I think you'd be surprised at how few
2 inmates we have in Vermont.
3 Nonetheless, Vermont takes its PREA
4 initiative very seriously. And on a
5 state level, it too is attempting to
6 incorporate a systemic approach. The
7 Vermont Department of Corrections are
8 recipients to BJA grants in both 2004
9 and 2007 in developing a continuum
10 strategies. And the strategies that
11 I'm going to describe are first being
12 explored within our correctional
13 facilities. The training that I'm
14 describing is training for facility
15 staff, but phase two of our grant
16 activities will be to train probation
17 and parole officers. PREA doesn't
18 require that we do that, but our
19 commitment to keeping offenders safe --
20 safer communities mean that we have to
21 react in the community.

22 So we're focusing on
23 training of PREA service training on
24 the impact of sexual exploitation,
25 staff sexual misconduct, addressing the

1 code of silence, and what we call
2 courageous leadership where we
3 encourage all staff to stand up and
4 take a leadership role and keeping
5 offenders safe.

6 We also have a curriculum
7 for facility first responders, which
8 addresses the role of facility nurses
9 and medical staff. Our intention is to
10 develop first responder capacities in
11 our probation and parole offices so
12 that the staff, when upon receiving
13 complaints, know how to respond and how
14 to refer offenders for services.

15 We developed more objective
16 credible investigations, and have a
17 separate investigations unit that is
18 not part of the department, as well as
19 a 24-hour confidential offender
20 hotline. We also have a training
21 curriculum now that includes the
22 components to demystify the
23 investigation process when our own
24 staff are charged with staff sexual
25 misconduct. All of these initiatives

1 also apply to probation and parole
2 staff.

3 As part of our PREA
4 initiative, we finally passed
5 legislation. We were the last state in
6 the country to criminalize staff sexual
7 misconduct. Thanks to the force of
8 federal law, we were able to convince
9 our state legislature that this was
10 important.

11 My belief is that Vermont
12 considers itself above the notion that
13 staff would behave in such a way. It's
14 a liberal state that it values doing
15 the right thing. But the -- the
16 federal standards that may be looking
17 at staff sexual misconduct, I think are
18 very powerful. And our staff sexual
19 misconduct law applies to probation and
20 parole as well, as long as our officers
21 are acting in a supervisory role.

22 We're beginning to look at
23 staff culture again starting in two of
24 our facilities and in our central
25 office. And we received a technical

1 assistance grant from NIC to conduct
2 formal staff cultural assessment
3 establishing a baseline and identifying
4 where staff want the culture to be.
5 Again, with the ability to train
6 trainers in this initiative, our next
7 role will be to look at the
8 implications for probation and parole
9 staff.

10 Strategies during our
11 staff -- second grant period include
12 training plan for probation and parole
13 staff, and we'll address their role in
14 responding, reporting, and preventing
15 sexual exploitation of offenders. It
16 will highlight Vermont's commitment to
17 zero tolerance, emphasize strength,
18 base supportive case planning activity,
19 which I think are keys to open up the
20 communications with offenders who have
21 previously been victimized, and it will
22 support statute and policy.

23 Community corrections has a
24 role in keeping inmates safe. I am
25 committed to an approach that includes

1 an understanding and development of
2 law, policy, training, reporting,
3 investigation, victim sensitivity, and
4 communication agreements with
5 residential correction settings and
6 probation and parole.

7 Thank you.

8 CHAIRMAN KANEB:

9 Thank you, Ms. Kotkin.

10 Before I ask other commissioners, may I
11 ask you in your small homogeneous state
12 with your very integrated system. Is
13 this 24-hour hotline, in fact, a
14 telephone, an Internet device, what is
15 it?

16 MS. KOTKIN:

17 It's a telephone. And it
18 goes to a separate investigations unit
19 that is outside the department. It's
20 been in place a couple of years now.
21 Our early experience with it is we got
22 probably eight out of ten calls were
23 prank calls in the midst of testing the
24 system. But every -- every complaint
25 is looked at on a prima facie basis and

1 may result in full investigation.

2 CHAIRMAN KANEB:

3 If I were an inmate looking
4 for the hotline, where would I find the
5 phone?

6 MS. KOTKIN:

7 You'd find it in our
8 correctional facilities.

9 CHAIRMAN KANEB:

10 Let's say I'm an inmate, so
11 where in the facility would I look for
12 this phone?

13 MS. KOTKIN:

14 We have phones where you can
15 call lawyers, for instance, and -- and
16 the phones are situated in places where
17 access is available.

18 CHAIRMAN KANEB:

19 And where I might speak
20 with -- not -- no fear of being
21 overheard?

22 MS. KOTKIN:

23 Absolutely.

24 CHAIRMAN KANEB:

25 Well, thank you.

1 Other questions?

2 COMMISSIONER SMITH:

3 Ms. Kotkin, when you talk
4 about your hotline, you're not
5 really -- are you talking about a
6 dedicated phone, or are you really
7 talking about a number?

8 MS. KOTKIN:

9 We have a number to call.

10 COMMISSIONER SMITH:

11 Right. So on any regular
12 phone, you could pick it up and you
13 could be calling anyone and no one
14 would know who you were calling?

15 MS. KOTKIN:

16 Right. But there are
17 special areas where people can go where
18 they can call attorney or others. And
19 those separate areas are where people
20 go to call.

21 CHAIRMAN KANEB:

22 Is it a toll-free call?

23 MS. KOTKIN:

24 Yes, it is.

25 COMMISSIONER SMITH:

1 One other -- just question,
2 because -- I mean you mentioned it so I
3 think it's fair game.

4 MS. KOTKIN:

5 Uh-oh.

6 COMMISSIONER SMITH:

7 You talk about Vermont being
8 the last state to enact legislation.
9 Can you talk a little bit -- because I
10 think that we all have in front of us
11 maps that include other states. And
12 actually, Louisiana happens to be one
13 of those where probation and parole
14 officers are not excluded explicitly in
15 the law. I mean, can you talk a little
16 bit -- because as I understood it, you
17 went back to the legislature many
18 times --

19 MS. KOTKIN:

20 That's right.

21 COMMISSIONER SMITH:

22 -- to try to get this to
23 happen. Can you talk about what some
24 of the, I guess, roadblocks or barriers
25 we're including probation and parole?

1 'Cause I think that that's certainly
2 relevant to what's going on in terms of
3 the -- in terms of sort of the
4 relationship between community
5 corrections and understanding sexual
6 violence.

7 MS. KOTKIN:

8 Right. We went through a
9 ten-year process to try to get some
10 form of legislation. We worked
11 collaboratively with the commission --
12 the Governor's Commission on Women as
13 well as other advocacy groups. Our
14 unit -- our Corrections Bargaining Unit
15 felt that false report would be a major
16 weapon that inmates could use. And
17 because of that, and because we really
18 didn't identify -- we had examples, but
19 we didn't have the kinds of cases that
20 New Hampshire has had, for instance.
21 So year after year, we would bring this
22 legislation forward. And year after
23 year we couldn't reach any kind of
24 deliberation, so Vermont was, I think,
25 was quiet for a very long time.

1 We felt very committed to
2 having community corrections included.
3 And at one point, several years ago, we
4 did reach some kind of agreement that
5 perhaps institution should be included.
6 One of our real advantages is with the
7 existence of a PREA coordinator, who
8 could spend a considerable amount of
9 time as one of her prime objective
10 after she -- she was hired. She worked
11 in the legislature. She collected
12 data. She -- we received a lot of
13 assistance from NIC. And we had
14 examples that we gave her of staff
15 sexual misconduct that had occurred in
16 the community.

17 My belief, and I may be
18 wrong, is the force of the federal law
19 brought many of our legislators to an
20 agreement that we needed to pass
21 legislation. We had hope that the law
22 that we pass would include all staff
23 facility and community. There was a
24 compromise. And the compromise was
25 that it include all staff inside the

1 facilities and community corrections
2 staff that have a direct supervisory
3 role with the offenders in the
4 community. My hope is that --

5 COMMISSIONER SMITH:

6 So what doesn't it -- what
7 is the gap? What doesn't it cover?

8 MS. KOTKIN:

9 The gap might be that, I'm
10 your probation officer and there's
11 another probation officer in the next
12 office who has a sexual relationship
13 with someone in my caseload. We would
14 have to make an argument that there was
15 some kind of supervisory relationship
16 as oppose to within the confines --
17 confines of an institution. Any
18 correctional officer, any case worker,
19 according to our law, who has such
20 relationship with an offender would be
21 covered, even if they weren't working
22 in the unit that person was in.

23 COMMISSIONER SMITH:

24 Thank you.

25 CHAIRMAN KANEB:

1 Other questions of

2 Ms. Kotkin?

3 Yes, Commissioner Fellner.

4 COMMISSIONER FELLNER:

5 How do you find it -- as we
6 know, oftentimes inmates don't want to
7 report sexual abuse until they're
8 leaving prison because of the fear of
9 retaliation, either by other staff or
10 of inmates. I mean, there's all these
11 reasons. And they might reveal it to
12 parole after they leave. How -- what
13 does Vermont experience then when
14 parole agents, or probation, get
15 information about abuse that happened
16 while the person was confined? Is it
17 looking when you pass it along, either
18 investigation -- is action taken, or
19 does it seem to disappear into some,
20 you know, that happened two years ago
21 and we have enough on our hands on our
22 plate now without dealing with two
23 years ago. How does that actually work
24 out?

25 MS. KOTKIN:

1 I'll give you an example.
2 And we have not done the training that
3 I would like to do yet. That is going
4 to be forthcoming over the next year.

5 I received a telephone call
6 a couple of month ago from one of the
7 managers from our probation offices,
8 and she had one of her staff with her.
9 And he reported to me that someone in
10 his caseload had revealed that he had
11 been sexually assaulted by an inmate
12 when he had been incarcerated.

13 And I said, what did you do?

14 And he said, well,
15 immediately I called our victim
16 services specialist to sit down with
17 him. And she met with him, provided
18 some services, and then made some
19 referrals.

20 And I said, what else did
21 you do?

22 I called the investigations
23 unit -- that's located in our umbrella
24 agency outside the department -- and
25 told them that I had heard this. And

1 they asked me to put something in
2 writing.

3 I said, did you do anything
4 else?

5 Uh-huh. I called the
6 facility superintendent to let them
7 know this was forthcoming.

8 And I thought, gee, and we
9 haven't even done the training yet.

10 Now, granted, we're a small system.

11 And this particular event occurred in
12 an office located maybe a mile from the
13 correctional facility where everyone
14 knows each other and where it's easy to
15 report. I can't say that that happens
16 every time. It's an unknown

17 hypothesis. You don't know what you
18 don't know. But I think in our system
19 we are able to because of the
20 continuity. And the fact that
21 offenders really are -- it's a
22 permeable membrane where they go back
23 and forth. We have a greater
24 likelihood, I will never say it always
25 happens, to have those kinds of issues

1 reported within our own system because
2 we are a unified system.

3 COMMISSIONER FELLNER:

4 Actually, I was assuming the
5 reporting maybe -- and actually first
6 say that's terrific that the reporting
7 is happening. I was actually more
8 curious about what is done with the
9 report. Does the superintendent take
10 some kind of action? Do you have any
11 sense of --

12 MS. KOTKIN:

13 With our system now, any
14 what we call PREA complaints, go to
15 this investigations unit. And if it
16 looks like it is a violation of
17 statute, then those investigations
18 staff work with local law enforcement.
19 We have to make sure that we don't step
20 on other investigations. But they are
21 investigated, both criminally and
22 administratively.

23 And that first call -- and I
24 was interested because he called the
25 investigations unit before calling the

1 superintendent. And the call to the
2 superintendent was more of an FYI.
3 There's now going to be an
4 investigation of someone within your
5 facility.

6 So again, I can't say -- I
7 can't identify what I don't know about.
8 But our experience is that having that
9 investigations unit separate from us --
10 and everyone knows all PREA related
11 complaints go there. -- and we don't
12 have to pre-investigate. Our staff
13 simply has to report.

14 COMMISSIONER FELLNER:

15 Thank you.

16 CHAIRMAN KANEB:

17 Thank you, Ms. Kotkin.

18 Ms. Powers, please.

19 MS. POWERS:

20 Good afternoon. I want to
21 thank the Commission to come speak
22 today. One good thing about going last
23 is that every one has pretty much said
24 everything almost that there is to say
25 about the subject. But there are a few

1 points that I would like to make, and
2 particularly talk about what we're
3 doing in Louisiana in regards to PREA.

4 I think originally
5 PREA, the act dealt with issue of
6 sexual violence in prison. And I think
7 after all the testimony that's said
8 previous and all that things that we've
9 heard, it's obvious that it does impact
10 community corrections. And I was part
11 of the group that worked with
12 Ms. Kotkin and Ms. Moss and the other
13 leaders in community corrections that
14 worked on those issues on that paper
15 that they referred to. And I think
16 that the details about some of the
17 recommendations and suggestion and
18 things that we came up with are well
19 documented in all of our reports here.

20 I would just like to say
21 that we really -- when they kept saying
22 by doing the right thing, we sat down
23 and looked at, okay, community
24 corrections is not particularly
25 mentioned, or it doesn't say

1 specifically what we should do, but
2 what should we be doing? I mean, what
3 should we be doing here? And then we
4 started looking at all the different
5 issues and said, well, okay. There's a
6 reporting requirement. Do we have to
7 report? What happens if one of our
8 officer gets the report? What do we do
9 with that? And one question led to
10 another, which led to the group and led
11 to us coming together, at least on
12 consensus of issues, and looking at
13 this systemic approach to try to decide
14 what kind of response community
15 corrections should have to PREA.

16 They have mentioned several
17 of those issues that we came up with,
18 the building blocks of the systemic
19 approach, including policy, strong
20 leadership, and training. And during
21 the time that group was working on this
22 particular project, we also -- we in
23 Louisiana were working on our PREA
24 grant.

25 We received PREA grant --

1 two PREA grants a couple of years ago.
2 And while we started working on one,
3 unfortunately, we had the situation
4 with our storm, so we got a little bit
5 off track and had to kind of get back
6 on track with that. But I was able to
7 take the knowledge that our group was
8 working on and bring it back to what
9 our objectives and goals were in the
10 PREA grant.

11 The first PREA grant mainly
12 refers to prisons, or had a lot to do
13 with prisons, but we -- probation and
14 parole. We were able to get some
15 officers certified to be investigators
16 and trained to be investigators, and we
17 were also able to get some officers to
18 be certified polygraphist, polygraph
19 examiners. So we were able to do that
20 out of our PREA grant. We are very
21 fortunate because we are one of the
22 unified states. We supervise probation
23 and parole adults, and we are also part
24 of the Department of Public Safety and
25 Corrections. So we have an excellent

1 working relationship with our
2 institutions.

3 Our secretary, Richard Stalder is
4 very instrumental, I think, at the
5 beginning with PREA and talking about
6 safeguarding communities. So he was
7 very familiar with that and was able to
8 bring that information back to us, and
9 where we should go with this when we
10 started implementing our grants.

11 Some of the things that
12 we're looking at regarding our policy
13 is that we need to look at all the
14 elements within the policy. What would
15 officers do if they were told about a
16 complaint? How would they handle that?
17 What would we do as first responders?
18 Who would we report that to? What
19 reporting elements did we have? Some
20 of these things we're still working on.
21 We've been able to train our staff on
22 some of these. It's been gone a while,
23 but we had to sit down and really look
24 at our policy and determine, ask all
25 these questions and try to look at

1 every scenario and see what situations
2 our staff may be faced with.

3 We currently have probation
4 and parole officers are supervisors,
5 who do investigations. But after
6 looking at what other states do and
7 what best practices are, our whole
8 department is rethinking that issue and
9 may look at having a separate
10 investigative unit to do those types of
11 investigations. So we've looked at
12 what are we doing, and we are trying to
13 decide if this is the right thing to
14 do. Should we change this? I mean,
15 what is the best way to go with this.

16 We -- it's our policy, our
17 protocol in our department that if
18 there is allegation of staff sexual
19 misconduct, we refer this, even if
20 the -- the staff person resigns, we
21 still have a policy that we refer to
22 the local prosecutor. And have a
23 decision -- they can take that
24 information and decide if they want to
25 pursue prosecution or not. We want to

1 send a very clear message that this
2 is -- this is not acceptable behavior
3 on any level. And that is -- that is
4 one way to do that. So just simply
5 resigning from your position as the
6 result of investigation is not -- it's
7 not necessarily -- it's not going to
8 end there, that particular
9 investigation.

10 What we're doing in the
11 second phase of the PREA grant is
12 trying to focus on safeguarding the
13 communities. If offenders are allowed
14 to remain in the community, then
15 hopefully they will not be exposed to
16 prison, and their chance to be -- their
17 chance to be assaulted in prison would
18 be reduced. If they receive effective
19 evidence based programming and services
20 in the community, then this will help
21 prepare them to be better citizens.

22 So in our grant we have
23 three case managers that are assigned
24 to three of our large district offices
25 that are going to work very closely

1 with the institutions. The
2 institutions are going to use screening
3 tools to determine if an offender is a
4 high risk sexual predator or perhaps is
5 a high risk to be a victim, and is
6 going to come up with case plans for
7 the offenders so that they'll get a
8 seamless transition into the community.

9 One of my colleagues that
10 testified previously was talking about
11 the resources. And in community
12 corrections they are very, very thin.
13 So we have to put our attention and our
14 focus on those offenders that pose the
15 greatest risk to the community. So
16 we're going to have these -- these
17 offenders identified, these victims
18 identified, then we will have the
19 seamless transition to our officers who
20 then will supervise these cases in the
21 community. And there will be a whole
22 array of services, depending on what
23 that person needs in the community so
24 that we can try to get them the
25 services that they need. If they were

1 a victim, do they need counseling?
2 We're going to address all those
3 issues. And our case manager is going
4 to coordinate all those efforts.

5 This is part of reentry,
6 which we've been working on for the
7 past few years. But we're able to take
8 PREA and take these high risk cases
9 that are high risk. We will be able to
10 put our attention to those cases.

11 We're also working to try to
12 reevaluate. We have evaluators that
13 will -- researchers that will come and
14 evaluate our program to see how this is
15 going to work. Training is another key
16 issue that we're -- that we're doing.
17 We recognize that we have to train our
18 staff in so many things. We've also
19 had a policy in training them in staff
20 inappropriate conduct with offenders.
21 But there's so many issues there that
22 you really -- that we didn't think
23 about that we really had to sit down
24 and come up with a policy and talk
25 about all the things that our staff

1 needs to know as far as inappropriate
2 conduct.

3 And our last probation and
4 parole officer post-academy -- officer
5 post-certified -- peace officer
6 certified. We took the NIC model
7 curriculum. And we are starting to
8 train our officers in that particular
9 curriculum in staff sexual misconduct,
10 and addressing all the areas that we've
11 talked about that are in the written
12 document. The areas in training that I
13 think that -- that we think to be
14 covered.

15 The other thing that we're
16 trying to do is, we also -- we're
17 trying to educate the offenders on
18 misconduct, inmate on inmate, or staff
19 sexual misconduct. We have posters in
20 our offices that talk about, you know,
21 assaults and report it. And what we
22 want to do is try to come up with some
23 other ways to -- to get this
24 information out to offenders. Do we do
25 it during intake? Do we develop some

1 brochures as part of the evaluation in
2 the prison when they come out to -- on
3 supervision? Do we do some evaluation
4 there? So that is some of our goals.
5 I mean, we haven't completely figured
6 out everything that we're going to do
7 with the rest of our PREA grant, but we
8 have a lot of goals that we're trying
9 to get too. And all of that is to try
10 to make our communities a safe -- is to
11 make our communities a safer place.

12 There are many ways that
13 PREA is and will continue to impact
14 communities through community
15 corrections. Probation and parole
16 staff have an opportunity to be part of
17 this ever evolving process that will
18 contribute to the reduction of sexual
19 abuse of offenders and, thus, making
20 communities safer by helping offenders
21 becoming more productive citizens.

22 So I thank you for the
23 opportunity to come speak today, and
24 welcome any questions that you may
25 have.

1 CHAIRMAN KANEB:

2 Well, thank you, Ms. Powers.

3 You refer to your
4 consideration of whether you should
5 have an in-house investigative
6 operation or a separate, I guess
7 in-house also, but dedicated reporting
8 line investigative of operation.
9 You're speaking of your part of
10 Louisiana corrections systems, meaning
11 parole, community corrections, or are
12 you speaking of the whole system
13 including -- you know, penitentiary are
14 considering having a separate -- go
15 ahead.

16 MS. POWERS:

17 Because we are part of the
18 Department of Public Safety and
19 Corrections, we would just be part of
20 whatever that decision is made. It
21 will be handled -- we're just an agency
22 within corrections, so we would be
23 able -- whatever they decided.

24 CHAIRMAN KANEB:

25 So when you say we, I

1 consider -- you mean the whole --

2 MS. POWERS:

3 Correct.

4 CHAIRMAN KANEB:

5 -- system considers it?

6 MS. POWERS:

7 Correct. Yes, sir.

8 CHAIRMAN KANEB:

9 That's interesting. All
10 right. Thank you.

11 Questions of Ms. Powers?

12 COMMISSIONER SMITH:

13 I have a general question.

14 One of the things that -- when I heard
15 Ms. Powers talking, and that I think I
16 forgot to talk about this whole thing
17 around the applicability of these state
18 laws of probation and parole. Often
19 corrections agencies have been out
20 there sort of beating the drum saying,
21 we need this kind of coverage. We need
22 these kinds of -- of penalties. And I
23 think that I want to be clear that even
24 in the absence of these kinds of state
25 laws that typically have higher

1 penalties, that there are other kinds
2 of laws that agencies have been using
3 to try to get at this.

4 Now, often they don't have
5 the same type of -- there's no sex
6 offender registry for them, there are
7 much lighter penalties, but there are
8 some others that I think that people
9 use in the absence of having state
10 laws. And if there are others that you
11 use when you're not able to use those,
12 I'd be interested in hearing about
13 those.

14 MS. POWERS:

15 There are. We can use
16 mouthpieces in the office. There's
17 sexual -- the statute regarding sexual
18 conduct. I mean, one of our goals
19 is -- we are not explicitly included.
20 We're implicitly included. And we have
21 had officers that have been convicted
22 of inappropriate conduct with
23 offenders, unfortunately.

24 COMMISSIONER SMITH:

25 Ms. Kotkin, what kind of --

1 I mean, what did you use in terms of
2 prosecutions when --

3 MS. KOTKIN:

4 Prior to having a law, we
5 were only able to prosecute if a local
6 prosecutor saw that that -- the
7 behavior fits the definition in the
8 type -- the criminal code. And what we
9 would get every once in a while is a
10 very egregious situation where a staff
11 person -- one staff person was
12 convicted of sexual assault because it
13 was physically coerced sex within a
14 correctional facility. And he was
15 charged and convicted and incarcerated
16 for many years.

17 We had another situation
18 that was nominally consensual where I
19 had to talk -- at that point in time I
20 was responsible for several
21 correctional facilities. Where we had
22 a shift supervisor tell a young inmate,
23 you can do easy time or hard time.
24 And the inmate then said, well, I'd
25 rather do easy time and -- and engaged

1 in sexual relations with him for those
2 kinds of benefits. When he finally
3 told us, we went to the prosecutor who
4 said he consented. We said, there is
5 no such thing as consent, recognizing
6 we had no other statute except what was
7 on the books in the criminal code.
8 The prosecutor was able somehow to
9 engage in, I don't know if it was
10 threat or coercion, some kind of plea
11 agreement to a, what we call prohibited
12 act, which is a misdemeanor charge
13 against the employee. The employee was
14 fired anyway. And then that employee
15 was put on probation and we had to
16 supervise him. But I think that was
17 more a poker game than anything else.

18 So this law became very
19 important to us. Because the whole
20 issue of consent, prosecutors in our
21 state were very willing to prosecute if
22 they -- if there was non-consent,
23 if there was coercion, in accordance
24 with the law that existed then. So
25 this new law is very important to us.

1 CHAIRMAN KANEB:

2 Thank you, Ms. Kotkin.

3 Commissioner Fellner.

4 COMMISSIONER FELLNER:

5 Yeah. I had a question for
6 Ms. Powers. On your safeguarding of
7 community, you're using some of the
8 money that you received for
9 commissioner, and you refer to
10 identifying high risk sexual predators
11 and high risk victims.

12 And so first, by high risk
13 sexual predators, do you mean inmates
14 who have had sex -- have abused other
15 inmates, or do you mean people who were
16 sent to prison on sex offender charges
17 who are now being released to the
18 community? And the question is,
19 whether they pose a risk of being a
20 continued sex offender.

21 MS. POWERS:

22 There are policies that
23 speak of screening right now in their
24 institution, so it hasn't been
25 completely formed yet, but it could be

1 both. I mean, they're trying to
2 identify those. I mean, those in the
3 institutions that commit sexual
4 assaults and also inmates that are high
5 risk -- that are sexual predators, just
6 sexual predators in general. So it
7 would screen both.

8 COMMISSIONER FELLNER:

9 Well, my question -- if it
10 might include people who are not sent
11 to prison on sex offense charges but
12 who committed sexual offense while in
13 prison. And I was going to ask
14 everybody here, is it your sense that
15 inmates who commit sexual offenses in
16 prison, sexual perpetrators in prison
17 but who does not have prior sexual
18 offense background, tends to pose a
19 risk in community engaging in sex
20 abuse? Is this -- is there any...

21 MR. BOOKER:

22 I haven't seen any data on
23 that. I would think that that would
24 be -- that would be something that
25 would be interesting to look at. I

1 think along those lines, it's also
2 getting that information from the
3 institutions to make sure that the
4 community corrections level know that
5 that has been happening within the
6 institution.

7 COMMISSIONER FELLNER:

8 My follow-up on that would
9 be, you have high risk victims which
10 includes any inmate who was sexually
11 abused in prison. In the community
12 safeguard context, what does it mean to
13 be a high risk victim? Do you think
14 that people who have been abused in
15 prisons -- who have been victims in
16 prison are more likely to be abused in
17 the community?

18 MS. POWERS:

19 It's more about what
20 services they may need. If they're
21 abused in prison, what services can we
22 offer them when they get out on
23 supervision? Or if they're assaulted
24 in prison, is there something we can do
25 when they get out of supervision,

1 services that we can offer to them that
2 we're aware of that information and can
3 get them to wherever they need to go?
4 That's more what that's about,
5 identifying those types of individuals
6 so that when we supervise them, because
7 they're going to come out on
8 supervision, and sometimes, that we're
9 aware, that we can work with them and
10 get them the services they need.

11 COMMISSIONER FELLNER:

12 And can you say something
13 about the services they will need?

14 MS. POWERS:

15 I think it's going to depend
16 on what type of -- I mean, we have
17 mental health services out in the
18 community. We have counseling
19 services. We have -- we're making
20 contact with the Rape Crisis Center. I
21 mean, that's one of our -- our case
22 managers from the PREA grant are going
23 to be doing, is identifying those
24 services out in the community that
25 these offenders -- that these victims

1 or offenders may need.

2 COMMISSIONER FELLNER:

3 So this is all in the
4 future. You haven't started this?

5 MS. POWERS:

6 Right. All it is the
7 screening tools, the things that we're
8 trying to do, that we're trying to
9 pilot is to -- that's all in the
10 process right now. That's what our
11 goal was in the grant. And so a lot of
12 this, we're still trying to work out
13 the details. And so I really don't
14 have a lot of answers for you today.
15 Hopefully, that's what the researchers
16 will be able to tell us. Because
17 that's part of the grant, is to do the
18 research on the work that we're doing.

19 MS. KOTKIN:

20 But I also like to add that
21 having that information enables
22 probation and parole not only to
23 develop a treatment plan, but also
24 possibly an alternate supervision plan.
25 So you might decide for someone who is

1 suffering posttraumatic stress disorder
2 as a result of victimization that the
3 visits won't occur in the home. It
4 will be done out in public, the
5 assignment of a probation officer who
6 is, perhaps, more sensitive to some of
7 the PTSD issues. We have cross gender
8 supervision in our state, but we don't
9 have to if we feel someone is -- might
10 be made more vulnerable by having a
11 probation officer of a different
12 gender.

13 So I think there are things
14 that we can do with that information to
15 try to supervise -- still hold
16 accountable but in a way that doesn't
17 re-victimize.

18 COMMISSIONER FELLNER:

19 And is that happening a lot,
20 using the sensitivity on cross gender
21 stuff for supervision? I thought...

22 MS. MOSS:

23 Yes. Commissioner Fellner,
24 I was thinking about your first
25 question and was hoping to answer it.

1 I apologize for that. I was trying to
2 get the Chairman's attention there. So
3 if you want to repeat the question on
4 cross gender supervision, I'll be happy
5 to respond, so.

6 COMMISSIONER FELLNER:

7 No. Answer the other
8 question.

9 MS. MOSS:

10 Oh, the other question?

11 Okay. I think that your question was,
12 if someone is a perpetrator, aggressive
13 in an institution, and they go out will
14 that continue.

15 To me, if we understand the
16 dynamics are about power and control,
17 and that's a behavior that they may
18 have experience. The circumstance when
19 they go out, they will certainly run
20 into situations that they -- those
21 dynamics are there. So I think that it
22 would stand to reason that that would
23 be -- could be a continued behavior. I
24 think in terms of someone who has been
25 victimized, when we think of -- we

1 particularly know more about women who
2 have been victimized and how they,
3 through their own depression, through
4 their own world view, understand of
5 course that they sort of -- they expect
6 that's the way it is. And I think we
7 have to think about that and be
8 informed about that in terms of people
9 who have been victimized in prisons if
10 they had not had services and help.

11 COMMISSIONER FELLNER:

12 I certainly know about the
13 women. I actually don't know as much
14 about whether men who have been
15 victimized in prison tend to end up in
16 victimized circumstances outside of
17 prison. And I find the question of how
18 power control outside of prison might
19 be exercised. Would it continue to be
20 in a sexual abusive way, and would it
21 be -- and in what kind of pattern? I
22 mean, it's -- and not a lot of research
23 has been done on this.

24 MS. MOSS:

25 No. I don't think there has

1 been a lot of research done about it,
2 and I think it's a very interesting
3 question. And if we're really going to
4 unpeel this opinion and look at the
5 reentry implication, I think it's an
6 important question.

7 CHAIRMAN KANEB:

8 Any -- any others?

9 COMMISSIONER FELLNER:

10 Cross gender?

11 MS. MOSS:

12 I didn't hear the question
13 of cross gender.

14 COMMISSIONER FELLNER:

15 The question was simply
16 that, Ms. Kotkin had said in Vermont if
17 you, let's say, have been abused by a
18 male staff, then parole -- probation
19 might be sensitive. And having a
20 female person for community
21 supervision, is there a flexibility
22 there? And I wonder if that's, in your
23 experience, is that something which
24 agent -- community agencies are doing
25 pretty frequently now, or is there not

1 much sensitivity on the cross gender
2 dimension?

3 MS. MOSS:

4 I think in some agencies
5 there's sensitivity to it. But even
6 where there's sensitivity to it, I
7 think the numbers and the complications
8 of the administrative management of
9 that get in the way. And so I think
10 that we would have to pay attention to
11 that as a factor though as we look at
12 who -- where someone gets assigned.

13 COMMISSIONER FELLNER:

14 Thank you.

15 CHAIRMAN KANEB:

16 Any other questions of any
17 of the panelist?

18 Thank you all. One last
19 observation that heartens me.

20 Ms. Kotkin, I -- my wife and
21 I have a residence in Vermont, not our
22 permanent residence, in which we
23 treasure. And I would certainly
24 confirm for everybody in the courtroom
25 that it is entirely possible that the

1 reluctance to pass this law that would
2 allow for the prosecution of parole
3 supervisor if someone -- it's not
4 because Vermont wish to make or
5 perpetrate a certain behavior, but
6 because Vermont believe it's really
7 about having to do that. And I will
8 agree that that is a very Vermont
9 attitude, which I observed.

10 I am particularly pleased
11 though to know -- to be surprised to
12 learn that -- that federal law is of
13 such interest to Vermonters that you're
14 actually have appointed a PREA office,
15 even though we haven't issued
16 standards. And you know legally, as
17 far as we can tell, we really don't
18 have direct authority in that manner.
19 So I am most pleased all around to hear
20 about this.

21 We will reconvene tomorrow
22 morning at 8:45. Thank you.

23 (Off the record.)

24

25