CHAIRMAN KANE:
So would you -- would you
all please rise and raise your right
hands?

(Four witnesses sworn.)
CHAIRMAN KANE:
Thank you. Be seated.

This panel is entitled, as
you see, Sexual Violence and Community
Corrections: The Special
Considerations of Community-based
Settings.

I'm pleased to welcome our
next four panelists, Carrie Abner,
Thomas Beauclair, Denise Robinson, and
Barbara Broderick.

The area of justice --
statistics show that sexual assaults
occur not only in institutions but also
in community corrections. The field of
community corrections recognizes the
ability of PREA in striving to comply
with the requirements. Many
corrections involve a multi-direct
dimensional approach supervising
offenders. The very sort -- creates challenges for officials when they're addressing sexual assault. Authorities are in the process of identifying barriers and developing strategies to address these complexities of PREA when apply for community corrections.

And I will just say that as we learn more and more about what PREA must be, an action, we do very much appreciate the complexity of applying it in a community corrections setting. That's not to deter us, and please be assure of that.

The panelist will discuss unique concerns faced by community correction professionals as they deal with the tension of sexual violence of response victims in their case.

Our first panelist is Carrie Abner. She is a research associate from the American Probation & Parole Association. Ms. Abner directs projects related to correctional response to sexual assault in
correctional settings.

Our second is Thomas Beauclair, who is the deputy director of the National Institute of Corrections. And I see has funded several projects intended to initiate PREA within community corrections. Our third panelist is Denise Robinson, who is the president of Alvis House and past-president, International Community Corrections Association. She is also commissioner -- or commissioner on her accreditation for corrections. Ms. Robinson has experience in operating halfway houses accreditation and speaking on international affairs. And fourth, is Barbara Broderick, who is the director of Adult Probation of Maricopa County, which is the sixth largest probation department in the United States. I believe that is the Phoenix area, is it not? Ms. BRODERICK: Yes.
CHAIRMAN KANEK:
With over 1200 employees.

Ms. Broderick has experience in working with urban and rural tribal corrections and expertise on probation, parole, and pretrial services.

Thank you.

MS. ABNER:

Mr. Chairman and members of the Commission, first of all, I'd like to thank you on behalf of APPA, the American Probation & Parole Association, for the opportunity to testify before you today.

I'd like to begin with a brief overview of communication correction, which is a diverse field that oversee nearly 70 percent of the adult population and nearly 700,000 juveniles nationwide. The terms "probation" and "parole" in community corrections are often used interchangeably; however, the field is much broader, much more diverse than just probation and parole.
Beyond probation and parole, community corrections includes pretrial services, residential treatment programs, halfway houses, work release, court diversionary programs, home detention, secure detention, and community service programs. Community corrections agencies exist with federal, state, county, and municipal levels, and can be housed in either the judicial or executive branches. In addition to public agencies, many private company and nonprofit organizations provide critical community corrections programs and services. Common among all these agencies, however, are the goals of achieving offender accountability, behavior change, and cost effectiveness with the ultimate goal of improving public safety.

Given the nature of the community corrections field, there are certain challenges to the implementation of PREA. Perhaps one of
the biggest of these challenges lies in the name itself, the Prison Rape Elimination Act. Unfortunately, since its passage, PREA has been widely misunderstood as being relevant only to our nation's prison, with many of us in the community corrections field wondering, what does PREA have to do with me? Efforts to dispel -- or having a positive impact, nevertheless many unanswered questions remain. For instance, while some programs like residential facilities clearly fall under PREA, its breach over probation and parole function is less obvious. Community correction agencies and staff need clear guidance on their responsibilities under PREA.

APPA commend the Commission for its inclusion for community corrections experts in the standards development process. Once developed, these standards will set the foundation for efforts to educate community corrections agencies and staff on the
important role they can and must play in addressing corrections of sexual assault. In the meantime, however, APPA recognizes the need to continue raising awareness about PREA within the field, and developing the buy in so crucial to its incorporation in the policy and practice.

In the development of the law, Congress found that prison rape endangers the public’s safety by making brutalized inmates more likely to commit crimes when they are released, as 600,000 adult inmates are each year given the majority of probationers and parolees can sometime in custody, the community corrections field has an obvious role in safeguarding communities.

To fulfill this role, however, community corrections agencies need clear policy and protocols for detecting, reporting, investigating, and responding to incidents of sexual assault. Given the vast diversity of
the field, policies and procedures must be customized to each individual agency. No single model policy or protocol will be appropriate for all settings. Identifying the variety of vulnerability for sexual assault, as well as methods for preventing and responding to incidents that are appropriate to the range of community corrections, agencies, and programs will be a daunting but necessary task.

In addition, training on PREA is greatly needed for community corrections staff. Caseloads are already large, and workloads continue to expand as both the number of adults and juveniles under community supervision, and supervision requirements, have increased over the past two decades. In an environment where staff are being asked to do more with less, there may be some reluctance to taking on additional responsibilities. Nevertheless, the community corrections field recognizes
that supervision strategies must address the range of factors that affect the behavior of an offender, including sexual assault victimization and perpetration. It is critical, therefore, that training underscores the importance of recognizing and responding to incidents of sexual assault for the effective supervision of an offender in the community.

Frontline community corrections staff are in a unique position to detect sexual assault victimization and perpetration in correctional environment through conversations with offenders, information received from family, friends, employers, and external agencies, as well as direct observations of offender activities. Line staff are the eyes and ears of community corrections and are, therefore, likely to be first responders in these settings.

Training for line staff
should provide instructions on recognizing the red flags of sexual assault, conducting interviews on sexual assault victimization, reporting incidents, preserving evidence, requesting investigations, maintaining confidentiality, referring victims and perpetrators to appropriate -- appropriate treatment and services, and developing appropriate supervision strategy for victims and perpetrators alike.

Equally important, line staff and supervisors can play an important role from preventing sexual assaults from occurring, and should be trained accordingly. Line staff are the conduit of information to offenders, and should inform each offender of their rights to be protected against sexual assault by other offenders as well as by agency staff, volunteers, and contractors while under correctional supervisors.

Staff in residential
facilities should be trained in utilizing classification systems to identify offenders who may be vulnerable to sexual assault as well as possible perpetrators, and make appropriate housing decisions. Moreover, as a result of a decade long effort to address staff sexual misconduct, many agencies provide staff training on maintaining appropriate boundaries in relationship with offenders under supervision. Training on staff sexual misconduct should continue to be provided to community corrections professionals to enhance adherence to principles of PREA.

Information sharing on sexual assault is also critical to response efforts, but must be approached carefully to ensure that victims receive appropriate treatment and offenders are held accountable. Community corrections agencies must be able to share information on sexual assault incidents with a variety of
organizations, including institutional
facilities, treatment providers, and
medical and mental health services.
Clear guidance on how such information
should be shared, however, among and
within agencies is needed to protect
the privacy of victims and prevent
further trauma.

Another challenge for the
community corrections field is ensuring
compliance across all agencies.
Community corrections agencies need
guidance on how contracts -- contract
and memorandums of understanding,
without that partner and service
providers, how would you incorporate
and address PREA? Despite the many
challenges that exist, efforts are
underway to assist the community
corrections field incorporating the
principles of PREA in the policy and
practice. And APPA is pleased to be
engaged in these initiatives.

Through a cooperative
agreement with the Bureau of Justice
assistance, APPA in partnership with
the International Community Corrections
Association and the Pretrial Justice
Institute is developing a handbook for
frontline community corrections staff
and supervisors on preventing and
responding to sexual assault. APPA is
also collaborating with the National
Institute of Corrections, the monitors,
and the Washington College of Law in
the development of the handbook and in
broader efforts to raise awareness
about PREA within the community
corrections field. A more
comprehensive description of our
efforts in this -- on this issue is
included among written testimony for
your review.

Again, on behalf of APPA, I
would like to extend our appreciation
for the opportunity to testify today.
Thank you very much. And I'll be happy
to answer any questions that you may
have.

CHAIRMAN KANEB:
Thank you, Ms. Abner. I think it would be useful to, certainly people in the audience and at least speaking for this Commission, or for me, if you could give some examples of community corrections activities. I mean, it's a -- people's not converse with the correction system to one, you know, whether it's their main job or their academic interest. Community corrections is basically two words that seem to mean a broad array of activities. So without going through all of them, just examples of what -- what sort of institutions might be here.

MS. ABNER:

Sure. I think among the most well-known functions are probation and parole, which is certainly the supervision of an offender, either as an alternative to prison incarceration or following one's incarceration where this offender works with probation or parole officer who supervises them.
Other examples include secure community-based facilities where an offender is in a secured facility where he -- he or she remains, but it is in the community closer -- in the community in which that individual resides.

CHAIRMAN KANE:

Excuse me. Obviously, in the first case the -- the clients, if you will, are not confined?

MS. ABNER:

Correct.

CHAIRMAN KANE:

But in the second case they are?

MS. ABNER:

They can be. Exactly. And we also heard examples this morning regarding a halfway house where offenders reside in a facility but have privileges to leave that facility for certain periods of time. Community corrections also includes pretrial services, so before an individual goes before the court, is detained.
And that defendant may be in a jail setting or -- or in some sort of lockup setting. That is also considered community corrections. So it really begins from --

CHAIRMAN KANE:

So you do consider jails to be --

MS. ABNER:

When a defendant is under pretrial service supervision, that is considered community -- or part of the realm of community corrections, correct.

CHAIRMAN KANE:

Even though he or she may be confined in a county jail?

MS. ABNER:

Correct.

CHAIRMAN KANE:

Good. Thank you. Are there questions of Ms. Abner?

Yes, Commissioner Smith.

COMMISSIONER SMITH:

You know, Ms. Abner, one of
the things that I think the Commission
has, you know, sort of struggled with,
and that you alluded to, is -- is sort
of how we should address community
corrections. Because, of course, when
you're talking about the act, the act
is really talking about what -- or
seems to be talking about primarily sex
that occurs in custodial settings. And
so we appreciate you laying out all the
various custodial settings that
community corrections manages.

I guess one of the things
that was in your testimony that I
wanted you to expand on, and just to
get some sense about whether it would
be helpful, is getting a sense -- like
how do we get a sense -- how would you
suggest that we get a sense of the
prevalence of sexual violence in
community corrections settings when it
doesn't appear that you're going to be
a part of the BJS survey?

MS. ABNER:

That's a wonderful question.
And it's -- you know, I think there are so many challenges in getting the sense of the prevalence of these types of incidents, wherever they may occur. And certainly, that applies to community corrections as well. You know, I think that, certainly, agencies are beginning -- community corrections agencies are starting to look at this issue a little bit more closely and -- and reflecting internally about their own practices within themselves. And I think there probably will be some analysis of thoughts about how -- how much -- or to what degree this is a problem within their own agencies.

I'm not sure if that answers your question. But it's a very difficult -- it -- it is -- would be a very difficult task to engage an estimate of the prevalence within community correction just as it is within correctional facilities as well, particularly since community corrections agencies won't be as
engaged in BJS efforts as -- as much as some of the institutional facilities.

COMMISSIONER SMITH:

One other question is just that -- I mean, in terms of recordkeeping. Is it your sense that there are formal recordkeeping mechanisms in community corrections around keeping up with incidents of sexual violence, or is that, again, another area where you know there's a -- a little bit of a lag with what's happening with sort of a well defined community -- other correctional settings?

MS. ABNER:

I think it really depends on the agency. And again, we -- we cover such a broad array of organizations and agencies within the community corrections realm. And I think some community corrections agencies are -- have already begun to -- to collect -- collect data on this type of information. Other agencies have
not -- and to some degree it depends
on -- you know, some agencies provide
strictly a probation or parole service
while other agencies may provide an
array of services ranging from
custodial to more of the -- the
supervision of an offender in the
communities.

And so to some degree, I
think that depends on the types of
programs that an agency is involved in.
It -- as well as other factors. But I
think some agencies are starting to
collect data on it, others probably are
not.

CHAIRMAN KANEB:
Other questions of
Ms. Abner?

COMMISSIONER SMITH:
I have a bunch more, but.

CHAIRMAN KANEB:
Why don't we do this. Why
don't we go on to Mr. Beauclair, and
then we'll see how --

COMMISSIONER SMITH:
Yeah.

CHAIRMAN KANE:

-- how it goes, okay?

Thank you. Thank you,

Ms. Abner.

MR. BEAUCLAIR:

Good afternoon. Mr.

Chairman, members of the Commission,

thank you for giving me the opportunity
to be here today.

Let me say first that the

National Institute of Corrections is

committed to helping in any way we can

with the efforts to making in regards
to sexual violence in prison and

community corrections.

My perspective comes from 30

years of experience, about half of that

in the probation, parole community

corrections system in a rural state

system. I'd like to try to define

community corrections a little bit as

well to provide a framework for our
discussion.

I see it as a function that
refers to a wide array of non-prison sanctions imposed by a trial court or state parole authority. Now, these sanctions may be employed with offenders at the pretrial diversion, or preferred prosecution, post-conviction or post-incarceration stages. Community corrections programs are usually runned by probation or parole agencies, however, the actual authority or structure under which they operate comes in many different forms.

Probation and parole can be a single state agency under the umbrella of the state correction system, or a separate agency of state probation and state parole. Oftentimes, felony and misdemeanor cases are supervised by separate systems. Community corrections programs are also operated by the judicial branch, in many cases, and by county sheriffs.

One state that I'm familiar with, you have a state corrections
system -- part of the community

corrections system is supervised by the
state, and part of it by individual
entities. And so as you can see,
it's -- it's really a mixture of a lot
of constructions.

Programs may be operated by
public agencies themselves or
contracted out to private vendors. In
addition to a wide range of probation
and parole supervision strategies,
programs may include halfway houses,
halfway back facilities, therapeutic
community treatment centers, jail work
release programs, gay reporting
centers, furloughs, hardship release,
community work centers, work camps, and
drug and mental health course.

Now, prison systems normally
have a similar government structure as
a state executive branch agency;
however, as you can see, community
correction supervision and services
have a wide variety of structures.
This possibly is the greatest barrier
to ponder when it comes to promoting
the systems standards in community
corrections' view. In many cases,
information systems cannot talk to each
other in multiple jurisdictions, and
different lines of authority may cross
and require some type of cooperation.

A significant challenge will
be the culture of each individual
agency. Historically, probation and
parole systems have managed offender
risk in the community by monitoring
compliance with court conditions and
controlling offender behavior by adding
additional sanctions if there's some
type of violation, or sending a person
back to prison or back to court.

Now, this approach creates
an enforced mentality and a perception
that the authority figure -- figure,
their only function is one of, I
gotcha. Now, there has been a number
of changes to this in the last few
years. It's been an increasing
interesting proven risk reduction

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outcome using evidence based interventions.

Many agencies have moved to a more multidimensional approach managing offender risk. They've adopted strategies, such as proper risk and needs assessment, case management, and targeted interventions gives employee motivational in reviewing techniques, and building offender engagement and interest in motivation for positive change. These same agencies are also finding that this dual role of monitoring, control, and intervention treatment can blur their responsibilities. That makes both staff and offenders vulnerable. And what can really help there is, of course, proper training.

Community corrections workers generally work autonomously and have large caseloads, as already have been alluded to. And much of their work allows significant discretion and is done outside normal office.
parameters and away from supervisors
and peers. Once again, by the very	nature of their work, staff and
offenders can be put in difficult
situations.

In conclusion, to
effectively address the role of
community corrections in responding to
PREA, some important conditions should
be met. Reasonable caseload sizes,
appropriate training, ability to
provide proper investigations, adequate
supervision of staff of all levels, a
zero tolerance policy for sexual
misconduct, written policy and
procedure for all public and private
staff that have contact with offenders,
offender orientation handbook, a good
culture which promotes professionalism,
integrity, and proactive approach to
the prevention of sexual misconduct,
and the detention and proper sanction
of offender and staff sexual
misconduct.

With that, I conclude my
remarks. Thank you.

CHAIRMAN KANE:

Thank you, Mr. Beauclair.

Are there questions of Mr. Beauclair?

In respect to complying with PREA, and having this Commission be able to halfway intelligently draw standards, do you -- would you offer an opinion as to whether or not situations that are not custodial, that is parole officer, client, halfway house, residence, whether those should be activities we should really address at all?

MR. BEAUCLAIR:

Mr. Chairman, my opinion is that -- and as I understand the law, it's currently written that only the 24/7 detention-type facilities would come under PREA. That's how I understand it.

CHAIRMAN KANE:

So the activities that -- and may be the useful activities, that this broad spectrum of -- of entities
performed really are outside of PREA, as you understand it?

MR. BEAUCLAIR:

Yes.

CHAIRMAN KANEB:

All right. Thank you. That's all I have for now. I just think with two more witnesses on this panel, we'll just continue with testimony. And then with time remaining, we -- we can have open seating.

COMMISSIONER SMITH:

I just want to make one comment, which I think is probably a quandary when you're talking about community corrections. I mean, certainly PREA covers what we're talking about in terms of custodial. But I guess the question that I ask of Deputy Director Beauclair, it is your understanding, however, that under many states' statutes, probation and parole officers who are involved in sexual interactions with staff would be
eligible for prosecution, right?

MR. BEAUCLAIR:

Of course.

COMMISSIONER SMITH:

And that they would also

certainly -- they would also certainly

be prohibited by policy in these

agencies?

MR. BEAUCLAIR:

Yes.

COMMISSIONER SMITH:

But it seems that there was

a gap when you were putting the

legislation together in terms of

covering those kinds of interactions?

MR. BEAUCLAIR:

That's correct.

COMMISSIONER SMITH:

Okay.

CHAIRMAN KANE:

Ms. Robinson.

MS. ROBINSON:

Mr. Chairman, members of the

Commission. I appreciate the

opportunity to provide testimony today
reflecting the experiences of community corrections for practitioners with regard to PREA.

First and foremost, community corrections practitioners believe and support, by both policy and practice, that any sexual conduct between clients, entrusted to our care, and any staff in our programs is always unacceptable. Compliance with PREA is a moral obligation, not just a legal one.

The passage of PREA in 2003 helped corrections professionals to become increasingly aware of the issue of sexual assault in institutional settings. There have been very few efforts, until recently, to educate the community corrections field about PREA and study its implications in community correction settings.

Community corrections programs have challenges that are unique to our settings. Our clients are not under the direct supervision of
staff at all times. Client absences from the facilities are approved for verified programs, such as seeking employment, strengthening family ties, religious activities, educational, recreational, and counseling.

Clients are constantly monitored while in the community, so program staff are aware of their location. But we would be remiss if we did not note that our staff and/or clients have opportunities to engage with one another outside of the watchful eyes of staff in the facility. For that reason, it is imperative. There are culture, policies, and practices emphasized, beyond any doubt, that there is no such thing as a consensual relationship between staff and clients.

To address the need to strengthen this culture and provide useful tools that can be applied to a variety of community corrections settings, a group of practitioners is
working together to develop a how to
guide. And Carrie Abner addressed that
already, so I'm going to skip over a
lot of that.

I just want to say though
that once that guidebook is -- is
published, it will be electronically
accessible through the APPA, the ICCA,
and the PSRC websites.

Many of the best practices
being implemented throughout community
corrections, such as gender responsive,
classification and treatment,
motivational interviewing, case
management, all contribute to effective
prevention and response to sexual
misconduct, even though not directly
responding to PREA. We are working to
build an existing positive element and
best practices of our programs and
services.

On a more personal note, I'd
like to talk to you a little about
Alvis House, and it's the agency that I
run. I have 13 locations ranging in
size from 100 beds to 30 beds. We believe that staff sexual misconduct is one of the most serious forms of employee misconduct. Alvis House does not tolerate any form of discrimination and/or sexual harassment towards clients or staff. Violators of our policies are subject to disciplinary action up to and including termination of employment, as well as applicable civil and legal and criminal penalties.

Upon admission to Alvis House, clients receive a packet of information covering sexual abuse, assault, prevention, and intervention. The informational packet defines the client's right to be safe from sexual abuse and assault, and the client's right to confidentiality and privacy. It also contains information of the investigative process, counseling for victims of sexual assault, guaranteed safety of the client, steps to avoid further sexual assault, and a list of who to contact if they are assaulted.
Alvis House requires each client to sign a form stating that they were issued this literature upon entrance to our programs. If a client feels that he had been subjected to sexual harassment, he or she is immediately -- is to immediately report the matter to the program manager or director. Clients are encouraged to report concerns of this nature to another level of supervision if they don't feel comfortable.

In addition to being able to refer clients to counseling services, Alvis House is very fortunate to have a clinical psychologist on staff who is prepared to counsel a client as needed, should a client be a victim of sexual abuse or assault. Alvis House has a comprehensive staff training program that addresses the agency's sexual abuse, assault, misconduct, prevention, and intervention programs. All newly hired employees receive training about the program during the initial
orientation period and annually thereafter. Alvis House also conducts initial orientation and refresher training on expected staff performance and employees standards of action.

My testimony does not seek to address the many issues surrounding sexual misconduct in a community corrections setting, nor does it offer a definitive or comprehensive approach to its prevention, investigation, and resolution in such a setting. I hope though that it will be of some assistance to the Commission.

I did want to say one other thing before I -- we moved on. And that is, about two days after I was asked to present here today, I had an instance of sexual abuse in one of my facility. And it was from -- a client was in our residential facility, and he came and he reported it -- reported it to his manager of that program. What was interesting about it was, when he reported it, he didn't want any
confidentiality about it. He wanted to make sure that others knew about it so that they would be willing to report something of -- if that would happen to them. So I thought it was very interesting around the timing of the report.

It was probably the first report we have received in probably about three years. And he actually helped the police and our agency catch our employee in the act with him. The other interesting thing is, I think it brought to light how important it is for community corrections programs to really spend time on this issue.

Thank you.

CHAIRMAN KANEK:

Thank you, Ms. Robinson.

That -- that incident is -- is unusual and may be instructive. You know, I'm just speaking as thoughts are coming to my head here, but. We spend a huge amount of time, and I guess properly so, on -- on confidentiality,
protecting the victim from the trauma
of exposure, because he or she may be a
victim of retaliation. He or she may
be highly embarrassed, further
traumatized by disclosure.

On the other hand, the guy
you're talking about was willing to
admittedly, in a much -- much less
threatening environment than a high
security prison, was going to take the
opposite tact. He was going to make
sure everybody knew about it, and as
you've concluded, cooperate with
authorities in, I don't know, some kind
of sting operation or whatever. I
think that's a forethought for all of
us here on the Commission as we think
about the matters of confidentiality
and who knows and who shouldn't know
and -- and again, I'm just speaking as
thoughts are coming in my head.
But, you know, sunshine and bright
lights are -- are very deterrent to
mischief in many -- many settings. So
thank you.
MS. ROBINSON:
You're welcome.

COMMISSIONER FELLNER:
Was it a male staff or female staff?

MS. ROBINSON:
It's a female staff. If I may though say one thing that I think does relate to even the institution, is the staff person that was hired was hired from another state. I won't mention the state. But they were hired from another state that worked in the state department of corrections. And our process of hiring staff, there's a -- a -- there's a lengthy background investigation process. But when someone leaves a state because they violated the same kind of thing and there's no -- they are allowed to resign from their position, rather than being terminated, then we'll never get that information. And on paper and through interview, it looks like a very good staff person. This happened
within two weeks of employment, too.

CHAIRMAN KANE:

That problem is one we have heard about before. The serial offender who flies beneath the radar, yes. Thank you.

Ms. Broderick, please.

MS. BRODERICK:

Yes. I guess in the interest of time I will try and go through my testimony fast so that you have an opportunity to ask us questions.

I think one of the things that’s most important is for those of us in the community corrections field is, does PREA actually apply? And the reason I say that as the chief probation officer in Maricopa County, I do run a facility. It's only 50 beds. It's for the seriously mentally ill with occurring situations. But my officers who are at pretrial are within the jail. They are talking to defendants all the time. We also have
bail bond agents that are a part of that. So some of the questions that really come to this Commission is, what should PREA be for community corrections? And the reason I say that is when you look at the statistics, two million individuals are in some type of custody inside facilities. Five million people are underneath community corrections in the United States. That's a lot of people.

You heard previous people talk about our structure. We are very similar to the struggles that you're probably having with your jail facilities. There are 30 states that have probation and parole at a state level. 11 of them are affiliated with the Department of Corrections, and in turn, because of that, they have wonderful access to existing policies to inspector generals.

And then there are those of us, the 20 states, and I have to point out that some of the most popular
states are designed this way, Texas, California, New York, Ohio -- and I'm sure I left someone out. -- Illinois. I could throw in Pennsylvania or my own state. Are probation entities that are runned at a county level. Some of us report to mayor, some of us report to city council and/or board of supervisors. And myself, I report to a presiding judge. That system of structure means it's very difficult to have the ability to have consistent policies.

A lot of us do have policies around staff sexual misconduct. And, unfortunately, in the seven years I've been, I can relate ten stories where there are people who we have on who are financial collectors, who are actually treatment counselors, or who, unfortunately, are probational officer who have abused clients and have sexually assaulted them. And I can relay stories of how we actually have to go through and try and deal with
that.

But I think for the Commission, I would ask that we look beyond custodial. We have five million people, and in my own jurisdiction there are 32,000 people under parole and probation supervision. It's larger than the Department of Corrections just in the county itself.

So somehow, some type of standards -- and I applaud APPA, ICCA, and Pretrial Resource Center for attempting to take this on with the National Institute of Corrections to try and bring PREA to light.

Unfortunately, a lot of my colleagues only see this in terms of detention centers and residential. And yet, when you have officers going in and out of jails and prisons -- and I think the Broward County example is probably legal visits where you have probation officers and parole officers interviewing clients and clients come forward and, basically, tell us about
the sexual assault, wanting it to be relayed. So I'm thinking that that might have been actually what had occurred at Broward. And that could also be defense attorneys and/or psychiatrist or psychologist that are going into the jail interviewing the inmates. So you have a vast array of individuals that are outside the facilities going inside the facilities.

In my jurisdiction, I am urban -- and you mentioned Phoenix. We're also very, very rural. And I have three different tribal entities with sovereign issues that I'm dealing with. And some of the issues around, basically, taking jurisdiction that have to work with tribes is another interesting arena of work to this particular Commission.

I really thank you for the opportunity to at least present some of the issues around community corrections. And there's a whole array of things. And my written testimony
goes through a couple of those types of things, but I do think maybe face four. We need to look at the larger arena of where most people wind up in terms of being adjudicated under probation and/or parole and/or any of the diversion programs that are out there. Thank you very much.

CHAIRMAN KANE:

Thank you, Ms. Broderick. Are there questions of any of the panel?

COMMISSIONER AIKEN:

I have an open-ended question for advice and balance. There are people that are leaving detention centers, leaving prisons after various periods of incarceration that enter your universe. And -- and obviously, we know that when an inmate or a person comes with specific complaints that require criminal prosecution, or at least criminal inquiry, we know about that. And we know about the confidentiality
aspect also, which we will discuss later in the day. And I do appreciate your input regarding that. But let me throw something out that I -- I ask for your advice and guidance on it.

What about a third category?

That third category meaning operational assessment, specifically for those people that have been in a confinement setting prior to coming to you, and asking general questions as it relates to the operation, such as -- and I'll give you a few examples.

What are the blind spots?

Have you been intimidated by another inmate or inmates or staff members, and you're not giving any names or whatever? What are some of the staff cultural behaviors that give you the -- the impression, at least, that -- that sexual intimidation and aggression is -- is tolerated? And I'm talking about verbal, coercion, intimidation, et cetera.

I'm not trying to create a
new reality, but it just seems like, to me, perception is 99 percent of reality in a confinement setting, unfortunately. So people look at certain behaviors of people, whether you're going to aggressively stop this particular behavior or you're just turning your back, for example, of assessing an individual when that individual comes to your setting of what happened, and in an operation context in the particular correctional setting. Is that beneficial, do you think? What's your opinion on it. And I'll open it to anyone.

MR. BEAUCLAIR:

I certainly think it's beneficial. I think one of the problems, however, are that what we're really talking about is culture. And that's just one way to -- to maybe be able to deal with cultural issues. I certainly think it's worth dealing. But I think, really, to change the system, you have to look at the whole
culture not just those inmates that are
coming in from a correctional
environment.

COMMISSIONER AIKEN:

Certainly I would agree with
you on that, the culture.

And the next question, I
guess, is, once that information is
gathered, where does it go, and what's
the product of that particular thing?
What's your opinion? Where would we go
with it if indeed that is a viable
option?

MR. BEAUCLAIR:

Well, I think first the
structure of the system would have to
change. You don't have the people --
in some cases they may be there, but in
very few cases you have the staff that
are capable of -- of doing those kinds
of interviews without a lot of
training. You know, all of the
resources, or most of the resources,
are devoted to supervision and
treatment. There are some very
progressive systems that are doing risk
and needs assessments with fairly
sophisticated tools. But then there
are all those other systems that have
no staff to be able to do anything like
that.

COMMISSIONER AIKEN:

And on the same token, I've
heard this mentioned several times,
even today. We have people that don't
trust us. And would assessment of
where you just came from and your
perception of vulnerability -- and I
want to get your input as it relates to
that vulnerability, so that I can pass
it on to an entity. -- is that of any
worth in doing, at least professional
trust?

MS. BRODERICK:

I think you can find out
with lots of probation agencies where
they don't have large caseloads. A
female or a male will get very
comfortable with their officer, and may
actually disclose later on in their
supervision that, in fact, while they
were incarcerated something did happen
to them. Then it becomes a question
that you set up for us. Where do we go
with that information? What does that
client actually want? All the
questions you're asking kind of before
us surround consenting -- basically,
moving forward.

And are the prosecutors
ready to actually take on some of the
things? Because even with the larger
organizations like mine do not have an
inspector general's office. I would
have to go to my county attorney and,
who in my case a district attorney, and
basically use their inspectors and
investigators to proceed in terms of
that piece.

And then probably more
importantly after the disclosure, do we
have the funds to really deal with the
secondary trauma that's occurred to
that individual? And what can we
actually do for that person in the
Although we're in the community, I'd like to say that we're all adequately funded. But the reality is, we're probably the poorest of all the justice organizations in terms of actually providing access to services for people who are struggling. So that one becomes a very critical piece too.

But all the things that you heard this morning play out when an individual -- one of our client comes forward, and actually there have been some things that has actually occurred. And then we have to try and deal with how do we engage our local law enforcement and/or the Department of Corrections and inform them that this has actually occurred, and does that client want to proceed, and will someone actually take it seriously.

And we become the third party, that you heard mentioned, more times than not that you'll wind up with a community agent and/or treatment provider and/or psychiatrist or psychologist that's
actually servicing the individual once
they're released.

COMMISSIONER AIKEN:

And I promise, Mr. Chairman, this is the last question.
And I understand that aspect of it. But let me give another example, maybe.

You were interviewing a new client that just got out of detention, and has been in detention for the last 35, 40 days. And you ask a simple question, how was it when you were incarcerated? And the response is, I did not take a shower for three weeks. And the reason why I didn't take a shower for three weeks is because everyone says stay out of the shower area in cell block three on the second floor or cell block three on the rock. And the reason why is because there's a blind spot, and everybody knows that I can't fight anybody because I'm not a member of a gang. This is the first time I've been locked up. I'm next door to Mad
Dog, and Bush Ax lives across the hall from me. And I know to stay out of that shower.

That may be some valuable information that maybe some assaults have taken place, even though this individual was not the victim of a sexual assault. Is that worthwhile to exchange that type of quote, unquote, operational information?

MS. BRODERICK:

Absolutely. I would think that any of my colleagues that are running either a jail or a prison would like to know that type of information so that they could make sure the blind spot, if they didn't already know about it, or where the action is actually occurring, so that they can proceed with the ability to tighten up security in those particular arenas.

The reality is, how does that information get up to the appropriate party so that it can get to the appropriate department of
corrections and/or to the appropriate
level at a jail like mine, which is
very, very large? And those are the
types of things that I think a national
standard the Commission itself could
assist us with, even if it's suggesting
protocols to our colleagues who are
running jails and prisons that parole
agents and probation agents and
whatever title they may have that are
working in the community, might have
valuable information post-release.
And the same with pretrial.

COMMISSIONER AIKEN:

And another example. We
talk about resource and needing more
money. Well, what about the inmate
that says, you know, I stayed in my
cell the whole time I was there. I
didn't go to rec. I didn't go to the
TV room. Why? Because the officer --
yeah, we have officers assigned to the
cell block, but they stood by the gate
all the time. They never made rounds.

I mean, do we pay them more
money to make a round? I mean -- you know, is that valuable information?

MS. BRODERICK:
Yes.

COMMISSIONER AIKEN:
Thank you, Mr. Chairman.

CHAIRMAN KANE:
Thank you, Jim. Let me just comment here, 'cause we have a moment or so.
I would ask staff to note this interchange between Commissioner Aiken and -- and Ms. Broderick. Not so much that it's Ms. Broderick, although he chose to engage her. He himself is a great -- information on this whole subject.

COMMISSIONER AIKEN:
You promised not to pick on me today, remember?

CHAIRMAN KANE:
You know my word is no good. Seriously, this whole matter of -- of gathering and then using information, that could be, you know,
very, very well employed by people back up the line in the facilities is something, frankly, that never occurred to me. And I -- you know, what we can mandate and what we can urge on people is -- it may be two different things. But I ask that we make note of that as we develop standards in our report.

Thank you.

Yes, Commissioner Smith.

COMMISSIONER SMITH:

Just in terms of trying to recognize some consistent themes here. It sounds like when we're talking about community corrections, that it sounds like sort of a place in corrections that is often overlooked for very different reasons. So in putting PREA together, we overlooked the big part of people who are under supervision and community corrections by only focusing, or at least seems, implicitly on custodial settings.

And so, for example, when BJS has decided to do its data
collection, it sort of overlooked
community corrections again by not
looking at residential settings, and
only coming to probation and parole in
order to interview people who are out
of custody about what happened in
custody, and not collect the data that
they might even give about incidents of
abuse which occurred in probation and
parole.

And Ms. Broderick also, in
terms of listening to you, one of the
things I know that I'm aware of, at
least in Arizona and sort of going to,
again, another place where probation
and parole is left out, is often state
laws that I talked to Mr. Beauclair
about that prohibit sexual abuse of
people in custody, right, often exclude
probation and parole?

MS. BRODERICK:

That is correct.

COMMISSIONER SMITH:

Now, I know that it used to
be the situation in Arizona. Has that
changed?

MS. BRODERICK:

It has not changed. And there are many states like that, that the oversight does not basically apply to probation or parole or to bail agents or to bond or anyone else that may have the ability to, unfortunately, commit horrible acts.

COMMISSIONER SMITH:

So if I'm a correctional officer, and this goes to Ms. Robinson's question, I might -- if I sexually assault or have a relationship with somebody in custody, if I'm security staff, or what we traditionally think of as people who handle -- who are -- who are guards, right? -- I might get criminally prosecuted. But what you're saying is that there's still state law, at least in Arizona, where you would not be able to get a criminal conviction against a probation or parole officer unless it was sexual assault?
MS. BRODERICK:
Correct.

COMMISSIONER SMITH:
And as I understand it, in Arizona, up until very recently, if there was any issue of consent, then the inmate was also prosecuted; is that correct.

MS. BRODERICK:
That is correct.

COMMISSIONER SMITH:
Okay.

MS. BRODERICK:
We're a unique state.

CHAIRMAN KANEB:
I missed what you said.

MS. BRODERICK:
We're a unique state.

COMMISSIONER SMITH:
And I understand that that's changed, right?

MS. BRODERICK:
Yes. It has recently changed.

COMMISSIONER SMITH:
But before that, Arizona, Nevada, and Delaware were those three states where if you were an inmate and had sex with someone in custody, and it seem to be consensual, that that wouldn't be prosecuted, right?

MS. BRODERICK:

Correct.

COMMISSIONER SMITH:

Okay.

CHAIRMAN KANE:

Other questions? I would also ask then staff to note an apparent hole that may exist here for parole officers, or others in that role, in a non-custodial setting. If I understand correctly, they're using the authority that they have over their charge to extract sexual favors is not a prosecutable act in many states. Okay. I will leave it at that.

COMMISSIONER SMITH:

John -- I'm sorry. I forgot one last thing.

One of the things I just
want to note, which we probably don't have the time to explore, is that we didn't have a good colloquy among all of you about -- you talk a lot about staff on inmate stuff. But I didn't hear a lot in terms of talking about inmate on inmate or offender on offender interactions, and what you're doing in the community corrections setting to address that. And I don't know if we have time to even get into that, John.

CHAIRMAN KANEB:

Well, we have a few minutes. So if -- if there's something that any of you would like to answer in response to Commissioner Smith's inquiry.

MS. ROBINSON:

Commissioner, I'd like to address that only because my situation is very unique from Barbara's and Carrie's in dealing with probation and parole. Because my -- my facilities and the facilities of the International Community Corrections Association are
residential. We're nonprofit in most cases. We have community people that sit on our boards. Our -- we have prosecutors. We have judges. And so a lot of our things -- I know I'm addressing what the commissioner over here said. But the other thing I wanted to say is that we very -- just don't see a lot of offender on offender mistreatment. I have -- we have one program, which is offenders with mental retardation, and you'll see that in that program. And I'm not sure if it's because we're doing some research on that now, whether that's because of they're processing in a way that they have grown environmentally retarded, we always say. But because of the structure of the facilities, there are usually two or three people in a room and not just one-on-one, and there's not individual rooms either. And there's also cameras in the facility. So I think that that's why we don't see
as much offender on offender.

CHAIRMAN KANE B:

Thank you.

MS. BRODERICK:

If I can just address this fast.

If my colleagues are here from Texas, where they have very large institutions that are runned by probation upwards from 500 to 600 men in a facility, you would have that same problem. But these are dormitory types of facilities. They tend to be 45 to 90 days with the ability to extend, if the judge so wants it. Again, primarily based on the risk assessment that we have, we're talking about a different type of clientele. It's not someone who needs the higher level risk that a prison or a jail would bring. So the likelihood of inmate on inmate or client on client is a little diminished. It does occur.

We're in the same situation.

We're in a very small facility. It is
private rooms with private showers, and we have cameras throughout. Could it occur? Yes. Has it? No. I should knock on wood. I'm jinxing myself. But I think you really need to go to some of the larger, Ohio and Texas, where they're running very large correctional facilities.

In the community, again, the nature of -- and I was just in San Antonio and Houston. And my colleagues would say, these are not lockdowns. You can walk away. And we basically say, go ahead. Walk away. We'll catch you. We'll bring you in front of the judge and, ultimately, then you'll wind up with the Texas Department of Corrections.

So it's a little different on how we run the facilities. And I think part of that is the assessment -- we're going to basically get the low risk offended in those facilities.

MS. ABNER:

And if I may just add. The
handbook that we're developing, ACCA in partnership with ICCA and Pretrial Justice Institute, does address offender on offender assault particularly as it -- in regards to pretrial detention as well as general tips for community corrections officers supervising -- who may be supervising both victims of institutional based sexual assault as well as their perpetrators.

So when you have both victims and perpetrators on your same community supervision caseload, there are certainly issues that you need to keep in mind there.

CHAIRMAN KANEH:

Thank you, all of you. You're helping us build our house here. And we'll take a brief unscheduled break and reconvene at 3:45 for our next panel.

(Off the record.)