CHAIRMAN WALTON: I'm sorry.

Mr. Rivera.

MR. GUILLERMO RIVERA: Oh, okay.

Thank you for inviting me to speak here today at this forum. I would like to start by saying that in September of 2004, the Department of the Interior Office of Inspector General published a report indicating Neither Safe Nor Secure: An Assessment of Indian Country Detention Facilities, that highlighted the problems within Indian Country detention facilities. OIG found serious safety, security and maintenance deficiencies exist at the majority of the BIA and tribal detention centers, impose a hazard to inmates and staff and public safety.

Out of this report came 25 recommendations. As a result of the corrective action plan that was developed to satisfy the 25 recommendations made by the Office of the Inspector General, today we have addressed 16 of those 25 recommendations. The remaining nine recommendations is the issue of resources.

The BIA mission is to fulfill its trust responsibility and promote self determination on behalf of the federally-recognized tribal governments,
American Indians and Alaska Natives. The BIA provides services directly or through contract grants or compacts to service a population of 1.6 million American Indians and Alaska Natives who are enrolled members of 561 recognized Federal tribes -- or federally recognized tribes. I'm sorry.

While the role of the BIA has changed significantly in the last three decades, in response to a greater emphasis of Indian self determination, tribes still look to the BIA for a broad spectrum of services. The Office of Justice Services provides many of those services. It provides public safety, protection of property, and other actions related to law enforcement, such as criminal investigation, detention, tribal courts, training for -- and training through the Indian Police Academy.

Indian Country law enforcement provides services to a population that is predominantly under the age of 25, experiences high unemployment rates, has extreme geographic barriers, and lacks municipal infrastructure. Indian lands range from remote wilderness to urban centers. The close proximity to the international borders of Mexico and Canada make some of the Indian lands conducive to drug trafficking. The Department of Justice, DOJ, has
documented that the crime rate of Indian -- of American Indians is more than twice the rate of the national average.

BIA law enforcement programs provide investigative police and detention services to many of the tribes, as well as technical expertise to many tribal communities to run their own investigative, police, and detentions programs. BIA is responsible for providing law enforcement services to approximately 56 million acres of Indian Country in 35 states, serving 1.6 million American Indians. The BIA supports 201 law enforcement programs with 47 BIA-operated programs and 154 tribally-operated programs. Approximately 77 percent of the total BIA law enforcement programs are outsourced to the tribes.

A safe community with a sufficient number of trained and equipped law enforcement officers is a key fundamental component to self-sustaining tribal governments. Some tribal law enforcement programs are supplemented by community-orientated police service, the COPS program grants, available from the DOJ, Department of Justice.

The BIA is currently pursuing a memorandum of understanding with the DOJ COPS office to address the expiration of the grants and the
distribution of grants for new resources. The BIA is working in collaboration with DOJ on implementing the Amber Alert program in Indian Country and on developing an effective means of collecting crime data.

In addition, the BIA is working with private industries to explore bringing new technology into Indian Country law enforcement.

OJS, it's the Office of Justice Services of the Division of Corrections, funds 59 tribally-operated detention facilities and directly operates 20. The focus of this program is to upgrade detention services in Indian Country, making detention centers safer, more secure, and compliant with nationally-accepted standards. The BIA will continue to operate detention services in Indian Country to make detention centers safe, secure, and more professionally run, pursuant to nationally-accepted standards.

Until the 1960s, jail construction in Indian lands was very limited. DOJ law enforcement administration assistant grants were provided for the construction of new jails in Indian Country. Many of our facilities are 40 or more years old and still operating today. Older detention centers present many
challenges, such as ongoing maintenance, needed
improvements to the high use of aging facilities. In
fiscal year 2006, our Professional Standards Division
inspected 19 mostly-older facilities and issued
reports. The PSD has scheduled the inspections of six
more facilities through August of 2007.

According to the OIG, BIA was unaware
of 98 percent of the serious incidents which occurred
in Indian Country detention facilities. In August of
2005, a policy regarding serious incident reports was
established and continues to be effective in reporting
serious incidents through the proper chain of command.
We are now aware of serious incidents as they happen.

The BIA detention program is a very
transient prisoner population and it's not atypical of
a long-term prison environment. Prison rape is
extremely rare in our facilities. If a sexual assault
is reported, procedures are in place to conduct a
proper investigation. Reporting of these incidents
may be received from inmate victims, inmate witnesses,
correctional employees, uniformed police employees,
visitors to inmates, counsel to inmates, and others
with pertinent information. BIA law enforcement
criminal investigators, or FBI agents, conduct sexual
assault investigations in the same manner, whether it
occurs inside a correctional facility or at a public safety site.

The collection of evidence from the sexual assaults range from evidence collected at the scene to evidence collected from the individuals themselves. And in my written testimony -- I won't go into it -- but it has steps and details on how this evidence is collected.

In order to provide for a more safe and secure environment and for juvenile offenders, on April 23rd, 2004, the BIA issued LES Special Order 04003, for removal of juveniles from adult detention centers. The purpose of this order is to enforce national standards that requires sight and sound supervision of adult and juvenile inmates. This order states that failure to comply could result in the personal actions taken against BIA detention supervisors and that tribally-operated detention programs contracted with Public Law 93-638, that fail to comply with that be resumed by the BIA -- could be reassumed by the BIA. To date, all of our facilities are in compliant with this Special Order to ensure the safety of juveniles within our detention facilities. Currently, the BIA is in the process of reviewing phase one of a preliminary report done by
Shubnum. Shubnum is a contractor that was hired by the BIA Office of Facilities Management and Construction, to assess detention centers in Indian Country. The report will provide information that will allow us to begin discussion, to begin developing a master plan in Indian Country detention and corrections. Shubnum was tasked in February of 2006 with assessing the condition and needs of the corrections program in its 38 detention facilities. Shubnum visited and analyzed specific elements within the programs and facilities, most of which are interrelated. Shubnum concluded that most of the facilities have outlived their lives and functionality. Of the 38 facilities that were studies, 90 percent need to be decommissioned and replaced to meet their missions. The report phase one of the master planning program of the detention facilities in Indian Country is being organized, one, to describe -- describe findings of the visits to detention facilities; two, to show the assessment of the site conditions and show the needs of the corrections programs of these detention facilities; and, three, show the assessment of the conditions and needs of the physical facility; and, four, demonstrate whether the combination of the program operations and
facility operations were meeting their missions; and,
five, provide a cost analysis based on the findings to 
suggest whether present remedies and future needs for 
the detention facilities to meet their mission.

The BIA Office Justice Services has 
worked very hard to improve quality of detention 
services in Indian Country. The last two years has 
been a period of major reform. During this time, the 
program has undergone major change. However, we 
recognize that much remains to be done to make our 
programs fully effective.

We look forward to developing a healthy 
and working relationship with the National Prison Rape 
Elimination Commission in order to prevent sexual 
assaults in our facilities and to ensure that any such 
incidents that do occur are dealt in an appropriate 
and expeditious manner. Thank you.

CHAIRMAN WALTON: Thank you.

Mr. -- or Professor, I guess.

Professor Gover.

PROF. KEVIN GOVER: Thank you,

Mr. Chairman, members of the Commission.

Let me just -- it may seem odd to some 
people that these communities of Indians have 
authorities of their own, so let me just provide a