correction officers needed, properly train them, and put them into facilities that would meet the Constitutional standards that state and federal government -- or state and federal facilities have to meet.

So with that, Mr. Chairman, I'll pass the mike to Mr. Cowboy.

CHAIRMAN WALTON: Thank you very much. Mr. Cowboy, you're -- thank you for your presence. Can you take the oath, please.

(Witness sworn in.)

CHAIRMAN WALTON: Thank you, sir.

Welcome.

MR. SAMPSON COWBOY: Good afternoon. I apologize for being late. I blame it on the plane. It's an honor to be here, ladies and gentlemen. I -- my name is Sampson Cowboy. I'm a Division Director for Navajo Division of Public Safety. And, again, I would like to thank Mr. Thomas for inviting me, calling me to be here. It is an honor and I will do as best as I can to provide the statistical information and other pertinent information that this Commission is requesting of me.

As I read the Title 42, Chapter 147, Section 15602, I think we have something in common
here. We have -- the purpose of our Navajo Nation Law
and Order Code is to provide conduct on unjustifiable
and inexcusable threats, or inflicts substantial harm
to individual or public interests. More in line with
our Navajo Nation Bill of Rights Act, which is also
similar to the Constitution of the United States.
That is what we base our -- a lot of our human rights
decisions on.

This Navajo Nation information will
hopefully provide some -- this Commission some
guidance and assistance in meeting the duties and
responsibilities of what you are requesting of us.
And I will begin with a brief history or background of
the Navajo Nation.

As you know, we are one of the
land-based tribes in the United States, so we have a
population of over 250 within the borders of the
Navajo Nation itself. These includes non-Navajos that
live -- that resides there. We also have various
programs that are funded and managed off the Public
Law 93-638, which is the old Indian Self Determination
and Education Assistance Act. The -- which allows
many programs or opportunities. It provides a lot of
opportunities for us, however, it also creates some
challenges, especially in incarceration of inmates.
The Navajo Nation is approximately the size of West Virginia. And, again, with 27,000 square miles, there is a lot of acreage that we cover. The population has continued to grow, and the reservation itself lies into three states, Arizona, New Mexico and Utah, and it covers 11 counties. So which results into activities that involves four governmental jurisdictions, federal, states, counties, and the Navajo Nation, at times which also conflicts itself.

Today, the Navajo Nation maintains a three-branch government, located in Window Rock, and that's where my main office is, and that's where the Navajo Nation president and the council's office are, too.

The Navajo Nation is comprised of seven police districts and six adult correctional facilities, and each of these segments collaborates to enforce the laws of the Navajo Nation and protects its citizens. And it is a major task when you talk about public safety in Indian Country.

In recent years, the Navajo Nation has experienced an increase in narcotics and controlled substances that have led to increase of crimes. And it had -- the crimes have also become more heinous than what it was before. And the communities are
being affected in different ways, and one of the areas that we're being affected as a community providing services, is the incarceration of inmates. The facility of these programs, some of these are -- have been assisted by -- through Federal grants and state grants, but that's still not enough to combat some of these issues that are being raised before you.

Nonetheless, that increase in criminal activities continues to present its own challenge. As these crimes become more heinous, we expect that these inmates also become more susceptible to sexual assaults in our facilities.

As of December 31st, our unemployment rate was 65.34 percent, and it appears to project at that near-constant rate in 2006. The state of Washington, in 2001, had the highest unemployment rate of 7.4 percent. Why do I bring these out? Well, this is what drives some of our communities, community crimes, social issues, social ills that you may see out in the Indian Country. When comparing Navajo per capita income to the U.S., the Navajo Nation has 4.6 times less than the U.S.

Although we do not have hard data to speak directly to this Commission, we know we have some concerns in regards to sexual assaults in
incarceration. These complaints are currently under investigation by our Criminal Investigation Unit.

This leads me into Navajo Nation's first and probably the most important concern when addressing these possible occurrences, is jurisdiction. You heard a little bit from Mr. Gover on what jurisdiction is and how it's laid out in Indian Country. In Navajo Nation it is very confusing because we lie in three states with three different opinions from the judges, from Federal judges. Also, the state also plays a major factor in some of these decisions in imposing fines and how to deal with these issues.

Although the responsibility lies with the U.S. Attorney and the Federal Bureau of Investigation, to determine which jurisdiction it also -- you also have to understand the perpetrator, Indian or non-Indian. At times, we incarcerate illegal immigrants in our facility for up to eight hours. Because of that, the -- our lack of resources to transport individuals down to Phoenix, Arizona, which is approximately 250 miles if you go as the crow flies, but if you go around as the road winds, it's 356 miles.

If the Navajo Nation does have
jurisdiction, Congress has limited its authority to sentence an individual. In the tribal court, you can only impose fine -- or jail sentencing up to a year, and then in the -- and the dollar amount is 5,000 dollars. That's the maximum you can fine an individual.

The sex crimes are serious offenses and falls under the jurisdiction of both the Indian Nations and the Navajo -- such as Navajo Nation and the United States Attorney's Officer. Congress, through the Major Crimes Act, has authorized federal criminal jurisdiction in Indian Country over 14 enumerated major crimes, including rape and child sexual abuse. Sad to say, these crimes are common in Indian Country, and it is probably common in our jails, too.

To ensure that there are appropriate law enforcement response, Navajo police officers and criminal investigators are routinely provided basic and advanced sex crime investigation training. Uniformed police officers are trained to initiate as a first responder. They collect evidence and secure crime scenes. The support service comes from Navajo Nation criminal investigation. Most often FBI are miles away, so Navajo criminal investigators are the
ones that's handling these cases.

Navajo criminal investigators, they are trained at the Federal Criminal Investigations School in Glenwood, Georgia. And they are also trained in advanced sexual investigation and evidence collection by the FBI. Navajo police officers are provided basic training through their academy and at times receive advanced training through other state or federal resources. Training in advanced sexual crime scene investigation, sponsored by the Federal Bureau of Investigation, is limited. It's far in between. Evidence collection training are far in between.

The crime labs that we use are the state labs and the Federal Bureau of Investigation labs. The turnarounds are like six months to a year, sometimes longer. Navajo Nation detention officers are not prepared to deal with sexual assaults that may occur within -- that occur within the detention facility. This in and of itself increases the opportunity of sex crime victimization.

The turnover rate has hindered our continuity in correction facilities. Our pay level for our personnel have caused us to -- or create us a training facility for our facilities as people transfer to other areas that pays more than what our
Navajo Nation Department of Criminal -- or Department of Detention provides. There are, in addition to limited resources, including lack of appropriate jail space. Right now, we have six facilities, three are in full-time operation, eight are on eight-hour hold operation.

There was a total of 47,840 inmates incarcerated in 2006, and the average of incarceration per day is 105. If you look at those numbers, people, it's just a revolving door in our facilities. These facilities are run and managed by the Navajo Nation. These facilities were built in 1959. We have yet to be assisted by the Bureau of Indian Affairs in this area, nor the Federal government.

The length of stay depends on the availability of jail space. So most inmates, if sentenced, do not serve the maximum amount of time because of lack of available jail space. The Navajo Nation does, however, attempt to keep most serious offenders, including those that have committed sexual assault, and release less violent offenders. When the facilities reach maximum capacity, we have to release them. As stated above, the United States Attorney also has also jurisdiction over sexual assault crimes, but individuals are typically held in Navajo Nation
facilities rather than federal facilities.

In conclusion, the greatest challenge the Navajo Nation faces is the continual increase of mandate of incarcerated inmates, which are hindered by lack of funding, lack of facilities, lack of manpower. Most importantly, with all these challenges, I commend my staff. And as I sit before you, our staff are very professional, providing the direct service to those that are incarcerated that no one has become victimized in our facility. It is not say that it will never happen, but without end, the environment does exist.

Ladies and gentlemen, thank you.

CHAIRMAN WALTON: Thank you very much for your testimony.

Mr. Rivera, there were a number of reports you identified. I'm going to ask our staff to get in touch with you. Hopefully, we can identify where we can get those reports --

MR. GUILLERMO RIVERA: Two specifically -- two specific reports that you probably will be interested in. One with the gap analysis,

which was --

COMMISSIONER FELLNER: Gap?

MR. GUILLERMO RIVERA: Gap Analysis