information about the BIA training program.

CHAIRMAN WALTON: Thank you very much for your testimony.

Doctor, Ms. Asetoyer has said that the Indian Health Services does not have any type of policy related to sexual assault in prisons or detention facilities. Is that correct?

DOCTOR JON PEREZ: That's correct.

It's -- we're a pretty decentralized agency. And we have taken -- with each one of our -- let me back up a second and, if I may, provide some context here. Are you familiar with Public Law 93-638, Indian Self Determination?

CHAIRMAN WALTON: Somewhat.

DOCTOR JON PEREZ: Somewhat. Part of why we have gone to decentralized policy making -- and not that we don't do it at the national level. We actually do. In fact, we've got multiple manuals for clinical care and delivery of care. But we've highly decentralized because, for Behavioral Health, approximately 70 percent of the programs are now run by the tribes themselves; for substance abuse, 85 percent; for the actual medical care, it's over half. Increasingly, tribes are taking over their own programs. We don't run them anymore. We now support
them in running their own.
The -- the legalities and policy making of it are such that the tribes don't necessarily have
to honor anything that we put as a national policy. They don't even have to report back to us as part of that policy. And so what we've done is, we're cooperatively at the area level to try to ensure that we have the best possible care, given the exigencies of those areas. For example, when we're talking about checkerboarding and where you have multiple jurisdictions, you have county, state, fed, us, tribes, all trying to work together. If we establish a policy, it may or may not work. So that's part of what we do.

Now, specific to the -- the rape kits and examinations, we don't have enough trained people to actually do them. And that is a hard reality.

And --

CHAIRMAN WALTON: Is that due to money?

DOCTOR JON PEREZ: Pardon me?

CHAIRMAN WALTON: Is that due to resources, money?

DOCTOR JON PEREZ: Resources are always an issue, sir. And -- but not -- not completely.

Part of it is the -- is the nature of our
particular -- and how far flung our agency is and how remote some of the services are provided to. And so if I put all this together and say, policies and do we have policies. Yes, we have policies there that are congruent with all of the national accrediting agencies for the clinical services that we do provide -- in terms of being able to provide. And this is why the centralization, I think, has actually been a benefit in a lot of our areas -- not all of them, but many of them -- is that we can then directly work with people who are trained.

For example, I'm a clinician. Tomorrow morning I'm going to go back, the door is going to open and we take calls at the Phoenix Indian Medical Center where we see approximately 200,000 people a year. And do we have a policy for evaluations? We absolutely do. Do we do them ourselves? In some cases, through the ER. Primarily, we have it done by agencies outside of us, because they're the ones that can also provide the forensic testimony to actually convict someone.

So it -- when I'm addressing how we do what we do and when we're talking about national policies for it, that's why I'm offering some caution --
CHAIRMAN WALTON: Do you conduct the actual training programs for --

DOCTOR JON PEREZ: Pardon me?

CHAIRMAN WALTON: Do you conduct any type of national training programs for the Indian community, or are you referring various --

DOCTOR JON PEREZ: We do. We have an ongoing -- we have an ongoing --

CHAIRMAN WALTON: Have you done any in this specific area, regarding the Prison Elimination Act?

DOCTOR JON PEREZ: Not specific to prisons. No, generally. Generally, for forensic evaluations, but not specific to prisons.

CHAIRMAN WALTON: Any response?

MS. CHARON ASETOYER: Oh, yes. This is my area of expertise, reproductive health.

We have done a series of -- held a series of round tables and conducted surveys on the fact that Indian Health Service does not have standardized sexual assault policies and protocols in place.

And, for instance, in the community, what -- what happens when there are -- is no person that can do a forensic exam? Well, a person that has
been sexual assaulted has to leave the community and is contracted out to the nearest facility, which may be a hundred miles away. And after a sexual assault, a woman -- or anybody -- may not want to make that travel because it's -- it's very difficult. And so they go home and they start the process of dealing with it. And a perpetrator is running around the community knowing that there is no evidence against him or her.

And so we currently are working on a set of policies and procedures for Indian Health Service, a standardized. There are some standardized policies. For instance, after the sterilization abuses that occurred in the '60s, there had to be a policy implemented nationally that allows a 30-day waiting period after a woman decides that she is going to have a tubal ligation. So those policies do exist, some kind of standardized policies.

So the standardized policies that we are recommending have actually been put together through a -- a coalition of national and native organization, mainstream, including the ACLU. And it has been -- they have actually gone through the whole process of being approved and supported by the National Congress of American Indians. So that
organization, the National Congress of American Indians, represents just about every tribe in the United States, and they are in support of this project to get standardized sexual assault policies and protocols for Indian Health Service standardized. And we were just at their meeting last month and they are very, very supportive and have passed, through resolution, the support of getting Indian Health Service to standardize sexual assault policies and protocols.

In our county facilities where -- jails where Indian Health Service -- or not Indian Health Service, but the Bureau of Indian Affairs contracts for them to provide the inmate service, there -- I talked about the inhumane conditions that existed within that county jail. That is some -- a very common picture of the county facilities that -- that contract with reservation communities to house prison inmates. And those kinds of conditions not only -- they create a lot of psychological trauma, frustration, powerless, and they result in -- in people reacting in a way that they want to have more power. And so you see an increase of inmate sexual abuses and rapes in facilities like that than you would in a state of the art facility. Not that a
state of the art facility, they don't exist, they do.

But inhumane conditions create powerlessness and
frustration and anger, and those kinds of situations
increase the number of sexual assaults that you will
see.

And, of course, I have gone in and out
of the State facilities since the '70s, doing health
education for inmates. And because we are so
disproportionately over represented, you see a number
of situations, the disenfranchising of our young
people. You see the sexual assault residuals when
they come out. And Indian Health Service, we know,
could reduce the number of sexual assaults if they
were to take advantage of the fact that they have
access to the local facilities and could go in with
more than just the Sanitation Officers. But could go
in with a healthcare provider, a mental healthcare
provider as well, and inspect the facilities and
interview inmates. And we encourage this.

COMMISSIONER FELLNER: Could I ask
Mr. Perez to respond? I gather Ms. -- Asetoyer? Am I
saying that correctly?

MS. CHARON ASETOYER: Yes.

COMMISSIONER FELLNER: Has said you
don't do inspections of the sort that she is
describing, and that you are -- have not made a priority in particular on investigating conditions either of sexual abuse in the detention facilities or other conditions that promote or facilitate sexual abuse. Why not? She says you have the authority to do it, so it's not about the -- the tangle, sort of jurisdictional questions.

There was actually a report, we know that there is a history of disastrous conditions both in Indian-operated facilities as well in county facilities which house Native Americans. Where does responsibility for this failure to act lie?

DOCTOR JON PEREZ: I think that -- well, the fact that we know the conditions -- or the fact that we send officers in to get -- and evaluate the conditions, so it's not that we're not there. And --

COMMISSIONER FELLNER: But excuse me. Let me just ask. In those inspections, are you asking inmates, have you asked inmates about their experience of sexual assault or violence --

DOCTOR JON PEREZ: I don't know. I can find out for you.

COMMISSIONER FELLNER: Would you, please?
DOCTOR JON PEREZ: I don't know specifically.

COMMISSIONER SMITH: And certainly the issue is not just sanitation. You know, I mean, I think that what I hear Ms. Asetoyer saying is that certainly the conditions which she has described are awful and horrible and horrendous, but there is a particular role that Indian Health Services has to play in terms of providing healthcare and amelioration, and also bringing to bear its substantial resources in those particular situations, and that it should be doing that. That, actually, they're asking for that to happen.

DOCTOR JON PEREZ: I was just literally talking to Charon about it, because I want to find out what NCAI is recommending, and I do want to know directly what they are recommending. And I will take that directly back to them and discuss it directly, the concerns directly.

When we are trying to navigate multiple demands on the system, all of which are important, and I'm not saying that this isn't, we are constantly trying to balance the acute needs and overwhelming needs of many of our communities and -- while at the same time being able to provide a broad range of
What she is talking about right here, I definitely want to know about and I definitely want to find out why we have environmental health officers going out and who else does go out. Or, conversely, to -- because my assumption probably is that what they'll do is, they'll have the patients go to the clinic or to the service unit as opposed to going to the prison. So it's not that people aren't receiving services, but you literally have to come out of there to get to our service unit.

COMMISSIONER FELLNER: But if you are sending people in, if they're doing a, quote, sanitation inspection, so you already have somebody from your service going, why haven't they -- or can they -- can you take steps and then get back to us and let us know, what steps can be taken during those interviews, regardless of what the Congress says. I mean, it's easy to always wait and wait and wait and wait, but you have an obligation now. And I would be interested in knowing what steps, what questions, what is the scope, since you have someone there at these facilities, what is the scope of that investigation and should it and could it be expanded to include sexual assault or violence that may not be
specifically labeled sexual assault, but could or
could not have such a component.

DOCTOR JON PEREZ: Absolutely.

CHAIRMAN WALTON: Is it accurate to
characterize your resource level as substantial? How
much -- what is your budget?

DOCTOR JON PEREZ: We're -- our overall
budget is about 3.3 million for two million
population. And in terms of per capita funding, we're
at about a fifth of what the Federal insurance
coverage is per capita. And we are actually, if I
remember correctly, we're at about half of per cap
services for people in Bureau prisons.

COMMISSIONER FELLNER: Have you --

DOCTOR JON PEREZ: So to say that we
have a robust budget, I do not think would be an
accurate characterization of our resources.

COMMISSIONER FELLNER: Have you made a
report to press so that Congress is aware of this?

DOCTOR JON PEREZ: Yes. Last week I
was -- I was literally providing testimony for the
Senate Committee on Indian Affairs on precisely that
issue.

COMMISSIONER FELLNER: Would you send
us a copy of that testimony, too?
DOCTOR JON PEREZ: Yes, ma'am.

COMMISSIONER FELLNER: Thank you. That would be great.

I had a question for -- and forgive me. My eyes are going and I'm trying to read it from here and --

MR. MARK DECOTEAU: It's Decoteau.

COMMISSIONER FELLNER: Decoteau.

MR. MARK DECOTEAU: Yes, ma'am.

COMMISSIONER FELLNER: Do you know what percentage of officers in Native American-run detention facilities have gone through your program and been certified by it and completed it? And if you don't have that, can you tell us how many -- just how many people, as a total, have actually completed your full training program?

MR. MARK DECOTEAU: For the corrections?

COMMISSIONER FELLNER: Yes.

MR. MARK DECOTEAU: Actually, the -- all of the correctional officers all throughout Indian Country are mandated to come through the Indian Police Academy for their training. I would believe, since the Academy started, up to date, we have probably trained over -- don't hold me, but probably a thousand
that come through our facility. We have four classes a year -- three classes a year, with 48 participants in each class.

COMMISSIONER FELLNER: And you said mandated. We all know sometimes there is the law and then there is the reality. Do you have any basis for knowing, if a thousand have gone through, you think, for the corrections -- no. That wouldn't work because some people could have left or resigned.

So you don't know what percentage of people currently acting as officers have, in fact, completed the training?

MR. MARK DECOTEAU: No, ma'am. But if that's -- I can get you that information.

COMMISSIONER FELLNER: That could be great.

And do you do the in-service training, too?

MR. MARK DECOTEAU: Yes, ma'am.

COMMISSIONER FELLNER: And how do you do the -- do people come down to your facility for the in-service training, or how is that done?

MR. MARK DECOTEAU: No, ma'am. Our in-service trainings for our correctional officers is the Indian Police Academy staff -- training staff and
myself -- we get together with the detention
correctional upper management, and we go by their
guidelines and recommendations as to what they feel
their correctional officers need to be trained in.
And, of course, they get theirs from reports and --
you know, from their -- each district reports to them.
And then within that, we take that and we provide 40
hours of in-service training to the correctional
officers and we bring that on-site to wherever
location they request.

COMMISSIONER FELLNER: And you do that
for every Indian facility every year, you provide 40
hours?

MR. MARK DECOTEAU: 40 hours of
in-service training for all correctional officers.
And we have six district and each district receives
two in-service trainings. And they're normally held
back to back. And, yes, that's per year.

COMMISSIONER PURYEAR: Let me just
follow up with Jamie's line of questioning,
Mr. Decoteau.

I was reading the Neither Safe Nor
Secure, the U.S. Department of the Interior' Office of
Inspector General report on Indian detention
facilities. And this is a few years old, but they
noted that 52 percent of all the detention officers in the sites we visited had not received detention officer training.

They added, there were numerous situations where detention officers worked long time -- long periods of time without attending the required IPA detention officer training. Instances where people had been employed 12, seven, five years, have never been trained.

So given that there appears to be a pretty robust percentage that are not going through your center and getting trained, how is it that the mandate is not connecting in the field? What is the disconnect there?

MR. MARK DECOTEAU: The disconnect there is that, of course, out there in Indian Country, both law enforcement and correctional staff are very -- very short as far as staffing goes. In a lot of cases, they may only have maybe ten to 12 correctional officers working in the facilities. So if they get a new hiree, they are supported to come within one year, they're supposed to put them through the Indian Police Academy for training. However, due to budget restraints, staff limitations, sometimes they're not able to cut them loose to come down for
training, so they try to find the most -- the time for
them, you know, when it's convenient for them or --

COMMISSIONER FELLNER: And sometimes it
never is.

MR. MARK DECOTEAU: I hope I'm not -- I
hope I'm not -- but that's probably the reason why a
lot of them go maybe a year or two without going
through the training, is they just don't have the
resources and the staff to cut them loose to send them
down to training.

CHAIRMAN WALTON: But it otherwise is
available?

MR. MARK DECOTEAU: It is available and
they are supposed to come within the Indian Police
Academy within the first year of being employed as a
correctional officer.

COMMISSIONER PURYEARN: When you say
that there are, you know, maybe only ten or 12 in the
detention center, what size detention center are we
talking about?

MR. MARK DECOTEAU: I'm sorry. I just
pulled that out of -- no, I'm not using any
particular. I'm just trying to give you an example of
a shortage of staffing in any training facility to
where they wouldn't be able to cut anyone loose in
order to come down, you know, to training.

COMMISSIONER PURYEAR: How long is the retraining? Remind me.

MR. MARK DECOTEAU: Pardon me?

COMMISSIONER PURYEAR: How long is the training?

MR. MARK DECOTEAU: How long? It's eight weeks.

COMMISSIONER FELLNER: And remind -- when you do the -- either in the training or in the in-service, have you provided any in-service training, have you been asked or to provide or have you provided any in-service training related to sexual abuse, whether by staff on inmates or inmate or inmate?

MR. MARK DECOTEAU: No.

COMMISSIONER FELLNER: Have you been asked to provide it?

MR. MARK DECOTEAU: Not -- no.

COMMISSIONER FELLNER: No. And you haven't voluntarily gone to facilities or informed facilities that this is something they need to do training in?

MR. MARK DECOTEAU: Well, this is -- and I'm glad you brought that up because I made a little notation here on my notes that the Indian
Police Academy, we do have some portions within our instructions that we could adjust due to situations that we find or that's reported to us as being important out there in Indian Country.

For instance, we have the crime scene investigation portion, and then we have a lab, a lab where the instructors go out and we create scenarios for the officers to respond to. And it could be a domestic violence, it could be a breaking and entering, whatever is dictated to us from the field that they feel is important for them to grab a hold of and to have firm knowledge of.

COMMISSIONER FELLNER: But you're saying that you just -- the field comes to you, but don't you have an obligation yourself to be both in the training, to be working on some of these issues and to offer to them training, even if they have -- to say, you know, this is something we really need to be working on?

For example, in your training, do you address questions of staff -- inappropriate staff contact with inmates?

MR. MARK DECOTEAU: Yes, ma'am. We do have ethics and conduct within our program. We do have officer liabilities within our programs, to where
we're dealing with inmate and correctional officer
contact as far as circumstances surrounding those
issues, yes, ma'am.

CHAIRMAN WALTON: You --

MR. MARK DECOTEAU: If I could

interrupt just for one second.

Where I was going with this in-service
training is, I put a little notation here, and what
we'll do at the Indian Police Academy is, one of our
scenarios, we'll set it up to where the correctional
officers are responding to an actual rape situation
within a detention facility, and then we'll go through
the proper guidelines as far as what to do when
responding to that. And those are some things that we
can do at the academy, and that's what we're looking
forward to in the future is what -- that's where I was
getting with that. Sorry for interrupting.

COMMISSIONER PURYEAR: Just one more
question.

Again, referring to the Inspector
General's report. This was a few years ago. Several
jail administrators claim they were unable to send new
personnel to the IPA for training because classes were
infrequent and often full.

How often are classes offered and are
they full, typically?

MR. MARK DECOTEAU: Within the Indian Police Academy, we have three correctional officer training programs each year. Each one is 40 -- 40 cadets participate each class, in each class.

COMMISSIONER PURYEAR: Does that mean each class is full?

MR. MARK DECOTEAU: And each class is full. Now, if we have -- for instance, if we do have a full class and we have maybe ten applicants that could not get into the first class, they're automatically put into the second class. So the longest they would ever have to wait in order to get through one of our programs is probably four weeks.

So we'll start one class that's an eight-week program, then probably within the sixth week we'll start another class, so all of those on the waiting list will automatically go to that class.

If there is, by chance, a situation that we're faced with so we have an over abundance of applications, what we would do is, then we would request to just run an additional class so that we can get everyone in. But as far as my knowledge goes, at the Academy, we have never had the situation to where we had too many applicants and we weren't able to
provide the adequate training for them.

COMMISSIONER SMITH: Thank you for your testimony, all three of you. And I guess what I would like to do is, I want to sort of bundle that with the testimony that we heard yesterday.

And I guess the picture that I get is of a system that's decentralized, checkerboarded, with people having sort of, I guess, concurrent authority, or sort of confused authority. And in situations and in systems like that, it's very easy for things to drop into gaps.

Now, yesterday, there was a panel, and I asked them a question about whether they had ever -- could they tell us, the Commission, about any reports of assaults, sexual assault that they had received, and they could only think of one.

COMMISSIONER FELLNER: The one in Pine Ridge.

COMMISSIONER SMITH: The one on the Pine Ridge Reservation in South Dakota that involved a juvenile.

Ms. Asetoyer, based on what you're describing, it sounds to me that that is really not accurate. And so I guess what I would be interested in is, what would a system look like, given this
configuration, that would encourage reporting, so that we could get some sense about what is going on and so resources could be deployed. Because it's not happening in training, because you're not really training about it. It's not happening in the Indian Health Service because you're not asking about it. So if you're not training staff about it, you're not training inmates about it, then people don't really have a sense about how or where you would report that, except to someone who comes in and asks about it.

So what could we do to improve the system of reporting so that we could get both resources, training, and services into the problem. And that's a question that goes across the panel.

MR. MARK DECOTEAU: May I respond? I'm sorry.

MS. CHARON ASETOYER: Okay. Let me back up a little bit.

Sexual assault in Indian Country is devastatingly high. One in three Native women will be raped or sexually assaulted in her lifetime. That is across the board. That tells you right there that it's woven into the fibers of our contemporary society. And that's really hard to have to say.

We know the historic trauma of being
put in boarding schools, and the sexual assault that occurred there, and how that acts as a pyramid. You know, you have -- you have perpetrators and then you have a victim, and then victims turn into perpetrators and throughout the generations it gets larger and larger.

There should be no excuse for Indian Health Service not having a standardized set of policies and protocols to address this issue, since one in three Native women will be raped in her lifetime. There is no excuse for Indian Health -- or the Bureau of Indian Affairs law enforcement not to have sexual assault training as a priority, because it happens so much in our communities. And if it is happening in the community, the prison systems, the jails are part of our community, where our community goes.

Overly -- over dis -- an over representative number of Native Americans go to prison and jail. There is no excuse for there not to be policies and training in place in order to help reduce the number of sexual assaults that go on in our communities, whether they are in -- out of prisons or within the prisons and jails. There is no excuse.

I am a consumer of Indian Health
Service. That is where I receive my healthcare. My son has been in the prison system and in the county jail system. There is no excuse for law enforcement not to have the appropriate kind of training.

Sexual assault is something. Sexual issues is something that is very difficult for us to talk about in our communities because we have been so historically traumatized and victimized. However, that is no excuse.

I think that with the onset of the HIV-AIDS pandemic in this world, it has made the issue of talking about sexual abuse in mixed company within our culture occur more often. However, not often enough. And it is because of the social morays that we don't speak about this in public as often as it is necessary. So we go around with blinders on, and we know it happens. But for Federal agencies to go around with blinders on, there is no excuse. There is absolutely no excuse.

COMMISSIONER SMITH: So Ms. Asetoyer, as I hear you speaking, it sounds like those entry points where we might get some resources would be services around HIV and AIDS, that that might be a place to insert some work on sexual assault in institutional settings, that the Indian Health Service
certainly should have this as a priority and that BIA should as well.  

Again, to the entire panel. Are there other places where we might be able to -- because as I see it, the reports aren't even getting out there. I mean, who would people report to? I understand that people are talking to you, Ms. Asetoyer, but are there other places?

MS. CHARON ASETOYER: We run a shelter for battered women and that, too, is a good entry.


COMMISSIONER SMITH: Okay. Thank you.

But can I get something from Mr. Decoteau and from Mr. Perez in terms of how we could elevate this issue?

MR. MARK DECOTEAU: Yes. And I know you had asked the question is that, isn't it the Academy's responsibility to provide training that -- that we recognize is important out there in Indian Country, whether they actually want it or not. And that is true. We work closely with police and correctional upper management, along with our professional standards division, who actually goes out there and handles a lot of Internal Affairs and
investigation reports.

Now, if they report to us that they have a huge number of officer-involved shootings, then we include the use of force policies in our in-service trainings and will provide whatever training that they require us to -- you know, to give to them out there in the Indian Country.

But as far as rapes in detention facilities, before coming down, I had actually queried our staff as to, has anybody heard of any rapes being committed out there in detention facilities, and the one in Pine Ridge was brought up, but that was the only one. So I'm thinking that in order for us to respond down at the Academy as far as it being a training issue, I was shocked of hearing her testimony, thinking that, within the reporting system, you know, if it was actually brought to our attention, we would definitely respond to -- you know, to that. But so far it hasn't reached us. So it may be the method of reporting and the -- you know, the procedures to follow.

COMMISSIONER SMITH: And it may be that silence is just so deeply embedded in the community --

MR. MARK DECOTEAU: We're not hearing about it the Academy level as far as it -- and then
it's not recognized as a training issue, so then it's not really included, you know, as top priority within our training.

CHAIRMAN WALTON: Commissioner Kaneb.

COMMISSIONER FELLNER: Well, Mr. Perez was going to say something.

DOCTOR JON PEREZ: I can say it briefly.

As I was looking at this, I'm looking at screens reporting and services for those three areas where you -- we have some convergence or places where we might get some traction. And, specifically, policies regarding the screen. And it's similar to what we've done with meth, with suicide, with fetal alcohol syndrome, and -- and women of child-bearing age and doing that in the clinical setting. And how we take it from the clinical setting and transfer that over to -- you know, to the jails and to the tribal programs, I'm not sure, but it's certainly something that we could definitely look at, and I would be very willing to take back.

So when you're talking about, how do we take this checkerboarded and conflicting jurisdiction area and get down to a victim level to say, you know, I don't care about all that other stuff, but how do we
navigate it through to get there, I think it's absolutely appropriate for us to -- as an agency to -- to put something together for them. And I'm very willing to take that back.

COMMISSIONER KANEK: Ms. Asetoyer.

MS. CHARON ASETOYER: Yes.

COMMISSIONER KANEK: Would you have an opinion as to whether or not the frequency of rape that you're talking about is representative of what happens to incarcerated Indian women as well?

MS. CHARON ASETOYER: Oh, yes. In the state of South Dakota -- I'm sorry I didn't bring the statistics, but sexual assaults occur -- approximately 50 percent of the sexual assaults that occur in the state facilities occur by the staff on inmates, female inmates.

COMMISSIONER FELLNER: Where is that data coming from?

MS. CHARON ASETOYER: The State of South Dakota itself. Or excuse me. A report that was done through the University of South Dakota, and that could be provided for you.

COMMISSIONER FELLNER: That would be great if you'd send that to us.

COMMISSIONER KANEK: And are you -- I
guess you're talking to us, because I asked the
question this way, about women being assaulted by male
staff. Right?

MS. CHARON ASETOYER: Yes.

COMMISSIONER KANE: And are you -- do
you have an opinion as to whether there is assault on
a homosexual basis in the Indian population, either in
lockups, jails, whatever, in Indian Country or in the
general South Dakota penal system?

MS. CHARON ASETOYER: Yes. Exactly.

Yes, sir.

COMMISSIONER KANE: Do you believe it
is higher than -- than it is in the general
population? Now I'm talking about homosexual assault.

COMMISSIONER SMITH: Same sex.

MS. CHARON ASETOYER: Yes. Same sex.

Okay. So male rape on males, like male and female --

COMMISSIONER KANE: Yes.

MS. CHARON ASETOYER: Like staff on --
yes. Oh, yes. Exactly, because -- very much so.

Especially in the male facilities.

COMMISSIONER KANE: So in the male
facilities, you believe there is a high incidence of
male on male prisoner sexual abuse?

MS. CHARON ASETOYER: Yes, sir. I know
for a fact there is.

COMMISSIONER KANE: And does this --

and I think I know the answer we're going to get.

Does the same reluctance to disclose, complain,

whatever, exist there on the part of victims?

MS. CHARON ASETOYER: Definitely. In

fact, probably more so than rape by the opposite sex.

Yes, sir.

COMMISSIONER KANE: Thank you.

CHAIRMAN WALTON: One of our

Commissioners, who is not here, is a professor at the

University of South Carolina who has done a lot of

work --

COMMISSIONER FELLNER: South Dakota.

CHAIRMAN WALTON: South Dakota. Sorry.

Have you ever done any work with her,

Professor Struckman-Johnson?

MS. CHARON ASETOYER: No, sir, I have

not.

COMMISSIONER FELLNER: Could I ask you

how you know --

CHAIRMAN WALTON: I'm sorry. I think

Mr. Aiken had a question.

COMMISSIONER AIKEN: Thank you all for

appearing today. I just have one question of Doctor
I think your earlier testimony indicated that there is a scarcity of resources. Is that correct? Or diminished resource in relationship to responsibilities that you have. Is that correct?

DOCTOR JON PEREZ: Yes. I think it would be appropriate to say that resources are always an issue for us in healthcare delivery.

COMMISSIONER AIKEN: Okay. With that understood, and I stand corrected, when there is a diminished resource, we have to establish priorities. In the establishment of priorities, what are your priorities and what has a higher level of priority above the issues that we've discussed this morning?

DOCTOR JON PEREZ: Life and limb, sir. Stated directly, life and limb is where we begin. Primarily, emergency services and in being able to provide those immediate services. Our primary service unit is small, it's usually isolated, and it tends to give primary and emergent care only.

In our larger centers, some of our larger centers, we have a wider array of services available. But if you're trying to think about us across the nation, what does an average service unit look like, you're going to have a small clinic,
perhaps a small hospital, a few beds, six to eight, ten, and you're going to have an ER, you're going to have some primary care docs and nursing staff, and they're going to be providing services to that community. And if it requires a higher level of care, they're shipped out. But when you're asking, how do we triage, literally it's life and limb. And that's where we start and in many cases we can't go beyond that.

COMMISSIONER AIKEN: What so you're basically saying, and I stand corrected, is immediate trauma care delivery is what is taking most of your priority as well as your resources?

DOCTOR JON PEREZ: Those people with the -- with the most emergent need get the service first, yes, sir.

COMMISSIONER AIKEN: And, number two, have you considered or even explored alternatives other than the traditional delivery of medicine and care such as telemedicine and other technologies, and can you share about that with me.

DOCTOR JON PEREZ: Yes, sir. I've been using telemedicine myself for over ten years. It started in a -- in a very small community in Arizona and I'm still doing it today. Yes, we are. In fact,
as an agency, I'm very proud of what we do with what we have to do it with. I think we're the best at what we do when we're talking about isolated and rural areas.

So I'm not apologizing for our care, and I'm not apologizing for the resource with which we do it. However, we do have to make very difficult decisions about what we do with what we can do. And I am very clear who I represent when I sit at this table and -- and who I represent are the people that I serve. And so when I'm asking -- when I'm talking to you directly, I'm not -- I'm not -- I'm not thinking about, how can we not be responsive to you. What I'm thinking about is, given what we do do, and the level of need -- which is across the board. I can name you a litany of need -- how do we most creatively and effectively address it.

What I'm hearing right here and when I was talking -- and I meant it with Charon, let's take a look, if we screen. Because screening, in medical parlance, is not just screening. Because when you screen somebody in POPS, you've got to do something about it. You can't just say, oh, okay. This is positive for a sexual assault, and leave. We can't, because that's where the other -- that's where the
other accrediting agencies become involved.

If something is identified, it has to be treated. So if we're talking about screenings, and perhaps we're screening in a primary care setting, we do now for assault and for -- and for domestic violence. It's a standard question. In fact, we have about a half dozen of them that are very similar to this. So should -- is this something that we could add. We might reasonably. And it's definitely something I'll take back.

Now, I don't know if that was responsive to your question.

COMMISSIONER AIKEN: Very much so.

The next question is, what type of technology applications have been deployed to the confinement facilities in relationship to not only responding to medical needs, but the prevention and stabilization of chronic as well as acute medical issues while people are incarcerated?

DOCTOR JON PEREZ: You're talking about telemedicine technology? You've lost --

COMMISSIONER AIKEN: I'm just saying, whatever innovation that may be available.

DOCTOR JON PEREZ: Within the prison setting? I would have to check on it, sir. We -- we
don't do anything in the prisons -- Federal,

obviously, so we're talking specifically about what

are we doing in the tribal.

COMMISSIONER AIKEN: In Indian Country,

that's the question I'm asking.

DOCTOR JON PEREZ: And I'll find out

for you. I don't know off the top of my head, sir.

COMMISSIONER AIKEN: I would be very

interested to see what level of innovation that has

occurred or will be occurring in relationship to being

able to validate what some of the testimony is about

this morning and how to resolve it in a manner that is

very transparent and understood by all parties.

DOCTOR JON PEREZ: To be direct about

it, I -- the going into the jails themselves and

providing services in the jails would probably be the

place that I would start to get you that information.

Because most of it is, as Charon was talking about in

her particular location, that the patients come to us

for service as opposed to us going into the

facilities. So that may be a place to start as well.

I'll get the information on technology

and the level of penetration in the jails themselves

to the best that we can provide that for you. If

that's responsive to what you would need.
COMMISSIONER AIKEN: Very well.

CHAIRMAN WALTON: Anything else?

COMMISSIONER AIKEN: I just wanted to follow up on John's question.

Ms. Asetoyer, I understand you do a lot of work with women and you said, for example, your battered women shelter. How do you know -- and can you just tell us how you know about sexual assault of men by other men, whether by staff or by other inmates that is occurring? Could you just give us a little more of your basis -- how you know this?

MS. CHARON ASETOYER: I've been going in the male prisons, not the females prisons, in South Dakota, since the late '70s, early '80s, in and out, and the main prison up in Sioux Falls as well, to do workshops, through invitation of the Native American Inmate Society, and also down in the Springfield facility, which is not a maximum security facility. I've been certified by the State to go in and to do workshops, and we do get invitation by the prison itself and the inmates, Native American Inmate organization, so we do talk to a lot of inmates.

COMMISSIONER FELLNER: Thank you.

CHAIRMAN WALTON: Could we just -- I mean, there is a disconnect between what you're saying
and what I'm hearing otherwise in reference to the prevalence of the problem. We heard yesterday that there are some cultural reasons as to why maybe the reporting level might not be an accurate indication of what the true problem is.

What would your recommendation be to us as to what we should recommend regarding trying to document the true nature of the problem? What would be the best way to do that?

MS. CHARON ASETOYER: Well, Indian Health Service needs to adopt standardized policies so that -- how do I want to say this. So that perpetrators aren't allowed to run amuck in the community and feel that it's okay. Because eventually that perpetrator is going to be arrested for some -- one of the crimes that he commits and end up in prison and will very well -- you know, may perpetrate in prison as well. You know, we've got to stop this. We've got to have -- we've got to have policies in place that will prosecute perpetrators, that will reduce the number of reoccurring offenses.

We've got to get Indian Health Service, within those standardized policies, to go in and make regular visits to these facilities that they have -- I don't want to say jurisdiction over, but free access
to and to have a healthcare provider and a mental care
provider go in. Because if you have been raped in,
say, the county jail by -- by a staff person, they're
not going to bend over backwards to get you into
Indian Health Service emergency room just so you can
tell on them. You know, but if they had -- if they
had a healthcare provider going in on a regular basis,
then the staff would know they couldn't get by with
that. Other inmates would know that there is someone
coming in there and they probably wouldn't be able to
get by with it. So you're going to reduce the number
of frequencies. You probably will never be able to
eliminate it totally, but you're going to reduce, and
everything will help. You're going to reduce the
number of sexual assaults that are occurring.

CHAIRMAN WALTON: But I guess what I'm
asking, I'm hearing from Mr. Decoteau that they're not
hearing about the problem. And as a result of that,
they're not focusing on this aspect of the problem
with any degree of priority, if at all.

How do we -- I mean, right now the
Justice Department, an arm of the Justice Department
is trying to assess the prevalence issue of sexual
assault in prison and jail facilities. I don't know
if they intend to do that in reference to Indian
Country or not, but assuming they did, do you think they would be able to send a researcher into the facilities and get accurate information about the problem?

MS. CHARON ASETOYER: Definitely. You know, that figure one in three Native women will be sexually assaulted in her lifetime, that is a Department of Justice statistic. So the Department of Justice has a lot of statistics and has information, and maybe -- pardon me, with all due respect -- should start communicating to these other subdivisions of the Department of Justice, because it definitely would get down to the BIA and law enforcement.

It's not -- it's not a well kept secret. It -- there needs to be policies in place. I mean, if there isn't, then we know if there are policies, you know, they're not always followed. So if there is no policies, they will never be followed because there is nothing to follow. So they have to be put into place.

Researchers, I -- yes, they do need to go into the facilities and they do start needing to interview people. But there also has to be assurances that there won't be retaliation or retribution on these individuals.
CHAIRMAN WALTON: You mentioned HIV-AIDS. I'm not familiar with the situation in Indian Country. What is the prevalence of the problem?

MS. CHARON ASETOYER: We're over represented, as we are with everything else, with the number of cases in our communities. Unfortunately. And the prisons, you know, not only HIV-AIDS, but hepatitis C, you know, it's -- it's way over represented within the Native American population.

CHAIRMAN WALTON: Anything else? Yes.

MR. MARK DECOTEAU: Yes. I just had a question for Charon, because a lot of this, like you said, is kind of new information for me.

But I was wondering, was she responding to -- and I believe, you know, detention facilities that are, you know, outside our jurisdiction as far as Indian Country goes, and I was just wondering if she can comment, when she was talking about male staff -- detention staff on male inmates and the sex crimes that she is alluding to are actually being committed within Indian Country detention facilities? Because those would be the training facilities that we would be required to provide training for and not the facilities outside of that jurisdiction. And we
wouldn't have control over what their correction
officers would be, you know, receiving. But that
would be helpful information for me.

MS. CHARON ASETOYER: For instance, in
the county facilities where the Bureau of Indian
Affairs Department of Justice contract to house our
prisoners, the Indian -- the Bureau of Indian Affairs
law enforcement officers are like guests. Because
they'll bring a -- a prisoner in there to book them,
and they'll -- they're housed there, but there is
always this sense of, they're a guest within that
facility among the other law enforcement officers.
And we've had complaints from some of the BIA officers
that there have been mistreatment of inmates, but
there was nothing they felt that they could do. And
this is where Indian Health Service, if they made, you
know, more regular visits, could be helpful.

As far as our own facilities, we had a
facility for a little while -- in fact, they're
building one now, but we had a juvenile facility and
it was not well staffed; it was not well funded. It
ran out of funding and the Department of Justice
pulled the funding -- I'm not sure which -- but there
was an incident there where a male guard handcuffed a
juvenile female to the bed posts. And that facility
had no real trained guards working there. And I don't know how they allowed for it to open up without people being appropriately trained. In fact, one of the employees was a -- had a sexual assault perpetrator -- you know, had a convicted sex offender working there.

So there has to be monitoring and training prior to -- monitoring throughout the history -- or the lifetime of these facilities, but there has to be training, I feel, before a person is hired to be a guard in a facility within our reservations, too.

COMMISSIONER FELLNER: But can you answer his question, because I think it's an important question for us. Are you aware of cases of male staff assaulting male inmates in Indian-operated facilities?

MS. CHARON ASETOYER: No, I am not. Not to say that it hasn't gone on --

COMMISSIONER FELLNER: But you're not aware of it?

MS. CHARON ASETOYER: I am not aware of it, because we do not have one on our reservation. It's run by the county.

COMMISSIONER FELLNER: Okay. It was just that he was wanting to get that clear.

MS. CHARON ASETOYER: Okay.
MR. MARK DECOTEAU: I was just wondering if she could kind of expand, then, on some of the information that she has been providing as far as the number of actual rapes being committed, how many of those are -- actually had been committed within Indian Country. Because now I think we're getting the whole -- we're getting county and Indian Country combined as a whole, and I'm just wondering if the -- if there is a lot more of it in the county facilities and very little of it in Indian detention facilities. And maybe that's -- if she can just give us an idea as to what that number is.

COMMISSIONER SMITH: I think that Ms. Asetoyer can talk about that, but I can tell you, from the perspective of this Commissioner, I think the prevalence in any of those settings is not clear, based on the lack of good record keeping and data collection. So she can certainly talk about that and talk about her experience, but at this point, I don't think that, at least for me, the absence of her being able to provide that information suggests that it's not going on in Indian Country or that it's more prevalent in county facilities.

MR. MARK DECOTEAU: Yes.

CHAIRMAN WALTON: Anything else? Yes.
DOCTOR JON PEREZ: This is a clarifying question for Commissioner Fellner. I want to make sure you get what you want, because my testimony last week before the Senate was on housing. I think what you would really like to have and what the Commission would like to have is our budget information and some comparisons to give you an idea of how we're funded.

COMMISSIONER FELLNER: That would be terrific. Yes, thank you very much.

CHAIRMAN WALTON: Okay. We thank you all for your testimony. We will consider it and I'm sure it'll play a role in what we recommend. So thank you very much.

We'll recess until 10:30. Hopefully we'll be ready to proceed. We're not supposed to start until 10:45, but hopefully our witnesses will be here and can get started a little early.

(RECESS.)

CHAIRMAN WALTON: We will get started. I would ask everybody to turn off electronic devices. Our next panel actually will start at 10:45. We have the pleasure of having with us the Major from the Harris County Sheriff's Office, which is where Houston, Texas is located, Major K.W. Berry. And he is here to testify about the efforts being