the opportunity to be here.

CHAIRMAN WALTON: Thank you very much.

I'm sure we'll have some questions, then, for both of you. We may have some follow-up questions that we won't have time to ask today, so if we submit something to you, we appreciate you responding because that would be helpful.

And I forgot to announce, if anybody has electronic equipment turned on, please turn it off because it does impact with the system.

Chairman, thank you for being here.

REPRESENTATIVE JERRY MADDEN:

Mr. Chairman, thank you very much.

Mr. Kimbrough and I are something of new guys on the block. Actually, I've been the Chairman of Corrections -- I've been a member of the legislature of the State of Texas now for 15 years, but until two years ago, I had never even seen a correction bill, never looked at the inside of a prison. I have a district that has no prisons and absolutely no desire to have any, and one of the smaller interment rates of the State of Texas in that district.

But the Speaker of the House asked me to become the chairman of the committee two years ago.
At that stage I was basically able to figure out the difference between parole, probation, and anything else. But the boss gave me one thing. He said, "don't go build new prisons." So at that stage I had to begin to learn the process of how do we make that work and how does that happen.

And in dealing with those things, it came -- came to look at the various departments that I have. First of all, I have the entire Texas Department of Criminal Justice. We also have the Texas Youth Commission. We also have our Council on Offenders with Mental Illness and things like that, so you learn a lot of the statistics and things because I'm not a lawyer, I'm an engineer. My knowledge and background is an engineering one. And so I asked questions as an engineer. And you start asking numbers questions and you start finding out things.

And I will tell you that our Texas Youth Commission wasn't even on our radar screen as far as even at the end of the last session. We had had, you know, one hearing, basically, that they come in and talked a little bit about it, and I had, you know, some little pieces of legislation that we had done, but nothing major.

But we started looking at incidents
that we had at some of the facilities, particularly one we had in south Texas where they had basically a riot, which they now have the Federal intervention on, Federal case.

And started looking at all the things about it and started asking questions. And when you get an engineer that starts asking questions, it can be very dangerous because they start asking lots of detailed questions. Like why isn't this happening, and what is happening here, and why does this happen this way. And so I got to asking the questions of -- about the organization. And I've got to admit, I started from the restraint policies and looking at their restraints, because we heard cases of kids that were injured. And we heard cases of workers that were injured, also. And I said, is that the right way to be doing it. Is there other alternatives.

We quickly found out that I had an organization that had the highest workers' compensation rate in the State of Texas, 22 percent. We figured that out, that's one out of every five employees had a workers' comp claim in a year. That's a fairly high one, and as a business guy, I sat back and said, that's a red herring that something else is going on out there. There is something else wrong.
So we started digging into a whole bunch of other things that were there, their policies. We figured out real quickly that their policies weren't reviewed regularly, that their board did not look at all of their policies, and we tried to get them to change that and implement those changes. And I will tell you that they were very slow to do that, and I will tell you that they were also -- they had an investigatory system -- they had an IG system at one stage that had reported to the superintendents at each location. They moved that and had it reported to the legal counsel at the headquarters. We said, that doesn't make any sense. And so we directed them to move it to report to their Board of Governors.

Unfortunately, at the same time, they decided that there was going to be an Office of Youth Care Investigators instead of an Office of Inspector General and, therefore, they weren't looking at the kinds of things we wanted to. We also figured out real quickly that they were not commissioned peace officers and, therefore, they had no obligation to report criminal offenses and they had no capabilities to look at and investigate crime scenes and investigate the things that were going on at the various locations. They didn't have any scheme, it
appeared, to do any retention of evidence. They went
several days between the reporting of an incident and
the time when the headquarters or anybody got back out
there to look at the case.

And so those things all raised the flag
and I will tell you, at some stage in that -- in that
discussions about the middle of July or August, the
Prison Rape Elimination Act came up. And one of the
things we were looking at, because the Texas
Department of Criminal Justice had gotten a million
dollar grant to go look at the things, and I will tell
you that we have looked at our interim hearings and
seen that Texas had a high rate of reporting of prison
rapes. 20 times greater than Ohio and 20 times
greater than California and -- you know, of number of
incidents reported. You can take a look at those
statistics, which we said -- my ACLU people came in
and tried to tell me, well, Texas is really bad
because they've got so many of them. And we looked at
it and said, none of us believe that Texas has 30
times more prison rapes than the state of California
does, or 20 times more than Ohio does. We think what
we're really finding out is because the system we have
at TDCJ, while imperfect at best, is still one that
does get reports of incidents at a much higher level
than we think any other state has.

But I looked at my Youth Commission and they said they didn't have any problems with it, and they had made no requests for Prison Rape Elimination funds. They indicated that somehow or other, only one organization could get it and, obviously, the big boy was going to get it and that was going to be the TDCJ and so they made no effort to put in for that Prison Rape Elimination grant.

And as I told your Chairman, one of the things that we had found in looking at one of the incident reports that they had at the Evans facility was a report where a youth had been part of the riot they had down there, and he had been part of -- it was a charge brought a guard for failing to make his inspection tours regularly and they were doing a disciplinary action against the guard. But that the youth had reported that he had been in a fight and, also, that he had been sexually assaulted.

And their reaction to that was that they had taken him to the nurse to have his black eye checked. And that was all. So we started doing some more digging, obviously. Some more questions that came out.

And -- and also a lot of actions that
then occurred, particularly right after that, when the
knowledge of the incidents that happened in our west
Texas facility, which has really been the major thing
that has caused the entire chain that we've had here.

Now, I will tell you that I had
legislation filed before any of that became known in
the general press that would have dealt with the
Inspector Generals and would have given us a Special
Prosecutors Unit and would have done a lot of the
other changes that Mr. Kimbrough is talking about.
But this has -- obviously, has highlighted the -- not
only the need for it, but especially the things that
we have to change. So we're still at the forefront of
a lot of those changes. A lot of the activities going
on, we're -- a lot of information that we might have,
I hope we can be of help to the Committee in anything
that we've got. So thank you all.

CHAIRMAN WALTON: Thank you very much
for your testimony and your good works.

Let me just ask. I know you're just --
you are not finished with your investigation of the
issue, but what are the things that you think were the
major breakdowns in the process that permitted this to
occur?

MR. JAY KIMBROUGH: I have often used