willingness to come forward and present your testimony and it will play a significant role in our deliberations and our ultimate decisions as to what recommendations we should make, so thank you very much.

MS. RAGSDALE: Thank you.

MS. BROWN: Thank you very much for taking the time and patience to see us. Thank you.

THE CHAIRMAN: We'll recess until ten o'clock.

(Brief recess.)

CORRECTIONS ADMINISTRATORS DESCRIBE CHALLENGES OF INTERNAL REPORTING, INVESTIGATION, DISCIPLINARY PROCEDURES AND PROSECUTION

MR. CHAIRMAN: We'll reconvene with the next panel.

Good morning to all you. Our next panel will address the issue from the corrections administrators' perspective and they will be addressing the calendars of internal reporting, the challenges of internal investigation, disciplinary procedures and also prosecution.

I will let each witness identify themselves.
I'll then place you under oath and then we will have you present your testimony. And after that, we will have some questions for you, I'm sure. So would you please identify yourselves?

MR. DIGNAM: Yes. My name is John Dignam. I'm a chief at the Bureau of Prison's Office of Internal Affairs.

MR. REES: John Rees, Commissioner, Kentucky Department of Corrections.

MR. WALL: Ashford (ph.) T. Wall, II. I'm commonly known as A.T. I'm director of the Rhode Island Department of Corrections.

MS. CARUSO: Patricia Caruso, director of the Michigan Department of Corrections.

MR. SPRENKLE: Bill Sprenkle, Deputy Secretary, Deputy Secretary of Administration for the Pennsylvania Department of Corrections.

MS. BISSONETTE: Lynn Bissonette, Superintendent, Massachusetts Correctional Institution at Framingham.

MR. CHAIRMAN: Thank you very much, Again, welcome. Would you please stand and I'll
administer the oath.

(Panel sworn)

MR. DIGNAM: Thank you, Mr. Chairman and other members of the Commission. I appreciate the opportunity to follow up today on the Bureau of Prisons director Harley Lappin's testimony before this Commission this past March to further discuss investigations of staff sexual abuse.

My office is responsible for conducting and coordinating investigations into all allegations of waste, fraud, abuse or other misconduct by our employees and our contractors. We are especially concerned about allegations of sexual abuse of inmates, which we consider to be among the more serious and troubling of the allegations we receive.

The Bureau of Prisons has a zero tolerance standard for staff sexual abuse of inmates. Every allegation of sexual abuse by staff against inmates is referred to the Department of Justice Office of the Inspector General for their consideration for investigation and possible prosecution. We were
very pleased to see criminal penalties enhanced with the enactment that the violence against women and the Department of Justice Reauthorization Act in January.

The penalty for sexual abuse of an inmate in a federal prison was increased from up to one year in prison to up to five years in prison. And the penalty for abuse of sexual conduct with an inmate was increased from up to six months in prison to up to two years in prison. And then last week, last Thursday, President Bush signed into law the Adam Walsh Child Protection and Safety Act, which increased the penalty for sexual abuse of an inmate again, this time from up to five years to up to 15 years in prison.

Another welcome result of the act was the addition of contract correctional facilities to the institutions covered by the sexual abuse statutes. We hope this will further deter sexual abuse of inmates in halfway houses and private prisons. The Bureau of Prisons and the Department's Officer of Inspector General worked aggressively with the
Congress to gain these penalty enhancements and
other changes.

We are indebted to the Office of the Inspector
General for their April 2005 report, which was
undoubtedly instrumental in influencing this
legislation.

My office classifies staff sexual misconduct
into one of four categories, aggravated sexual
abuse, sexual abuse, abusive sexual contact, or
unprofessional conduct of a sexual nature. The
first three categories are based on the criteria
and definitions provided in title 18, U.S.C. 2241
through 46.

The fourth category, unprofessional conduct of
a sexual nature, is not a criminal offense, but is
behavior prohibited by agency policy nonetheless.
Consistent with our zero tolerance approach, we
hold our staff accountable for any behavior with or
toward inmates which could be construed as sexual
or sexually suggestive. In this way, we put our
staff on notice that no sexually inappropriate
behavior, verbal or otherwise, no matter how it is
intended or perceived, will be tolerated. Investigating and punishing these less serious infractions potentially can prevent such behavior from escalating into actual sexual relationships and abuse. The Office of the Inspector General generally assumes the investigative authority and responsibility in cases of sexual abuse referred to them by us or other sources when there's potential for criminal prosecution. Their efforts have resulted in a number of successful prosecutions of our staff and contractors in recent years.

Even when criminal prosecution is declined, which occurs more often, their investigations have led to the resignations of employees who abuse their authority or provided us with sufficient evidence to sustain administrative charges against these employees and remove them. Most cases of alleged sexual abuse by staff are referred back to my office for investigation and we pursue our own investigations vigorously and hold staff accountable for any violation of the agency's standard of conduct. Insofar as my agency is
charged with the care and humane treatment of all 
inmates in our custody, our interest is in pursuing 
all allegations of sexual abuse. And that's clear, 
that it's in our best interest.

There are other important reasons for doing so 
and not just because our charge is the protection 
of inmates. In most cases in which sexual abuse or 
sexual contact between staff and inmates are 
substantiated, it's also been determined that those 
staff have introduced contraband, such as drugs or 
other prohibited items into our institutions either 
as a bribe to ensure an inmate's silence about the 
abuse or at the request of the inmates with whom 
they're in a sexual relationship.

This constitutes a significant security breach 
at our facilities, which jeopardizes the safety of 
inmates and staff at all the locations. There is 
also the potential for staff being compromised in 
other ways. For example, in one case a staff 
member who maintained a sexual relationship with an 
inmate was ultimately involved in aiding in that 
inmate's escape from one of our minimum security
facilities. Thus, not only is the vigorous pursuit of all allegations necessary to protect inmates from such abuse by our predatory staff, it is also vitally important to do so because the safety and security of all inmates and staff can be significantly compromised when professional boundaries between staff and inmates are not maintained in our correctional environment.

Sexual abuse and misconduct by bureau prison staff and contractors is not limited to male employees who abuse their authority with female inmates. In fact, 60 percent of the investigations conducted in the last five years involved female staff members and male inmates. While this can be explained in part by the fact that we have many more male inmates in custody than we have female inmates, it also highlights the differences in dynamics and other complexities involved in investigating allegations of this sort.

Commissioner Smith, who I had the pleasure of assisting a recent training she coordinated for OIG agents and my agents, she effectively describes
those kind of complexities of motives, for example, in one of her recent writings on this topic. The bottom line, however, is this, regardless of intent or motive, there is no such thing as truly consensual sexual activity between our employees and inmates, period. Any such behavior on the part of our staff or any other correctional employee constitutes a significant and intolerable abuse of authority and must be prevented when possible and punished when discovered.

To this end, we strongly encourage inmates and employees to report. In fact, BOP employees are also help accountable and can be disciplined for not reporting known or suspected instances of misconduct, including sexual misconduct.

Our standards of conduct identify three specific charges in this regard, failure to report a violation of conduct, failure to report to management any violation of unprofessional conduct with inmates, and refusal or failure to cooperate in any official U.S. Government inquiry or investigation.
More pointedly and specifically regarding the prohibitions against relationships, sexual or otherwise, with inmates in their charge, those same standards of conduct explicitly communicate to employees the following: Employees may not allow themselves to show partiality toward or become emotionally, physically, sexually or financially involved with inmates. And an employee may not engage in or allow another person to engage in sexual behavior with an inmate. Regardless of whether force is used or threatened, there is never any such thing as consensual sex between inmates and staff.

Our standards of conduct further communicate to our staff the criminal penalties so that they're put on notice what the penalties can be. We also communicate to them this, I quote from our standards of conduct, "Physical contact is not required to subject an employee to sanctions for sexual misconduct.

Finally on behalf of our director, Harley Lappin, I'd like to reiterate from his previous
testimony that our agency also takes very seriously all allegations of inmate on inmate sexual misconduct. Although, it is not in my jurisdiction, I am well aware that as with staff sexual misconduct we maintain a zero tolerance approach into our sexual aggression. All reports of sexual violence or coercion by inmates against other inmates trigger immediate staff responses to ensure that the alleged victim receives protection, appropriate assistance, and simultaneously all evidence is properly preserved and the allegation is promptly referred for criminal investigation by the FBI. If the investigation yields sufficiently incriminating evidence, prosecution is pursued. The cases that are not pursued are referred back to our local investigators for investigation and disposition. In those occasions in which allegations are substantiated, inmate perpetrators are disciplined to the fullest extent of our policy and the law.

I appreciate the opportunity to address the Commission today and I'll respond to any questions
that you might have.

THE CHAIRMAN: Thank you very much, Mr. Dignam. They've asked me to pause for a minute.

MR. DIGNAM: Okay.

THE CHAIRMAN: Mr. Rees.

MR. REES: Thank you. Good morning and thanks for the opportunity to appear before you today. I'm John Rees, Commissioner of corrections, for the Kentucky Department of Corrections, and I spent 38 years in the prison business, the vast majority in administrative capacities in adult prisons. So I believe that I'm both familiar with and well-qualified to speak on this very serious issue. I will try to be brief, but at the same time address as thoroughly as possible this complex issue. I think we need to look at it from two separate perspectives, inmate on inmate acts and staff on inmate acts. Additionally, we will need to review how we investigate these events internally and how we interface with outside law enforcement and prosecutorial agencies.