AFTERNOON SESSION

ORGANIZING AN INVESTIGATIVE COMPONENT AND IMPLEMENTING PROCEDURES

THE CHAIRMAN: As with the last panel, I will have each of you identify yourselves. I will then administer the oath and then have you give your statements and then we'll have some questions, I'm sure, for you.

So would you please identify who you are?

Again we, as with the other panels, thank you immensely for taking the time out of your, I'm sure, busy schedules to be here with us.

MS. SCHNEDAR: My name is Cynthia Schnedar. I'm counsel to the Inspector General for the Department of Justice for the United States.

THE CHAIRMAN: Welcome.

MR. ALDRICH: I am Aaron Aldrich. I'm the chief inspector for the Rhode Island Department of Corrections.

THE CHAIRMAN: Thank you.

MR. WITTMANN: Timothy Wittmann. I'm a trooper with the Pennsylvania State Police assigned
as a criminal investigator.

THE CHAIRMAN: Welcome.

MR. SAUCIER: I am Al Saucier, lieutenant with the Office of Investigative Services for the Department of Corrections in Massachusetts.

THE CHAIRMAN: Thank you. Would you please stand and I will administer the oath.

(Panel sworn.)

THE CHAIRMAN: Thank you. Ms. Schnedar.

MS. SCHNEDAR: Thank you for this opportunity to appear before the National Prison Rape Elimination Commission to discuss the work of the United States Department of Justice Office of the Inspector General regarding staff sexual abuse on inmates.

When Inspector Glen Fine testified before this Commission on June 14th, 2005, he reported to you the results of a review issued earlier that year that examined sexual abuse of federal inmates by correctional staff. In particular, the report highlighted several shortcomings of what was then federal law in deterring staff sexual abuse.
The federal crime of sexual abuse of an inmate, without the use of force or overt threats, was only a misdemeanor punishable by a maximal sentence of one year. And the federal crime of sexual contact of an inmate without the use of force of threats was also only a misdemeanor punishable by a maximum of six months.

Further, the federal laws covering sexual abuse of inmates did not applied when the federal inmates were held in facilities under contract to the federal government, rather than a BOP operated facility. Similarly, the laws criminalizing the introduction of contraband into the prisons did not apply when the federal inmates were held in contract facilities.

Based on its work in this area, the OIG believed that misdemeanor penalties were too lenient for sexual abuse or sexual contact of an inmate without the use of force or overt threats. Because prison employees control many aspects of inmates' lives, in most cases prison employees can obtain sex from inmates without resorting to the
use of threats or force.

This type of sexual abuse can present serious dangers to staff, correctional facilities, inmates and society. Staff sexual abuse can also undermine the security of institutions by corrupting staff members and increasing rivalry among inmates. Moreover, the abuse can significantly harm inmates by inflicting psychological and emotional trauma.

Despite the harm caused by these crimes, the OIG also found that many federal prosecutors were not pursuing these cases regardless of the strength of the evidence because the crimes were not felonies. The second deficiency that we identified was that the laws did not comply when federal inmates were held in facilities that were contracted to the federal government rather than operated by BOP.

We found that state prosecutors inconsistently prosecuted these cases because many states were focusing their limited resources on sexual abuse against state rather than federal inmates. As a result, abuse of federal inmates held at contractor
facilities was often going unpunished because of limitations in the law's coverage.

In addition, we noted that the federal law criminalizing the introduction of contraband into federal correctional facilities by either corrections staff or inmates did not apply to non-DOP facilities where inmates were housed under contract. We found a strong correlation between contraband smuggling and sexual abuse cases because nearly half of the subjects in our sexual abuse cases also were smuggling contraband into a prison for the inmate with whom they were having a relationship. However, contraband smuggling offenses in contract facilities were left to the discretion of state prosecutors to enforce and often were going unpunished. I am pleased to report that this year Congress enacted legislation to correct those shortcomings. The violence against women in Department of Justice Reauthorization Act of 2005 signed into law on January 5th, 2006, provides that in cases where correctional officers sexually abuse a federal
inmate without the use of force or threat of force
the maximum penalty is increased from a misdemeanor
with a one-year maximum sentence to a felony with a
five-year maximum sentence. The maximum penalty in
cases where correctional officers have sexual
contact with a federal inmate without the use of
force or threat is also increased from a
misdemeanor to a felony with the maximum sentence
of two years.

The act also extends federal criminal
jurisdiction for sexual abuse of federal inmates
housed in state, local or contract correctional
facilities. The act also makes clear that federal
jurisdiction extends to the introduction of
contraband by corrections staff or inmates into
state, local or contract facilities housing federal
inmates.

In addition, we have the changes in the Adam
Walsh Act that John Dignam discussed earlier today.
Because the statutory changes were recently
enacted, we are not yet able to numerically measure
what difference the increased penalties and
enhanced jurisdiction will have on the number of
cases that federal prosecutors accept for
prosecution. However, we are strongly encouraging
federal prosecutors to aggressively use these new
tools. And we believe that the legislative changes
will make a positive difference in addressing the
serious problems of staff sexual abuse of federal
inmates.

I want to describe for the Commission the
efforts that we, at the OIG, are making to pursue
these important cases. As part of our recent
training efforts, the OIG, in collaboration with
the National Institute of Corrections and the
American University of Washington College of Law,
recently conducted a three-day training session in
Washington, D.C. which was attended by 40 OIG
agents and BOP investigators from across the
country. We had the benefit of working with
Commissioner Brenda V. Smith as we pull this
training together, which was tailored to the
investigative needs of our agents.

At the seminar, senior OIG agents and federal
prosecutors provided training to our newer agents on the intricacies of investigating sexual abuse cases involving prison inmates and staff. The first and most difficult obstacle to overcome, typically, is gaining the cooperation of the victim.

The correctional officers often wisely choose the most, wisely from their part, the most vulnerable victims as their victims such as inmates with drug addictions, previous physical or sexual abuse, mental health issues or a little experience with the criminal justice system.

Consequently, these victims are often scared and reluctant to cooperate with investigators. These victims also fear that if they cooperate, they will be isolated in a special housing unit or transferred to an institution that is further away from their families. As a result, OIG agents have to work very hard to build a rapport with these victims and gain their trust and cooperation.

The OIG agents also attempt to obtain any and all available corroborating evidence such as cards
and letters between the subject and the victim, statements from other inmate witnesses or admissions that the suspect made to the victim.

In addition, DNA is a powerful corroborating tool, but we recover it in only a small percentage of cases because victims typically delay in disclosing staff sexual abuse. I know from experience in my former job in prosecuting sexual abuse cases in the United States Attorney's Office for the District of Columbia that the examination of the victim must be conducted within 72 hours of a sexual assault in order to collect any DNA evidence from the victim's body. In the rare instances where a victim discloses the assault within that time period, the victim is taken to the Bureau of Prisons' medical clinic where medical personnel can conduct appropriate examination to both collect forensic evidence and provide medical treatment.

Evidence from the crime scene such as semen stain on the couch where the illegal act occurred or an unlaundered item of clothing saved by the
victim can sometimes yield DNA results even when
the evidence is collected months after the sexual
act occurred. While our agents occasionally are
able to obtain assistance from state laboratories
in collecting crime scene evidence, typically the
OIG agents must collect the evidence on their own.
We usually submit our forensic evidence to the
F.B.I. for analysis. Unfortunately, because of the
F.B.I.'s backlog in processing evidence, we often
have a lengthy wait, sometimes up to a year or more
before we receive the results of forensic testing.
Occasionally state laboratories have analyzed our
evidence for us, but the state laboratories often
have the same lengthy delays due to backlogs.

I want to talk about the case of United States
versus Alfred Barnes and others that were indicted
recently in the Northern District of Florida
because this illustrates the harm that is caused to
both individual inmates who are victims of sexual
abuse and to the institution when correctional
officers engage in this illegal conduct.

Because this case is pending trial, I will
limit the discussion to the factual allegations asserted in the public indictment. Six federal Bureau of Prison correctional officers at the Federal Correctional Institute in Tallahassee, Florida were indicted on June 20th, 2006, in the Northern District of Florida on charges of conspiracy to sexually abuse females and to introduce contraband into the correctional facility.

The indictment charges that the six male correctional officers bribed numerous female inmates to engage in sexual activity with them by providing them with contraband. The defendants would conspired among themselves to switch duty assignments to facilitate this illegal sexual activity. The defendants conspired to cover up their illegal activities by requiring others female inmates to act as lookouts when the illegal sexual activity was taking place. The defendants kept inmates from reporting the defendant's illegal conduct by threatening to place contraband among the inmate's belongings and by threatening to have
the inmates transferred to a facility that was far
from the family members who visit them.

    The defendants showed victims information
about the inmates on the BOP computer system as
proof that the inmates could be tracked anywhere
within the BOP system. The defendants monitored
television calls of specific inmates in order to
intimidate them and to identify any inmates who
were disclosing their criminal conduct. The
defendants also asked other correctional officers
and inmates to speak with individuals suspected of
corroborating with law enforcement investigators in
an attempt to persuade them not to cooperate.

    Finally, it is with great sadness that I note
the death of OIG Special Agent William Buddy
Sentner, who was shot and killed in the line of
duty on June 21, 2006, as he was working as part of
the team to execute arrest warrants in the
Tallahassee case I just described. When OIG and
FBI agents went to arrest the indicted correctional
officers in the BOP facility, one of the
correctional officers began firing at the team with
a personal firearm he brought into the facility.
The correctional officer hit a BOP lieutenant, shot
at another OIG agent and then shot and hit Buddy
Sentner. After he was hit, Buddy courageously
returned fire and killed the correctional officer.
Buddy died a short time later.

As Inspector General Glen Fine stated in his
eulogy, Buddy Sentner was a hero. His brave
actions under fire saved the lives of other federal
employees while giving his own life. Buddy
Sentner, like other OIG agents, recognized that his
job was dangerous and difficult. It is not an easy
job to investigate corrupt federal employees who
abuse their trust and pray upon others. But he,
like other OIG agents, work tirelessly to protect
others and improve the Department of Justice. He
was a deeply committed federal law enforcement
agent, colleague and friend, and he will be greatly
missed.

I thank you the Commission for inviting me to
provide this testimony and I will be happy to
answer any questions you have.
THE CHAIRMAN: Thank you very much.

Mr. Aldrich.

MR. ALDRICH: Thank you. I have been honored to be selected by the Commission to testify today regarding effective investigative procedures. It was during the fall of 1996 that I attended my first training sponsored by the National Institute of Corrections held in Longmont, Colorado. This valuable training was also attended by my supervisor, Director A.T. Wall, and Ms. Roberta Richmond, who is now serving as assistant director in the Rhode Island Department of Corrections.

The training focused on investigating staff sexual misconduct. The training experience was the genesis in our Department's quest to secure legislation criminalizing sexual relationships between staff and offenders. In 1996, I had been fortunate enough to attend numerous -- or since 1996 I had been fortunate enough to attend numerous National Institute of Corrections training as a participant and a presenter.

My purpose in testimony today is to underscore