and make a statement?

As you know, we are investigating, looking at the problem of prison rape both at the federal, state and local level. And I know as a long-term civil rights advocate that you would have a profound concern about this issue also. So, if you'd like to make a statement, we'd be happy to hear from you.

CONGRESSMAN CONYERS: Thank you, Mr. Chairman.

I've asked the apologies of the witnesses that are in front of you to proceed for just a few moments. I first of all just wanted to welcome you all to the Federal Court for the Eastern District of Michigan. The irony of a member of Congress being able to have his office here is an honor that I have always valued very much. And as a result of the riots that burned down my building, I was allowed to come here. And then I was allowed to stay up until now and it's on the condition of good behavior. And I think so far it's working out very fine.
Judge Walton and distinguished members, I'm so
happy to be here with you. This is a subject as
the senior member on the House Judiciary Committee
that has disturbed us for quite a long time. As a
matter of fact, only approximately two weeks ago I
was talking with Congressman Dan Lungon of
California, the former Attorney General of that
state and also a member of Congress, before he
became Attorney General about this whole definitely
embarrassing social subject of prison rape. It's a
problem that has been disturbing us for quite a
while. We know there's a lot of work to be done.
But, the fact of the matter is that we made a great
deal of progress. We finally now have a piece of
legislation that came out of the Judiciary
Committee, Bobby Scott and Frank Wolf, a gentleman
from Virginia, were the original sponsors. I was
happy to participate on it. It became law in the
108th Congress and it required, of course, that
statistics be kept on this subject, which hadn't
been really clearly done too much before then, and
that we also allocate sums of money up to
$40 million to states to work on this problem.

It's not just the federal problem as you know, it's a state problem as well. And, of course, what's been happening is that many diseases have been spread from those coming back from a prison experience that has made this very difficult, indeed. And so for you to have your fifth hearing in Detroit in the federal courthouse is something that we are very privileged to host and help you enjoy.

We have a great number of well-known judges here, as you know, leading off with Damon Keith, who my brother was his law partner for many years. And he's legion, but there are many other newer judges less well-known, perhaps, but are doing very dedicated work here in that building.

The University of Michigan affirmative action cases were heard right in this courthouse. And so I welcome your work. I had two counsels in the Judiciary Committee working on this to gather the fruits of your labor, of your work, of where we can go and how we can continue to help. We're also
working with the Commission on safety and abuse in
America's prisons with whom I know you're equally
familiar, who have done work that we think is
compatible with yours. And they have a number of
people that most of you would recognize instantly
when I mention their names, William Sessions,
former head of the FBI; Nicholas Katsinbokin (ph.),
X-Attorney General; Mark Morial (ph.), the head of
the Urban League; Pat Nolan of the Prison
Fellowship's Ministry, and many others. They're
doing a great work that I think compares and
compliments what you're doing in terms of
eliminating or reducing the violence in prisons, in
reducing crowding, promoting productivity and
rehabilitation.

We also just passed another piece of
legislation dealing with the whole question of how
to more constructively engage members that are in
prison for when they return. And as we all know,
most of them, in fact, do return. And there are
many other things which we can work on together.

I am very anxious to keep in touch with you
and I would, again, compliment you on behalf of the entire House of Representatives' Judiciary Committee, which was very supportive of the law that was passed in the 108th Congress that will help you in the course of the great responsibilities that this Commission has.

If there are any instructions or matters that should be brought to my attention, I would be happy to receive them now just to demonstrate that this is not just a pop in meeting. This is something that is very important in the cause of getting a more fair criminal justice system in America. And I thank you for this opportunity.

THE CHAIRMAN: Well, thank you for your presence and your comments. The only thing I would say, we did send a letter to members of Congress. I don't know if you've seen it, but we did not and cannot take a position on the legislation that we discussed regarding the gang situation, but we did express our concerns that if that legislation is enacted that it be mindful that if it were to address juveniles being brought into the federal
system that would create a special concern in reference to those young people being placed in adult facilities because, obviously, they could be a significant risk for sexual abuse.

So, while we don't express a view as to whether that legislation should be enacted or not, if it is we would hope that Congress would take special concern to make sure that those youth would not be placed in vulnerable situations.

CONGRESSMAN CONYERS: Thank you, Judge Walton. I hear you loud and clear.

THE CHAIRMAN: Anyone else?

COMMISSIONER SMITH: I actually have something.

Congress Conyers, again thank you. And I also wanted to let you know that I remembered that in 1998 that you actually introduced a piece of legislation on this issue. It was called "The Custodial Sexual Abuse Act of 1998" and would have established a registry for staff who were involved in sexual misconduct with offenders.

One of the things that we have been hearing a
great deal about is the problem of these complaints of sexual violence actually coming up through the system and, frankly, the grievance procedures that are in place in institutional settings may not be as effective as they could be. We certainly have also received information, I believe it was from Senator Sessions, about some interest in looking at creating some sort of flexibility in the Prison Litigation Reform Act with regard to exhaustion of administrative remedies specifically for these types of incidents. That certainly is in a position that the Commission has taken, but it would be certainly something that I think would be worth looking at and a position that actually, at least one state, West Virginia, has taken.

CONGRESSMAN CONYERS: Thank you, Commissioner Smith. You reminded me of something that I should have brought up because that's an important area and I look forward to continuing to work with you on it.

THE CHAIRMAN: Anyone else?

(No response.)
THE CHAIRMAN: Well, thank you very and it's good seeing you again.

CONGRESSMAN CONYERS: Thank you. It's a pleasure. And we'll be in recess until after Labor Day, but I'm hoping that your busy schedule will be able to accompany a visit from me to you.

THE CHAIRMAN: And would always do that.

CONGRESSMAN CONYERS: I thank you again for coming to Detroit for your fifth hearing.

THE CHAIRMAN: Thank you.

CONGRESSMAN CONYERS: How many more are there?

THE CHAIRMAN: We have at least two more hearings scheduled, although I'm sure there will be more than that. Thank you.

I think we have Mr. Moriarty here. I heard you had some problems with your flight.

MR. MORIARTY: Just a weather situation.

THE CHAIRMAN: Okay. Well, we're glad you're here.

(Panel member sworn.)

THE CHAIRMAN: Thank you. You may make
your statement.

MR. MORIARTY: The Texas Department of Criminal Justice is who I'm employed by. I'm at the office of the Inspector General. It is an independent investigative oversight entity that reports to the board of Criminal Justice. The board is comprised of nine persons appointed by the governor of Texas to oversee prison operations. My office does not report to the prison administration. All of the crimes that occur within the Texas Department of Criminal Justice are investigated by the OIG. The majority of these crimes that occur within the prison system are typically homicides, sexual assault, aggravated assault, weapons cases, drug offenses, bribery, theft, and civil rights violations.

The OIG investigates TDCJ officials, inmates and civilians who commit crimes while on property owned, operated or controlled by the TDCJ.

The OIG staff consist of 100 commission state police criminal investigators and 30 administrative staff that are stationed at or near the 105 prison