MS. PASION: Thank you.

CHAIRMAN WALTON: We'll take a ten-minute break.

(Recess.)

CHAIRMAN WALTON: Good morning to our first panel. Your reputations precede you. We welcome all of you; we're happy to have your presence on this panel.

We have Mr. J. Robert Flores who is the Administrator of the Office of Juvenile Justice and Delinquency Prevention in the Office of Justice Programs in the United States Department of Justice.

Our second witness will be Ms. Gwendolyn Chung who is President of the American Correctional Association.

Our third witness will be Mr. Howard Beyer, who is President of the Council of Juvenile Corrections Administrators.

Our fourth witness will be Mr. Leonard Dixon, President of the National Juvenile Detention Association.

And our final witness will be Mr. Mark Soler, who is Executive Director of the Center for Children's Law & Policy.

Again, thank all of you for your presence. If you'll stand and take the oath, we'll have your testimony.

(Panel Sworn)

CHAIRMAN WALTON: Thank you. Mr. Flores.

MR. FLORES: Thank you, Mr. Chairman, members of
the Commission. I want to express my thanks for an
opportunity to participate in this morning's hearing, and I
want to say thanks, this is an area that OJJDP in particular
had worked on long before I arrived, and I will believe they
will continue to work on this issue long after I'm gone,
because it's part and parcel of making sure that we address
across the broad spectrum how we're going to make these
facilities safe for children. We believe in rehabilitation.
When children are abused or exploited, whether outside or
inside a facility, it makes delinquency that much more a
reality. We're working very, very hard across the country
to just do exactly what you, Chairman Walton, have suggested
in your last comments to the last panel, and that was we
really have to take a hard look at who we have in detention.

A number of states really have made tremendous
progress in reducing that population, focusing more on
community corrections, trying to find ways to divert youth
so that really detention is the absolute last resort. It's
an incredibly expensive proposition to put a child in
detention. And sometimes when I talk about it, I talk about
the fact that in the state it could run as high as $95,000 a
year, depending upon the kind of care that that child might
need. We can almost always provide that care and those
resources in other ways at a much lower cost with much
better results, and I think ultimately that's what we're
Looking at is how do we deliver better for our kids, and they are our children.

The Office of Juvenile Justice and Delinquency Prevention has conducted surveys and collected data about the operations of juvenile detention facilities. We call it our survey of youth and residential placement, what we call the SYRP survey. In 2003 we conducted a nationwide SYRP and included questions about sexual assault of youth in custody, and not only did we learn information about that, but we also learned important information about other things that were typically tied to that. These were kids who were not just victimized in that way; they were more likely to have been assaulted both inside or outside the facility, and the risks that they faced were higher than a number of other areas.

We learned a little bit about what those facilities were that had significantly higher risk levels of sexual violence directed at their inmates. Long-term secure facilities we found a higher rate among youth who received punishment, physical exercise as punishment, solitary confinement, pepper spray, and restraint chairs. While we recognize that it is very -- it's extremely important to make sure that correctional officials have the discretion to run their facilities, it's also critical for us to understand that if we're not collecting data and we're not
really learning about what works best all the time, that
we're not going to deliver a safer environment, not only for
the inmates but also for the staff. The reality is that if
a facility is built in such a way that there are places that
can't be monitored and a large but perhaps shy child can be
taken there and abused, what happens to the small staff
person who is five-one, five-two, maybe, only weighs a
little bit more than a hundred pounds, that area is also a
danger to that individual as well. And, so, these issues
really are critical for us to address for the well being of
the entire facility, and then ultimately what happens once
we have those children leave.

We have, from our survey, in any event, determined
that facility size is not directly related to the risk of
sexual assault. The use of locks on rooms, outside doors,
external walls, fences, even over-crowded, there are ways in
well run facilities even if they're stressed because of the
number of inmates for them to be safe and well run. But
we've also determined that there are a number of steps that
could be taken to reduce the risk of victimization, and
things that we could look at: for example, does the facility
have a high incident of contraband of any type? That
indicates a lack of supervision; it indicates perhaps a lack
-- a significant lack of training. Are people reviewing
carefully housing and group classifications? We heard a
little bit about that from your witnesses in the prior
panel. Clearly communicating rules and providing
orientation to newcomers: it's important for people to have
an understanding that what is being taken from them is their
freedom, not their safety, when they enter a facility, and
this goes for parents as well. Parents need to know that if
they are surrendering their child to the State that they are
not going to be exposed to that kind of abuse. There has to
be a reasonable understanding of what kinds of measures will
work for children to make a report. If the reporting
mechanism will further jeopardize, or looks like it will
further jeopardize that child, the child's not going to take
advantage of it. He's already been abused once; why make it
even worse for himself?

We need to take a look at basic conditions of
confinement and make sure that those are in accord with the
best research and data that we have. We've made a number of
efforts over the years to take a look at confinement issues.
We have a number of core requirements that the statute
requires OJJDP to look at specifically, making sure that
children are not placed with adults, that they are
separated, that they don't go into facilities because
they're a status offender. This is a challenge, especially
when states are looking to find ways to protect runaways, or
they may think that they don't have sufficient control over
some of their -- families do over some of their children.
We don't think that that's the way to fix that, remedy that, is to have them detained.

One of the things that we're going to be doing in order to make sure that the word gets out about the work of this Commission is to make sure that this is incorporated in all of our trainings from this moment forward. I recently sent a letter to each state administering agency head requesting their cooperation and partnership. We were told quite frankly that not everybody was aware of it, that this statute had been passed, and that this Commission was, in fact, working. Whether or not we regard that as reasonable after all of the attention that this Commission has gotten, I can't say, but we are going to make sure that everybody is receiving regular contact from us on this issue.

We have, in our system, compliance monitors; every state has one, we fund them, and I would encourage you to look at those compliance monitors as a way for you to consider having somebody on the ground in every state so that they can be looking and asking questions. In some states, the only people who are asking questions about the quality and the operations of a facility may be our compliance monitor on the juvenile side.

We also have a number now of data collection processes that allow detention facilities management to have
a current understanding on a day-to-day basis really as to what's going on in their facility. One of these is the performance-based standards project which was developed by the Council of Juvenile Correctional Administrators that you'll hear from shortly, and that's another way for these facilities and the senior management to understand their responsibility, know that there is a statute that compels them to take action, and currently a hundred and forty-one private facilities from twenty-eight states and the District of Columbia are voluntarily participating in that PBS program, providing information on 13,000 youth in custody, and recently three new state agencies comprising an additional sixteen facilities have joined that effort. We will also be participating with NIC on a national satellite broadcast which is set on preventing sexual abuse of youth in custody, which is set for June 28th, and we're working with NIC on that.

I want to just say that the work of this Commission is really about changing the ethos. I was a practicing prosecutor on the state and federal level, and, so, I'm familiar with the jokes that people make, not just prosecutors, not just police officers, but including members of the bench, about what will happen after conviction. A proper understanding of what we want out of our correctional facilities, the opportunity that we have, especially with
children, to get them to be successful after they leave that facility, is not an opportunity to be missed, and I'm hopeful that by working together we can change that ethos so that it's unacceptable and people look at it as a matter of concern, not a matter of levity. And, so, I appreciate the opportunity to testify before you this morning.

CHAIRMAN WALTON: Thank you very much for your testimony.

Ms. Chunn, thank you for being here.

MS. CHUNN: Thank you.

CHAIRMAN WALTON: Nice to see you.

MS. CHUNN: It's my pleasure.

Distinguished members of the Commission, let me just begin by saying the American Correctional Association has a longstanding track record of trying to make sure that it stems the flow of young people from the juvenile system into the adult system. While our organization began in adult corrections, it's very clear that the commitment that's demonstrated through the policies and resolutions that we've promulgated make it clear that our commitment is not just a passing fancy. My written comments speak very much to the notion that there are very few organizations who really understand the connection between the juvenile system and the adult system, while, in fact, the general public does, and most other persons outside the system understand