female, as of yesterday I believe we had 115 kids. But as of yesterday there were two people in our prison system under the age of 18, with all those ways to do that, so, again, jurisdictions are extremely different.

Again, I really thank you, I appreciate being here, and I look forward to any questions you may have.

CHAIRMAN WALTON: Thank you, Mr. Gibson.

Ms. Becker.

MS. BECKER: Good afternoon. It's an honor and a privilege to testify this afternoon about some of the work that we do in our Special Litigation Section in the Civil Rights Division at the Department of Justice.

The Department's authority to investigate and initiate civil lawsuits relating to conditions of care for juveniles, both those confining adult facilities and juvenile correction facilities, stems from two statutes: The Civil Rights of Institutionalized Persons Act of 1980, which we call CRIPA, and the Violent Crime Control and Law Enforcement Act of 1994, which we call Section 14141 in reference to its statutory cites. These statutes give the department broad authority to investigate more than just sexual abuse and rape in juvenile facilities, but it also covers other types of abuse: physical abuse, lack of medical care, lack of mental health facilities, education, things of that nature, and it also covers other types of facilities,
not just juvenile facilities, but adult prisons, mental health hospitals and so forth.

It's worth noting that these statutes do not authorize the department to represent individual plaintiffs, so, we could not represent a juvenile who's suing a facility, for instances. To the contrary, our cases are focused on a pattern or practice of constitutional or federal statutory violations. In addition, the Special Litigation Section does not have the authority to prosecute rapes, rather, their work is limited to civil matters.

We initiate our investigations when we receive allegations, usually from a number of different sources: media, advocacy organizations, parents, or the staff from the facility. Once we decide to investigate, we will work with professional clinicians, experts in the field, go out to the facility, do an on-site tour, review documents, interview people, and prepare a findings letter which we would then share with the jurisdiction that sets forth all the conditions that we allege are in violation of the U.S. Constitution or federal laws, the facts supporting it, and suggested remedial measures that they can take. We publish our findings letters on our website, and the website is listed in our written testimony if you'd like to see some examples.

After our findings letters are issued we continue
to work with the state to try to come up with a plan to
remedy some of their violations, and usually our efforts end
with the filing of a complaint in federal court and a
countermittant consent decree or a court-enforceable
settlement agreement.

In recent years, as Dr. Krisberg has alluded to,
we've significantly expanded our juvenile justice
enforcement program. Since 2001 we've commenced 19 new
investigations of juvenile justice facilities across the
United States. By contrast, only eight investigations were
initiated in the last five years of the prior
administration. These investigations can involve multiple
facilities within the same jurisdiction. We are currently
investigating conditions in facilities in California,
Maryland, New Jersey, Ohio, and Oklahoma. In addition, we
are monitoring consent decrees or settlement agreements in
Arizona, Arkansas, California, Georgia, Hawaii, Indiana,
Maryland, Michigan, Mississippi, Nevada, New Jersey, Puerto
Rico, and the Commonwealth of the Northern Mariana Islands.

Interestingly, sexual abuse is not one of the most
prevalent violations that we typically uncover when we
investigate juvenile facilities. We've uncovered evidence
of sexual abuse or sexual misconduct in roughly about a
third of our investigations, and these includes the States
of Arizona, Hawaii, Indiana, Oklahoma, Maryland, and Puerto
Rico. We typically have not found evidence of rape; rather, we find sexual abuse or sexual misconduct of juveniles by staff, and I list several examples in my written testimony. I will just highlight a couple for you right now.

One, female staff have engaged in sexual relationships with male youth, some as young as 14 years old. We've also had evidence of sexual intimidation or inappropriate relationships between youth. For example, three youth attempted to place a pepper shaker in the anus of another youth. An 18-year-old had anal sex with a 14-year-old in the bathroom, even though the staff were supposed to know the whereabouts of one of these youth at all times. In another instance, while the staff were in the kitchen and not supervising youth, one youth put his penis in the mouth of a sleeping youth.

With respect to the causes of why this is occurring, I think I will just be corroborating things that other witnesses have testified to this morning. In cases where we have uncovered evidence that staff is sexually abusing youth, we have found problems with the facilities' investigation systems. Often despite repeated complaints, facility management fails to adequately investigate or follow up on indicia of inappropriate conduct. Often misconduct is allowed to continue for significant periods of time, as we've heard.
In cases where we've uncovered evidence of sexual intimidation between youth, we typically find that age and size disparity between the youth is a significant risk factor. The older, bigger, more sophisticated youth obviously are preying on the younger, smaller, more vulnerable children. And, of course, as has already been stated, there is just simply not enough staff to supervise the youth adequately.

If we make a finding that a facility is violating the rights of the youth we make every effort to enter into an agreement with the facility to reform the conditions that we've discovered. Under both CRIPA and Section 14141 we may only seek prospective injunctive relief. In those types of cases we typically include provisions in our agreements that ensure improved investigative systems in a facility, improve staffing, not just in the number of staff, but also in their training, and improved classification of youth to ensure that youth who are younger and smaller are not housed in areas with older and stronger youth.

Thank you very much.

CHAIRMAN WALTON: Thank you very much.

Dr. Bidwell, do you believe that the circumstances that resulted in the testimony that we heard earlier this morning have been addressed by the State of Hawaii?

DR. BIDWELL: I would say at this -- no, they