also hear from Richard Stalder from the state of Louisiana and also Mr. Joseph Oxley from the state of New Jersey.

Would the four of you please stand and take the oath?

(Panel sworn)

THE CHAIRMAN: I assume we'll proceed in the order in which you appear on the agenda. Mr. Horn.

EFFECTIVE MANAGEMENT: THE CORRECTIONS OVERVIEW

MR. HORN: Good morning. Chairman, it's a privilege for me to be here this morning representing the American Correctional Association and I do want to acknowledge the presence in the room of our president, Gwendolyn Chunn.

Let us begin by agreeing on one simple thing. That is that sexual assault in a prisoner's jail is a violent crime and it is devastating to its victim. That's something we all agree on.

You mentioned in your opening remarks about obtaining our buy. We are hopeful today that we will be able to obtain your buy-in as well.
Because we take a back seat to no one as a profession in our performance of prison rape and sexual assault, we take seriously our daily morale and legal responsibility for the men and women who are committed to our custody. Our policies, our standards, the activities of our professional organizations, reflect our commitment to keeping our prisons and our jails safe.

You have a historic opportunity, an opportunity to support those efforts. We ask you to help us by promoting adoption throughout the nation of stands and practices that are, in fact, best and which reflect and incorporate the standards and policies of our professional organizations.

You can urge the state and federal governments to commit the resources, the money, necessary to operate prisons and jails in accordance with these standards and practices. Most importantly, you can help us to engage in a constructive and meaningful dialogue with the American people about the culture of prisons and jails we operate in our democratic
society.

   It's all about the culture. Only a culture
that respects all incarcerated individuals as
persons with rights, as our community's children,
as our neighbors, temporarily confined will afford
the level of protection that we see. No laws, no
rules, are a substitute for a healthy culture.

   As you consider the issue of prison rape, we
urge you to distinguish what we think we know, what
the media may have sold us, from what we truly
know. As Congress aptly noted in your enabling
statute, much is unknown about the extent and the
nature of this problem. And this is particularly
true for jail systems. There has been precious
little research down.

   Jails tend to be smaller in rural areas, not
as well funded. It's an area of serious concern.

   We ask you to consider the harm that it does
to allow the media to perpetuate the stereotype of
inmates and to demonize them. Important as it is
that we put the frequency and prevalence of prison
rape and sexual assault in perspective, in the
final analysis, it doesn't matter. Even one
instant is an incident too many.

Collectively, our organizations, the agencies
we represent, have zero tolerance for all violence,
including sexual assault. We know what we have to
do and we ask you to support it.

First of all, let me say this: The best way
to reduce the incidents of sexual assault and
prison rape is to reduce the number of people in
prisons and jails. If your commission fails to say
that, it will be a deafening silence. Elected
officials have to bear responsibility for the
sentencing practices, the sentencing laws, and the
budgetary decisions that they make.

That said, we. Prison managers, know what to
do. We know we need to identify and monitor those
who would be predators and we know too that we
must, on occasion, isolate them from others. We
ask you to recognize this reality. There are
inmates who are predatory, who by virtue of their
behavior forfeit their right to live among other
inmates. It's difficult to manage.
We have to figure out good ways to manage it, but we have to recognize that truth. We have an obligation to the greater number of inmates and we can't allow our concern for the single predatory inmate to overwhelm our obligation to the vast majority of inmates.

We must have sufficient capacity to ensure that inmates are going to be housed at their appropriate classification level, that the architecture of prisons and jails we manage ensures good observation and control. We must make protective custody available for the most vulnerable inmates, but only when all other choices fail to do the job.

We must house adolescents and adults separately. We must pay attention to the unique challenges faced by transgender inmates. We must develop thoughtful ways to provide custody for them that is not more oppressive than the general restraints of imprisonment, and we need help figuring that out.

We must provide better for the needs of the
mentally ill. Today, close to 20 percent of the inmates in prisons and jails have a significant mental illness. This is not about stigmatizing the mentally ill. The decisions that have led to the policies that create this situation are beyond our control and call for the creation of community base safety nets for the mentally ill and legal provisions to ensure that when a mentally ill person violates the law, the law takes cognizance of their condition and responds in a thoughtful way. No one wants that more than we.

The experience of in prison must be especially cruel to a person who is mentally ill. Nobody likes double selling, certainly we don't, but we must be given sufficient resources to end the practice.

Legislators who enact criminal statutes and sentencing laws must provide the necessary funding to go with it if we are to be successful and your commission must say that. Inmates should be offered meaningful orientation upon entry to prison, orientation designed to encourage reporting
a sexual assault or sexual abuse by staff.

This is an area where resource needs to be
done to determine what works to reduce under
reporting and we ask your support for initiatives
of this type. Prisons and jails should provide
multiple avenues for inmates to report assaults.

Every allegation should be investigated
properly and comprehensively. Prisons and jails
should have policies that impose on staff the duty,
the duty, to report any information regarding
sexual assault or abuse with special procedures to
ensure that independent parties outside the prison
or jail investigate allegations against staff.

There should be written protocols for the
creation of crime scenes and the preservation of
physical evidence. Staff must be better trained in
investigating and reporting allegations. Inmates
complaining of sexual assault should be referred to
medical and mental health clinicians and where
appropriate, rape kits should be promptly
administered by specially trained medical staff.

This takes time, this takes staff, and this
takes money. And you must ask Congress to provide it.

We have to vigorously enforce the law. And when assaults occur, we must ensure they are prosecuted when substantiated. To do this, we need the enthusiastic support of prosecutors' offices wherever prisons and jails are located.

We urge you to call upon prosecutors to take these allegations seriously when they occur and prosecute vigorously when they can. Unfortunately, it has been my experience that local prosecutors in jurisdictions where prisons are located are overburdened and choose not to prosecute crimes when committed behind bars by individuals already serving a long sentence. This sends the wrong message and financial support must be provided to ensure local prosecutors are not overwhelmed by the presence of prisons in their communities and can assist us when we bring these cases to them.

We all need to become better in investigating allegations. We know there are too many cases unsubstantiated cases and we have to learn how to
reduce that number. We ask you to examine what can be done when there are no witnesses and no physical evidence of a rape or where an inmate won't name his or her assailant.

The statutes of every state must be clear. Inmates have no capacity to consent. Any sexual contact between a staff member, uniform or civilian, volunteer or contractor and an inmate must be made illegal. We urge to support legislation necessary to accomplish this.

Our professional standards support these policies and practices. Can they be improved? Certainly. We are continuing to revise them. Our standards also call for sound and sufficient training, continuing inservice training for staff. To achieve this, our organizations require more than the eager willingness of ourselves. It requires the financial support only elected officials can give. We look forward to your support for that funding.

More than any other institution in society, prisons are proof of the observation that
Government rules by consent of the Government. On any given day, in every prison and jail in this country, the inmates outnumber the officers watching them by a significant order of magnitude. Yet each day we are able to obtain the cooperation of inmates, and most jails and prisons operate smoothly.

We are able to do this because the inmates, by their cooperation, vest us with legitimacy. We earn that legitimacy by operating prisons in a fair manner and by keeping inmates safe. When inmates feel unsafe, they let us know it. If prisons and jails were profoundly unsafe, if inmates were regularly subject to rape and assault, there would be signs. It would be reflected in other measures of institutional violence. It would be reflected in medical records. Yet, all the data points to the inescapable conclusion that America's prisons are safer than ever, and probably safer than most other prisons in similar large industrialized nations.

One can't look at that data objectively and
reach any conclusion other than with isolated
exceptions. America's prisons are safe and getting
safer. We are achieved this through leadership,
leadership that values life and respects the law.
We can always do better. And as a profession, we
aspire to improve. Your support for our efforts by
calling on Congress and the states to support the
work we do will be deeply appreciated. Thank you.

MR. CHAIRMAN: Thank you, Commissioner
Horn. We'll now hear from the Timothy Ryan.