other criminal justice law enforcement professionals.

We have benefited by the work as corrections administrators of ACA, ASCA and NIC. So too I believe that the effective management of prison sexual violence requires a full, a fuller set of policy, procedure systems and programs that meet the complex medical, mental health, social needs of victims, because this issue intersects federal and state laws, the courts, the prosecutors, corrections, certainly the mental health system and certainly the public health system, and not to mention groups that we often leave from the table, families and advocacy groups.

We need, I believe, a more coordinated approach to address the larger picture if we want successful prosecution and outcomes. As a state, certainly in Massachusetts, we are moving towards making sure that we are all on the same page.

Thank you.

THE CHAIRMAN: Thank you very much. Let me ask Ms. Malm, what are the consequences of a
jail not receiving state certification?

MS. MALM: At this point, there is no mandatory requirement that any jail meet those jail standards; however, if you face a lawsuit or you're brought into court, meeting those jail standards, those item of jail standards are a very important part of trying to defend yourself against a lawsuit.

THE CHAIRMAN: Thank you. Starting on my left, Mr. Kaneb?

COMMISSIONER KANEK: I have no questions.

COMMISSIONER AIKEN: I have questions, one specifically and one general question. Obviously, this morning we had an opportunity to look through the facility and we saw very professional staff and people that were in charge, and I'm not just saying that. What are techniques of BOP that you use to attract these people and retain them?

MR. LAPPIN: Thank you, Commissioner. I could probably spend a couple of hours talking about this, but I'll do it briefly, I promise.
Looking at the other members this morning, I think all of us agree that our staff are our greatest resource, our most important resource. And I benefit in most locations around this country of being able to pay to hire people because we can pay them more money. You heard this morning from one end, but I think, for example, the benefits that can be reaped when your pool of candidates is larger and you have a traction. I agree with you. I couldn't agree with you more. It's not just pay, but pay is very important. Our officers are given pay between $30,000 and $35,000 a year. So we attract more people. In many places that are educating folks, more mature folks, people are looking for a career. And as a result, not everywhere, but system wide we enjoy relatively low turnover. Turnover is typically requirement where people can occupy other assignments in the agency. Now granted at a higher cost in living area, it is more difficult, in New York, California and a few other states that are as competitive as we are pay wise. But for the most part, we have higher
paying correctional workers than most states. In fact, on occasion my peers beat up on me a little bit because I tend to take many of their employees in the federal prison system given we pay more money. But having that base, that experience, lends itself to a culture.

And you all spoke today about culture, a culture that can be carried on, can be mentored, that can be nurtured, not only by the leadership, which is critically important, but as well by the employee who probably spends the majority of the time with that new employee and who's going to train and educate them on dealing with inmates on policies and procedures. So it's a combination of who be hired, the establishment of expectations within the system, the commitment to standards, and again we adhere to ACA standards, JACO standards. But it's beyond just adhering when somebody is coming in to visit.

It's an understanding you will meet those standards every day. It becomes part of your practice and part of your policy. And I think that
general sense of understanding amongst all of your
employees serves very well in that capacity. Not
to say that we're perfect because we're now. We
have our trials and tribulations just like
everybody else does and, unfortunately, we hire
some employees that I wish we had not hired.
Fortunately, it's a fraction, a very small fraction
of the overall workforce that we employ, which
today is about 36,000 employees.

So a number of things, I think, lend
themselves within our system to erasing those
characteristics. We benefit from that, although I
see the trials and tribulations many states have in
areas where it's not as well a sought after job or
assignment and we struggle just like they do given
a large enough pool of candidates, going through
the selection process, and maintaining an
experienced base of employees at a given
institution.

COMMISSIONER AIKEN: And this is a
general question. What are the techniques that you
use in order to get inmates to trust the system to
the level, acceptable level, that they are going to
be safe?

And I'll just use an analogy. I got on the
plane yesterday and we cruised at 30,000 feet. I
didn't check the pilot's credentials; I didn't
interview his family and I didn't get references,
but I trusted those individuals with my life.

Now, what can be done or what is being done to
build that level of trust in the confinement's
population and those people that have been confined
to the facilities? What are your techniques?

MR. LAPPIN: Since I have the microphone,
I'll start, if that's okay.

I would be remiss if I said that all of the
individuals we have confined in the federal prison
system trust the prison system. I'm hoping to some
degree, but I think it, again, goes back to staff.
And I think one of the most important things that
we adhere to in our training and our expectation is
communication with the inmates.

As you walked around today, those of you that
visited, our staff don't wear batons. Our staff
don't use gas. We have it available. All of those things are available. But our expectations of our employees is to communicate daily and effectively each and every day with inmates. That's what runs safe prisons, that we have a relationship as best we can have with the inmate population. And believe you me, the majority of the inmates, if you open that door, will embrace that or understand that they have and can approach and talk with staff, not all of them. Clearly, there's a portion of our population that continues to resist, are fearful, are concerned, are resistant because they don't believe they belong in prison, but the vast majority of the inmate population at least in my experience if that door is open will take advantage of that. That, in turn, begins to create that relationship, at least an understanding that there is someone there that can support them, provide them with advice and be of assistance to them.

Beyond that, I think I go back to the classification system in that we do a much better
job today than we did years ago by segregating
inmates based on prior history, incidents of
misconduct and a number of other factors I won't go
into great detail. But beyond that, it's an
understanding of who is running the prison.

It's as simple as what some of you commented
on today, the place is clean. That is the first
observation, in our opinion, that sends the message
of who is running the prison is when a prison is
clean. It doesn't have to be painted and look
fancy, but it's clean. And there's an expectation
on those inmates that they play a role in that
regard, a huge role. And so putting as much of
that responsibility back on those inmates is
critically important.

I heard this morning a discussion about
segregating inmates based on their race in some
cases or whether they were gay and so on and so
forth. We're opposed to that. We want those folks
to be in a living environment that they're going to
face when they walk out the door. Nobody is going
to be out there protecting on the outside. We've
got to have a system in place that allows us to
classify them and put them in a safe environment
and expect them to deal with those issues that may
be challenging to them even though they're in our
custody.

And so, again, I couldn't agree more. We
would be resistant, I think, to segregating people
by certain characteristics. We believe we could
run prisons safely within those general
populations. There are some cases we cannot,
typically because those inmates don't abide by the
rules, use good common sense and make good
decisions, which is like when they were on the
street, and in those cases we have to use unique
and, typically, more restrictive ways of managing
their incarceration.

MS. MALM: I'm probably luckier than most
because I run a very small jail facility, so
there's probably a lot less problems as far as
addressing some of the inmate concerns, addressing
some of the problems with staff. But one of the
things, I am very fortunate, I have fabulous staff.
They talk to the inmates. I have been with Madison County Sheriffs Office for three and a half years. I have not had a staff member who has used OC spray. I've had very few physical altercations between staff and inmates as staff use communication to try to solve problems more than they do physical, and we stress that.

We have a grievance policy in place which most detention facilities and corrections facilities do, where the inmate can breed officer treatment. And whenever that happens, we are very quick not to just believe what happened, but to actually investigate to see if there's any truth to it. And if there is truth in it, we do address it to staff. We correct the problem. We don't let things slide and say, uh, that's just such and such complaining again, but we actually address the problem and investigate.

And I think an example that I can show of how this is worked in our facility, recently, about two weeks ago, we actually had an inmate who grieved another inmate because of the way the inmate was
talking to staff members and it was signed by about five inmates, even though one had actually written a grievance. They didn't like the way that he was treating staff. To me that showed me that there is some trust there as far as the staff when they'll grieve each other to say that they're treating staff poorly.

Thank you.

MS. DENNEHY: It's a very timely question as it relates to the compound of Massachusetts. We are still in the midst of reeling from a very high profile in prison homicide of a former priest, someone who had come into our custody for sex crimes against children. The death resulted in a top to bottom review by a govern's commission panel, which issued 18 major recommendations for a reform for our agency.

And I think the issue we're really getting at here is around culture, however we speak about it. But the question before us is how do you get inmates to have faith and confidence in the system.

In our system, we had to really stand up and
acknowledge that other fundamental system had 
broken down. The inmates and staff had no 
confidence in our classification system. We 
throughout, and with the assistance of NIC, were 
implementing an objective point base classification 
system. They had no confidence in our staff 
investigation procedures.

We threw that out and hired professionals to 
come in and established manuals and protocols. We 
are supporting legislation through the creation of 
an Inspector General, specifically corrections. 
We're in the process. We've automated the entire 
investigative process.

And if we weren't busy enough, the same 
observations applied to our grievance process. All 
you had to do was look at the data. It was really 
no integrity to the grievance process. If you were 
to look at the number of inmate appeals which were 
sustained, it's about 1 to 2 percent, really should 
be about 20 to 24 percent for it to be a whole 
system. It has taken us two years, but we're at 
21 percent.
Our disciplinary process. I looked at our maximum security prison and asked one day, in one year, in one year, how many disciplinary reports have we issued? And my next questioning regarding that facility was in that same year of those tickets, how many inmates were found not guilty. Take a guess. Zero. That's just not the real world. That is a staff in a culture rubber stamping other's decisions.

So we took the disciplinary hearing process. We took the entire disciplinary regulations. We set them aside. And I really applaud our disciplinary hearing officers to run the system. They invited in some of our biggest critics, students from Harvard Law School, students from North Eastern Law School that the students who commit to provide assistance. And the hearings officers and these inmate advocates, attorneys, sat for months. They threw the regulations out and they rewrote them. They came to a consensus and rewrote them. We took them to public hearing and they are now be re-implemented.
But we also restructured and took the disciplinary officers out of their institutions. They are now centralized under the auspices of the deputy commissioner to try to get them out of that culture that creates pressure to not challenge another officer's ticket.

Each one of those system changes, inmates see those differences. They don't see them in a day. They don't see them in a week, but they see that incremental commitment to fundamental fairness. And as my boss is very fond of saying, it is one of our obligations as correctional administrators that when inmates come into our system, they sense a new moral awareness, and they leave our custody with an appreciation for that new moral order where we say what we mean, we mean what we say and we deal with everyone fairly. It takes time.

THE CHAIRMAN: Thank you.

COMMISSIONER KANEB: I'm a native from the Commonwealth of Massachusetts and I just want to say to whoever is in the room Commissioner Dennehy has done a magnificent job. Her life is
not easy. People were not happy with a lot of these reforms, but she's been pressing them. She and her staff have been most effective. And as she just said, you know, if you have a system that is honest and will admit mistakes and transgressions by staff, give inmates fair hearings. Occasionally, we actually find out that they're right. It sends them out with a message that, you know, everybody is not corrupt. I mean it's just an example, I think, to inmates that there is a way of doing things that isn't wrong, corrupt, crooked and so on. And that's the greatest example you could ask in terms of rehabilitation of people who have gone astray. So I just wanted to make that statement to the group.

COMMISSIONER PURYEAR: I one question, Commissioner. You mentioned using cameras and I wanted to ask just two quick questions on that. Obviously, it used to be very expensive to wire a facility filled with cameras and then record it on to videotapes and the like. Now with digital technology and wireless technology, it's a lot
easier to do. Can you speak to how you use cameras, or if you use cameras particularly in older facilities by means of supervision in areas that couldn't be supervised effectively by staff. And then I'm curious, just walking around here today and looking at the bubbles overhead, Director Lappin, if you could speak to how you augment your direct supervision unit management approach with the use of the cameras.

MS. DENNEHY: I am so nontechy (ph.). I don't get to hole the clicker at home. Our chief technology person happened to be here today because he's very interested in the technical solutions to this whole issue. But in one or two of our facilities, and they are at not the older ones, they're the newer ones, we have been able to use rather low cost solutions so that the superintendents have been able to sit in their office and be able to see firsthand what is going on in just about every area on their own PC. Can I explain to the technology to you? No. The fact that it was low cost was very appealing to
Having been the superintendent at the female facility of 15 years or so, in fact that facility was built in 1876. It still has the original heaters from the precivil war. There is no easy quick solution for facilities like that. We were able to acquire some burn money grant to put in cameras, particularly around stairwells and isolated areas.

I think it's very much driven by the architecture. It's driven by the architecture and the infrastructure that exists what can be wared on to what already exists.

We had an incident, very high profile, two years ago. We had five or six correctional officers go into a room, go into a room, the door was closed, a camera in the corridor clearly told us who went into the room. We didn't have cameras in the room, so obviously we don't know for certain what happened in the room, but we know what people looked like when they went in that room and we know what the inmate looked like when he came out of
that room. And through some good investigative
work, we were able to corroborate the inmate's
statement as to one officer, as to one officer
having assaulted this individual while he was in
full restraints.

As Commissioner, I disciplined every single
officer in the room. I don't have any physical
evidence that they did anything other than my
position was responsibility as to your position.
You were in the room. We pay you to know what is
You're demoted.

For the first time in Massachusetts, we have
received a civil service arbitration decision that
acknowledges that code silence and acknowledges
that correctional administrators have the right to
take discipline, but they did say I lost my head
and I shouldn't have terminated them. They will be
able to come back with significantly lengthy
suspensions on their records.

But it's the use of technology even though
it's not directly in the room taking the time to
kind of piece together the camera shots that exist
throughout the rest of the facility to really
clearly pin down who is where when.

MR. LAPPIN: There's no doubt that we're
reaping the benefits of advanced technology and
augmenting what we do and I want to make sure you
understand that it does augment what we do because
we can't replace people with cameras, but it
certainly creates that impression on the presence.
The old philosophy of the community feeling as
though their safety net, the police who were
observing them constantly or more thoroughly than
what some would like.

More eyes always help and the record of what
was seen supports us in improving incidents that
may have been alleged or that occurred. Granted,
new facilities, new design, certainly assist us in
providing a safer environment maybe than some older
facilities, but I don't want you to get the
impression that we can't run safe facilities in
older physical designs. It's a different approach
because let's be -- you know, you have to
understand you can't just go out and bulldoze all these facilities. We run like 112. We've got 35 facilities that are 50 years or older and up to a central. And you've heard instances where they're older than that. We can still run safe institutions. It's a little challenge. The technology might not work the same, but by a different approach in those facilities than what you might in a new facility.

Granted, newer facilities certainly offer better designs and I think are safer, more secure, being more visibility for observing inmates' behavior. And we certainly utilize cameras wherever we can in that regard in support of what we do on a daily basis for our staff.

COMMISSIONER NOLAN: First of all, I want to make sure, Commissioner Dennehy, I want to thank you. You have a wonderful person on your staff, Dr. Bob Demont, who has been a help to your commission and even prior to the commission, just taken in general professionally. He truly is a blessing to work with, very dedicated.
At our hearing at Notre Dame, at least our first public hearing, a former inmate, I think from appearances would have been assessed by everybody as a vulnerable inmate, spoke of two facilities he had been in in which he was fearful about being assaulted. The first facility, he went to the lieutenant and said I'd like to be transferred and the lieutenant, great, find somebody that will have you as a cell mate and we'll move you. And he was moved out of harms way. The second facility the lieutenant said, well, why? Are you being assaulted? Do you have anything you want to report? And, of course, inside a high level facility like he was in, that would be a death sentence and so he said, no. And the lieutenant said, we don't move you for your convenience, get back to your cell and he was raped and beaten repeatedly throughout his incarceration.

At that same hearing there was a commissioner of corrections and I said, gee, having heard what Steve said, what would you do in that situation? And he said, well, if it isn't reported, there's
nothing we can do. And the dilemma is even if you
have very formal processes for dealing with
reports, that we need those. We need to follow up
on what's reported.

What Steve, that inmate, needed wasn't a
report filled out, he wanted protection. He wanted
the situation mitigated. He wanted to be moved out
of harms way. And to hide behind just saying,
well, no formal report was written, so what could
we do really left him to be savagely beaten and
raped.

So I'd like from all of you in a situation
like that, yes, there is the formal reporting
process which was, one, followed up on, what do you
do in informal situations when it's obvious what's
going on, but because of the inmate culture
reporting it would put him at risk? Would you give
him the option of finding a shelter or is it your
policy to say, no, if you don't report it, it isn't
happening?

MR. LAPPIN: Do you want me to start? My
only concern is how you made the impression there
was something going on. If an inmate came to me and said I want to transfer, I would certainly recognize there's an issue here. What is the issue? Do you feel threatened? Is it because you want to be closer to home? I mean you were so broad there.

COMMISSIONER NOLAN: Transferred to another cell, not another facility.

MR. LAPPIN: Well, again, I'd have to question the need because if his concern is safety, just transferring him necessarily to another cell in an institution, given the way we run prisons, may not be good enough. But I'm hopeful that most staff, even through the informal process, would look into it. I mean that inmate, at a minimum, should be referred back to his minimum unit staff, who should know them best. They make the housing assignments. So, there is an avenue, an expectation, that we look into those concerns. Whether or not the inmate was moved to a different cell would be based on his unit staff's or the correctional services staff or the investigative
staff's determination of whether there was a need
to move him adversely from one cell to another.

  COMMISSIONER NOLAN: But if he was
reluctant to report it -- in other words, the first
institution read between the lines, they knew what
was happening and moved him.

  MR. LAPPIN: All right. If you know what
is happening, I mean if you know the basis of their
concerns, that he's being threatened by other
people or that he's been assaulted in the past,
that would be part of the investigation which might
lend ourselves to move him to a different cell or
put him in protective custody. It may require us
to move him to another facility, but there's going
to have to be some basis for that because as you
can imagine --

  COMMISSIONER NOLAN: But a formal or
informal basis?

  MR. LAPPIN: It could be either one. It
could be on a formal basis or an informal basis. I
probably gathered more information on inmates
during what we call main line. It's an expectation
in our system, and I know of many others, that when
the inmates are in a congregated area, food service,
rec center, we want staff, support staff.

   It is my expectation as a warden that all of
my department heads stood main line. When you've
got a large group of inmates, you want to have
support folks, but it also gave direct access
before the inmates to the leadership. And,
typically, most of those allegations, many of them,
came through that informal process at which time we
would look into those concerns and issues and based
on what we concluded may or may not make a change
either cell wise, housing wise to a more
restrictive environment or move him to another
facility.

   Many of those complaints, I'll be honest, the
majority of the inmates would walk up and say they
want to transfer and end up not getting
transferred. You can imagine many people wanting
to move to other facilities for a variety of
reasons and all that has to be sorted out to
determine what's in the best interest.
MS. MALM: I would agree with what
Director Lappin said.

I think that our staff is told whether it's an
informal or a formal reporting, that if they hear
of something or something requires the movement of
an inmate from a housing unit or from a cell, then
they need to investigate into that, they need to
talk to that person. And, obviously, they're not
going to just go up to the person and ask them
while they're in the housing unit.

We create instances where we say you're wanted
for visiting and we pull them and talk to them. If
there is a substantial reason that they need to be
moved, then staff would really go about moving
them. However, a lot of times we have inmates who
just they want to go into that housing unit because
they enjoy who is there or they have friends there
or whatever, so we have to be very careful with
that. But it doesn't necessarily have to be a
formal report for us to act on it.

Another thing that we have set up within our
facility is we have put on the inmate's phones a
free call to what we call our crime buster's
hotline. And the crime buster's hotline is simply
an answering machine at the end of the phone where
people can call in and report a crime. And the
inmates can call in. They can report a sexual
assault. They can call and they can report. I'm
having trouble with my roommate. I need to be
moved. And at that point, then we will investigate
from that point. The detectives picked it up and
they let us know and we start our investigation.

MS. DENNEHY: We have a similar system in
terms of a number that inmates can use to get some
anonymity to a circumstance. But I think so much
of this discussion really goes to how you manage
the facility.

In most major prison systems we have a lot of
teams. So within the confines of a housing unit,
should an offender step forward and ask to switch
cells, I think it's reasonable to expect that there
will be some discussion with the unit team manager
in terms of what are the other observations that
the other staff, because when staff -- it never
ceases to amaze me, when you get the right staff at
the table multi-disciplinary wise, the solution and
the input is far richer than what results from just
one individual making the decision of forming an
impression.

In this particular case, I think staff are
very skilled to know that the concept of inmates
faking PC, doing something to intentionally get
into a protective custody situation or of trying to
get into a segregated situation to the point where
some may start a fight just to get out of a unit,
start a fight with someone else just to physically
remove themselves. I think we sometimes see that
around attempted suicides. Is it really an
attempted suicide or is it the only tool in the
inmate's tool box to try to move him or herself out
of the situation that they're in. And I think that
that's where good unit team systems come to play,
but I didn't think it has to be formal. It can be
informal.

COMMISSIONER SMITH: I actually have a
question that is sort of a hold over from the first
panel, but again relates to some of these culture
issues. A big issue that you've all identified is
the issue around sanctions for staff who are found
to be involved in these incidents.

I've heard Director Ryan talk about the fact
that he had a founded complaint, the individual was
terminated, but was not prosecuted. Okay.

One of the big issues that I think we'll
probably have to look at is a way to keep up with
staff who are found to have been involved in these
incidents. In a place like Florida where there's a
certification process, you can sort of look and
figure out what's going on with someone who's been
certified, but in many places there's not that
process. And often we have had reports or had
situations where the person that Director Ryan
terminated might end up in your system, if not in
your adult system, might end up in a juvenile
system or might end up in a private system. And so
I guess I would be interested in any thoughts you
have about how we can close that loop.

MS. DENNEHY: I'll go back to my final
comment and my remarks about the need for a more expansive systems approach. I think prosecutors need to be at the table with commissioners and directors. And I think as we have begun the implementation and have begun the adjustments of our protocols and policies within our correctional facilities, I think as we get our house in order, it's now time to look at those other partners in criminal justice.

We had an instance in Massachusetts where this involved staff and inmate. It involved a male staff member and a female inmate. This woman had been alleging that she had been raped by this officer and, frankly, we believed her. We had no physical evidence and, truly, you couldn't make this up, but I know my colleagues say that a lot in corrections. Some of the things we say we just truly could not make up.

Out of the clear blue she presented us with a blue dress. Does this sound familiar? She presented us with a blue dress and said, if you have it tested, it has his DNA on it. She had
saved this physical evidence. We went to the
district attorney who did not have the money to
pursue the DNA testing. So the department paid for
the DNA testing out of our budget and that
individual was successfully prosecuted and
incarcerated.

But I think you have to have that shared
understanding of what the impact is on both
agencies and work together to address each other's
needs.

THE CHAIRMAN: We'll focus on that
aspect, so we hope to have the prosecutors to come.

MR. LAPPIN: I think it is a twofold
response. It's the caliber of employees and I
think it's just what you heard this morning about
having a method by which investigations are
conducted against -- based on allegations that are
made against staff, whether it's criminal in
nature, which would make it something that
typically all -- any allegation in the federal
prison system goes to the Office of Inspector
General first.
If it's obviously criminal, the FBI runs it. And when, in fact, we can prove there's evidence that they have broken the law, we hold them accountable and we work closely with the prosecutors. And you're right, there's sometimes a breakdown between -- whether it's funding or resource wise, but in many cases we're able to pursue that when we have enough evidence. There are some cases where we're not.

If we're able to do that, obviously administrative procedures to remove that person are critically important. So I think a system that is thorough, that holds our staff accountable, that people trust, both staff and inmates, is critically important.

The issue of how we prevent those folks from leaving us and going elsewhere is a bigger problem. It goes back, I think this morning, to your discussion on how we hire people. And I think it's great that you look at some examples on how we screen and how we pursue a person. We don't do psychological evaluations. We do an integrity
interview. We'd be more than happy to share that with you because we're looking at the background, history, the integrity of the people we're trying to hire. And we balance that with a thorough background investigation.

So a breakdown is if the person was removed administratively and it was not in the record or because of some agreement between the agency and the inmate or the union is that you can't articulate to anyone else why that person has left is a problem for all of us. Because the last thing we want to have happen is have an offender leave one system and be hired into another system without knowing the true person and what their background is. I think that's dilemma. It's an area that we all struggle with.

I encourage our folks not to agree to those in some settlement that, no, we're not going to have this person leave here. Can I say it happens on occasion? It probably does, unfortunately. But certainly in cases where we have clear evidence, maybe not enough to prosecute, but where an
administrator is removed that we don't make deals, not to share them with other parties who may have an interest in the future of hiring this person, especially in something as serious as sexual assault or physical abuse and so and so forth, but it's a problem for us. I don't know, I have to.

COMMISSIONER SMITH: Would a registry if something happened help?

MR. LAPPIN: I don't know. I have to give it some thought. And I think it's an issue that maybe we can look at as a group, no different than -- I hate to be put on-the-spot right now to suggest specific standards.

I was encouraged this morning when I hear you saying the continued cooperation because you have enormous authority in your final product. And what I hate to see is we implement something that is going to be somewhat detrimental to implement. Because I think beyond recommendations, let's think through the implementation, you know how we operationalize it, whatever the standard might be and the expectation is.
So I think those are some issues that would be better served if we looked at as a group with further review and investigation and we would be more than happy. I'm sure ASCA, NIC, ACA, and the that regard along with suggestions on standards that would be implementable and would be able to be operationalized throughout the systems.

COMMISSIONER SMITH: Would you say that that's something that we should pursue?

MR. LAPPIN: Personally, I think it's an area that's a weakness and needs to be pursued so that it can be better served who we're considering to hire, what their background is, and so on and so forth.

MS. MALM: I agree that one of the problems that we have are these deals that are made with officers confidentiality, we won't tell and you don't tell. Just go away. And it's very difficult when you are trying to hire someone.

We have with certification in Idaho, I'm sure many other states have it also, the decertification
process also to where when we terminate somebody from the agency, we're required to send a report to our state post academy and it's marked on there certification, decertification requested.

Post also has the option after looking at the reason for termination whether or not they want to start a decertification process. That's been very helpful to us in Idaho.

As a background investigator, I have tried to do this. I also have different ways that I try to find information on people such as asking. I ask for reference of people they worked with. Some of those people aren't under some of the same requirements that administrators are and you pick up other information.

And then finally in most of your jail systems, at least in Idaho, we require a polygraph for them to be able to be hired by the agency. And whether it's confidential or not, something comes out in the polygraph. And if there's any doubt in our mind, we do not hire the person.

MR. LAPPIN: Let me just mention to you
one thing. We're pleased because I think because
of your mandate the federal system has moved
forward. We now have more stringent federal laws
applicable to staff who mistreat inmates. Sexual
abuse of a ward is now like up to five years where
before it was only one year. Abuse of sexual
contact is now up to two years where in the past it
was six months. They're now both misdemeanors.
Now they're both felonies. And those are both
something we're very pleased to see changed. We've
been pushing for that and is now in place as of
January 5th. So those types of laws will
certainly reinforce and send a message of how
serious we are about these issues.

COMMISSIONER SMITH: And are those
registrable offenses?

COMMISSIONER STRUCKMAN-JOHNSON: You mean
sex offenders?

COMMISSIONER SMITH: Sex offender
registry.

MR. LAPPIN: You know what, I don't have
it here, but we'll check and follow up with you --
COMMISSIONER SMITH: Great.

MR. LAPPIN: -- because it may be. I know in some states it is, but we'll check and follow up with you. I don't know for sure. I wouldn't want to speak absolutely.

COMMISSIONER STRUCKMAN-JOHNSON: Just a point of information. I just recently analyzed survey responses of over 380 male victims and 50 female victim. This is a publication coming out several months from now. But one the questions was, where did your assault or incident take place. And the hot spot, as expected, would be a single or the cell area for both male and female. But surprisingly the second hot spot, in particular for female victims, is a laundry room. And the kitchens are sort of a hot spot for both sexes in that if you're going to look for molestations that happened, the grabbing, the pushing back, the feels, the hostile or the harassment level in kitchen area is real easy to do.

I hear full blown assaults are more likely to happen in the laundry room where you can actually
get a little privacy. So if you're looking for
some areas, those would be them.

Also I don't know if this is surprising or not
to you, but blind spots are -- sometimes they don't
matter. It's a chapel. It's the infirmary where
staff walk out of the room and the people in the
beds go for the people who are debilitated in
another bed, you name it. So it's a large number
of places that it can happen.

My question would be, and this is in a
different area, I am sure that I do -- I guess one
of my areas is sexual behavior and I'm pretty sure
that this happens. I've had some informal reports
of it. But I'm sure that we have a certain
percentage of inmates who sexually harass your
staff. And particularly I think it can happen with
your cross gender supervision. I know it can
happen even in same sex supervision. And my guess
is it should be acknowledged. And what do you do,
what do you think about this? It has to contribute
to the dynamics that go on here. Do you have any
informal or formal policies? Is this a real
problem or is this something that, I don't know, is

MS. MALM: Well, one of the things that
we do in the academy and also some refresher
training, we have the cross gender supervision
classes. They have con game classes where staff
learn to look for flirting from the inmates,
comments from the inmates, and how they address
those with the inmate. Normally, what we recommend
in our facility is the first time that an inmate
attempts to do any kind of sexual harassment,
sexual statement, dirty joke, any kind of an
approach that's sexual towards an officer, the
officer immediately tells them that's not
appropriate, and I do not want to hear that again,
and then documents it in the inmates logs so that
the other officers are aware that the inmate has
stated it and, basically, been warned.

The next step is going to be an actual verbal
reprimand or depending, if it includes touching or
something like that, it's going to be more than a
verbal reprimand. But the inmates are put through
almost a progressive disciplinary policy towards it as it happens and staff are very good at making other staff aware through the inmate logs what the staff members have done. And that's what we train them to do from the academy through.

We have refresher training on it yearly in our agency so that they learn how to do that. Because after a time, staff do start to feel more comfortable around inmates. They start to feel a little bit friendlier and especially in a direct supervision type of atmosphere where they become a part of the community. That does start to happen with the officers. And they have to be reminded not only can they not accept that from the inmates, but they can't do that also. And I've seen staff members who think it's okay if I talk like that, because I'm the officer. It's okay if I swear because I'm the officer. They can't do it. And we tell them no, it's not okay for either you or the inmate to talk like that or to engage in those kind of conversations. And that's how we deal with it.

MS. DENNEHY: Well, I must admit it's an
area we really have not paid too much attention to
in Massachusetts, and that became clear to us the
last time we were asked to provide data and we had
a very difficult time around this whole issue of
sexual harassment as distinct from assault.

And we're very fortunate. We have a position
at the top level of the organization, Director of
Offender Services. So what we're doing is we're
starting with the female offenders. We're in the
process of putting together an inhouse video to
work with the female offenders so that they have a
full appreciation of what sexual harassment is.
But any ways, it's pretty similar training to what
we provided to our staff in hopes of getting the
female offender population to the point where they
know it when they see it and can articulate it and
relay it to staff and give them some sense as to
the process to follow up.

And I might add, it isn't simply limited to
just staff and volunteers. Many of these women are
at lower custody levels, so they're going out to
the community working for private companies and it
is not uncommon for them to come back to the
institution and say that, you know, a boss of the
community, while they were on work release,
sometime had sexually harassed them. So we're
starting with the female offenders in terms of
putting together a program.

MR. LAPPIN: First the recognition that
it's unacceptable, understood by our staff and
inmates as well. And our training reflects with
our staff and inmates that sexual harassment is
unacceptable.

And there are varying degrees, obviously. And
it's up to staff to determine at what point does
that behavior mandate a disciplinary record. And
that's left to the discretion of the officer,
particularly with some coaching from -- especially
the newer employees. One, that they understand
that that's unacceptable to be harassed by an
inmate or to have an inmate harassing another
inmate, but there are varying degrees.

When they reach out and touch an employee,
they've gone far beyond crossing the line. We've
now gone to removing some of those folks who continue to do that or even in some cases on the first occasion. And we do have a program for them. The program involves a lot of isolation initially. But there is treatment there. We have a group of psychology staff and treatment specialists that work with those folks on this problem that they have, probably a problem that they had before they came to prison. And so we are experimenting with that.

I can't say what success it's having. I can tell you this much, they're harassing our folks less given the fact they're now removed because of this behavior, but we're also trying to provide some treatment in and seeing if we can make any progress with them. But, again, it depends on the level and the frequency and how serious the harassment is.

COMMISSIONER FELLNER: We've been actually talking quite a bit, this panel session, about language and communication and listening, which I think is very good and I also want to
commend Commissioner Dennehy for having the
courage. It might have been prompted by a tragedy,
but, nonetheless, it takes a huge amount of courage
to really open one's self up to scrutiny and hear
and respond.

In my years listening to inmates and reviewing
grievance systems, most grievance systems it has
seemed to me aren't worth the paper they're written
on. It's not worth it for the inmates that take
the time and I don't think it's used by the
correctional agencies as a window to inmate
concerns. It's just formalities.

I guess I have two questions. One, what
advice would you have for us as a commission for
standards to make sure that grievance systems are
communication systems that have to deal with sexual
abuse, well, frankly, I think any kind of abuse,
but anyway, sexual abuse and sexual violence are,
in fact, effective? How do you do quality control
on those?

And my second question is my experience,
although many people will say, oh, we know inmates
lie, you know that's why they're in prison. Because
that inmate is, in fact, on certain things, not
maybe their underlying criminal conduct, but that
they actually have a very good perspective and an
honest one about what's happening in their
facility. But their views are not often solicited.
In fact, they're usually not solicited. And the
only way they have is either informally or maybe in
a grievance system.

So I wondered if you think we as a commission
should consider recommending other methods for
obtaining the views of inmates, other kind of
communication loops so that you administrators who
are sitting at the top, which has its own
communication channel problems, are sure that you
are, in fact, learning what's going on, what are
the concerns of your inmates? You have many ways
to get the concerns of your staff, but are there
things we should think about to recommend to make
sure that inmate concerns are, in fact, being made
and being heard?

MS. DENNEHY: I'm not prepared to speak
at length about the process that we have in place, but I would be happy to share with you the written protocol.

We have a new position which is the Director of Administrative Resolution. And she oversees, among others, the grievance process as well as our correspondence. What we're trying to do is link what inmates complain about in correspondence and what inmates complain about formally in a grievance process because oftentimes what comes in in a letter would have been quite appropriate to have come in on a grievance and vice versa. Sometimes they'll put in a grievance where they should have just put it in a formal letter.

We've taken that to the next step of trying to link that to investigations, because quite honestly some of what comes in in a grievance format really should be more appropriately directed over to a staff for an inmate investigation. So, it starts with trying to get a real good sense of what's the data, what are the trends, what are the issues.

The woman who administers the program does an
enormous amount of quality assurance. She has instituted certification training programs for grievance coordinators. There is a concerted effort to do spot checking, QA, and she has a list of criteria that she uses. And she also personally goes out and does audits, paying particular attention to grievance decisions which suggest that policies may be flawed and she keeps a running list of agency policies that have to be revised by virtue of the confusion that we see in the grievance process.

I really couldn't walk you through, but I'd be happy to give you the protocol.

COMMISSIONER FELLNER: Can I just ask you other than the grievance and the letters, consistent with security considerations, is there any other method by which the views and concerns of inmates are formally or informally solicited? Do you still have counsels of any sort? Is there any process by which they have to say this is what's on our mind?

MS. DENNEHY: We do have one long
standing inmate counsel at MCI Norfolk, rather
unique facility built in the 1930s. It was an
independent counsel established by the governor
many governors ago. And it seems to work for that
facility. We have not expanded that throughout the
department. They work a the local level. They
don't necessarily rise to the level of the
director, but they can be counted upon to develop
program proposals or to give input around any
changes in policies and procedures. In that
facility, if anyone sensed that it is going to be a
problem, they'll speak director to the
superintendent of that facility. It's a very
unique facility.

MR. LAPPIN: Let me ask that you not
conclude yet. The grievance process as you've seen
are not realistic, are not worth the paper they're
written on. I would tend to disagree with that.

Again, it goes back to the integrity of your
program and your staff who implement that program.

We do have a grievance process. We do think
it's a viable process that inmates use often. And
if you looked at the system, there is a three-tier system. You'll find that we rule in favor of inmates not the majority of the time, but there are cases where we find that the inmate is correct. And we struggle with wardens or others to change the policy, change an approach, so on and so forth.

I think it has become so well accepted that most federal courts will not accept a case on most issues, with the exception of some, without the inmate having completed our grievance process first.

COMMISSIONER FELLNER: That's because they're required by law, they have no choice.

MR. LAPPIN: I think that you'll find, again, with some credibility in the system, one, we expect our supervisors to write those responses. The warden signs off on the first note, so there's involvement in higher levels even from the first process.

Your second question is, well, how do you make sure, what gives the credibility, how do you check. And not unlike many other policies we have, we have
a policy on this process. We also have a policy on internal controls, and we have a review process.

An as program areas are reviewed every three years or more often in some cases, they look at the grievances that have been submitted in food service and health services and correctional services, whatever areas that we align those grievances, but I think a system of checks and balances.

Much of what we do is critically important to ensure, as I said early on, that it's just not on the day that people come and check that you need to be in compliance. You need to be in compliance each and every day. And if that becomes a part of your culture and part of your expectation, it's more like that those things are going to be done with integrity, with understanding, and be a reward to the system.

Beyond that, though, I think it goes back. We do not employee inmate counsels, nor inmate news letters. We have found far too often that they typically evolve to those inmates who manipulate and become the leadership of those and use them for
the wrong purposes, and we've found that they're not useful.

Again, at least in our system, the basic denominator issue is communication daily. That is the most frequent access to staff and the ability to approach with leadership if, in fact, that's necessary to address issues and concerns. But, again, we think we have a grievance process that works well, but, again, it goes back to having integrity of staff and implementing it in that fashion.

COMMISSIONER FELLNER: Do I have five minutes or not?

THE CHAIRMAN: We're five minutes past.

COMMISSIONER FELLNER: Let me just say that part of my skepticism about grievances, which I had no knowledge of, came when I first saw, and I won't mention the system, their grievance policy had printed on it "Do Not." It was printed on the form and then it could be over written, but it started out with "Do Not."

THE CHAIRMAN: Mr. Puryear, you had a
question?

COMMISSIONER PURYEAR: Just real quickly.

I wanted to follow Commissioner Dennehy on when we were talking about the cameras and the four or five correctional officers going into the room with the inmate and when there was cooperating physical evidence.

I believe you indicated that you wanted to try to terminate the other correctional officers who were in that room at that time, but you were not allowed to; is that a correct understanding?

MS. DENNEHY: I terminated them, but it was overruled by an arbitrator that the punishment -- the arbitrator had very good language around correctional administrators having the right to be suspicious about a code of silence. In this particular case, one of the defendants had literally shot himself in the butt, which helped the arbitrator draw the conclusion that there was some culpability there, but we could not clearly prove that any of those other officers had done the assaulting.
I was pointing to their code of silence and their responsibility as supervisors to speak out and the determination was it was excessive. Even though they had been fired, they had to extend the offer to come back and pay them back wages and suspend them for no longer than 30 days.

THE CHAIRMAN: Well, again, thank you for your presentation. You're an excellent panel. I think it will be very helpful. Again, we hope we can continue to communicate with you. And if you ever have any information you want to disseminate to us, please do so.

Two announcements: One, if you have a vehicle that's parked in the official parking lot, if you'll speak to somebody on staff, they will make arrangements for you to move your car if you so desire during the lunch hour.

Also, if you plan on attending this afternoon, it's requested that you please remain in the facility and eat here because of the difficulty it creates for the staff if you go out and have to be processed back in. I understand if you did not
1 complete a list of what you wanted to eat or fill
2 out a form, that there will, nonetheless, be food
3 accessible to you. Thank you.
4 (Luncheon recess)