CHAIRMAN KANEB:

Good morning, ladies and gentlemen. I am John Kaneb, vice-chair of the National Rape Elimination Commission, and I will be presiding at today's hearing. First, as they say, when you -- they close the door on a commercial aircraft, please turn off all cell phones, pagers, PDA's and other such wireless devices. Thank you.

Before we proceed, less I forget, I'm going to ask each of my fellow commissioners who are here to introduce him or herself very briefly. It won't last than three or four minutes each. That's my small attempt of humor. And we'll go on with our special guest, Sheriff Gusman.

COMMISSIONER SMITH:

Good morning. My name is Brenda Smith. I'm a professor at American University Washington College of Law.

COMMISSIONER PURYEAR:
Good morning. I'm Gus Puryear, general counsel for Corrections Corporation of America.

COMMISSIONER NOLAN:

Good morning. I'm Pat Nolan, vice president of Prison Fellowship.

COMMISSIONER FELLNER:

I'm Jamie Fellner. I'm a senior counsel of Human Rights Watch.

COMMISSIONER AIKEN:

Good morning. My name is James Aiken. I'm president of James Aiken & Associates, Inc.

CHAIRMAN KANEB:

And as I said, I'm John Kaneb. I'm in private business based in Boston. To my left is Margaret Chiara, general counsel to the Commission.

We have with us a special guest, and we are honored by his presence.

Sheriff Marlin Gusman.

Welcome. We greeted you in the
backroom and we look forward to hearing from you.

MR. GUSMAN:

Thank you. Good morning, Commissioner Kaneb and fellow Commissioners. As criminal sheriff for Orleans Parish, I want to welcome you to this hearing of the National Prison Rape Elimination Commission and also welcome you to New Orleans.

We upon the efforts of this Commission, Prison Rape Elimination Act of 2003 is an important step in the elimination of sexual violence in the correctional environment. We applaud the Commission's efforts to collect evidence and aid in the identification of common characteristics of both victims and perpetrators of prison sexual violence, and identifying the characteristics of prison systems that appear to have been successful in deterring prison rape.

This Commission's activities and reports and the National Prison
Rape Elimination Act have help the Orleans Parish Prison improve its awareness, reporting, oversight, accountability, care and prevention of prison rape. Our administration of the reporting mechanism has improved as the data submitted has become more precise. Oversight and accountability for tracking these events have also improved. And we've ensured that we address the appropriate care for victims and the sanctions for perpetrators.

Yesterday morning the hearing focused on the medical care provided to victims of sexual violence. Our staff at Orleans Parish Prison has been trained to implement a protocol that ensures that each potential victim receives appropriate care. As all allegations of sexual violence are taken very seriously, potential victims are taken to the local hospital to initiate a standardized investigation and treatment protocol. The hospitals,
sexual assault nurse examiner, staff is involved in all rape cases. The inmates receives a medical exam, forensic evidence is gathered -- gathered with the appropriate rape kit, HIV and sexually transmitted disease testing is performed when indicated treatment is initiated.

This treatment continues at the jail. Mental health counseling is done for all victims at the jail as well. Inmate victims of sexual violence are also transferred to another safe housing location. They are either placed in protective custody or transferred to another facility, depending upon the circumstance.
The Commission's efforts have prompted us to reevaluate our current mechanisms so that we can fine tune.

Now, Orleans Parish Prison we take, as I said before, all allegations of sexual assault seriously. Each case is investigated thoroughly and disciplinary action
pursued. Legal prosecution is pursued aggressively. Depending upon the circumstances of a case, various internal disciplinary measures are also taken. At the very least, cell confinement or loss of privileges is imposed.

The perpetrator custody status is also modified placing him or her in disciplinary or segregated housing into a higher custody status or possible transfer to another facility. Cases involving employees are pursued as vigorously as those perpetrated by other inmates. Maximum, legal, and administrative actions are pursued. Again, the Commission's efforts and publications have allowed Orleans Parish Prison to ensure that the appropriate sanctions are being pursued.

As this morning's discussion turn to oversight, we welcome the continued input from the Commission. Orleans Parish Prison has been
participating in yearly surveys, and we continue to learn. Participation allows us to become more familiar with the reporting mechanisms, sexual violence definition, and work on accountability for the tracking of investigation treatment and prevention.

As seen in the Bureau of Justice Statistics three reports, as participation continues, the data of quality improves. We also look forward to the analysis of self-reporting measures as prison rape, we believe, is surely under-documented.

It is important to fully measure sexual violence and to capture data on victims who are reluctant to report incidents for a number of reasons. Ultimately, we look forward to utilizing the data in the reports, the recommendations of this, and other oversight agencies to improve our jail system and prevent sexual violence.

And again, welcome to today's public hearing of the National
Prison Rape Elimination Commission.
Again, we applaud your efforts. And
today's discussions will surely help
our prison and all prisons and jails in
the country comply with the PREA
implementation and improve the
treatment provided to victims of sexual
violence.

Welcome to New Orleans. I
hope you enjoy your visit. Thank you.

CHAIRMAN KANE:
Thank you, Sheriff. Our
visit is regrettably brief, but any
visit to New Orleans is fun, even when
you're conducting a very serious
process during the daytime. So thank
you again.

You -- you refer to your
facility as a prison, and I'm -- I'm
ignorant on this matter. Is it in fact
a relatively short-term holding
facility, or is it a prison in the
penitentiary sense of the word for a
longer term sentence?

MR. GUSMAN:
That's a very good question. And the -- the name given to the primary facility is OPP, Orleans Parish Prison. As a matter of fact, and we're going back about two and-a-half years ago, before Katrina hit we were really a combination of jail and prison. So we did hold some -- some sentenced inmates, but not for any longer than three or four, five years. Primarily now, we are a jail holding pre-sentenced inmates and municipal offenders. So that's where we're at right now.

Now our population is about 2500. Before the storm we had a population of about 6,000.

CHAIRMAN KANEB:
I -- I sort of guessed that might be somewhat the situation. And the reason I ask the question will become apparent in a moment.

You talk about taking the allegations very seriously, and I'm sure you and your staff do. And then
you tell us that you take action that
might involve, presumably, isolating an
alleged perpetrator or having him
transfer to another facility. But --
and I'm asking these questions of you
as -- as, in fact, the CEO of a large
jail, because jails have, in my view,
some of the most serious, if not the
most serious problems, in the world of
American incarceration in trying to
prevent sexual abuse.

'Cause of the transitory
nature of your population, you're
limited to real estate and all kinds of
things. So I have trouble
understanding how you or any -- anyone
operating a reasonably large jail
facility can -- can, in fact, try to
isolate a potential perpetrator and
then maybe somehow protect an alleged
victim, and do all of this presumably
before any of this is adjudicated
unless the alleged perpetrator
confesses, which I think is rare.

So just as a matter of -- of
your facility being maybe a larger example of what exist across the country. How do you -- how do you cope in real world life -- real-time with -- with these problems?

MR. GUSMAN:

Mr. Vice-Chair, first I should have introduced Dr. Gore. He's our medical director at OPP. Responding, I think -- I can't speak for other institutions, but I think our institution has some characteristics that may make it a little bit different. We really operate six separate facilities. Before the storm, we had --

CHAIRMAN KANEB:

Okay. I understand. I'm sorry. Okay.

MR. GUSMAN:

We had 11 separate facilities. We each have a warden in each facility. And it gives us the ability to transfer someone to another -- to another facility in the
event that something like this happens, 
and also to provide isolation within 
the facility for a suspected victim. 

CHAIRMAN KANE:

Well, you -- you're in a lot 
better shape than I thought. In better 
shape than most. Thank you.

MR. GUSMAN:

Dr. Gore is also telling me 
that any suspected victim is put on 
a -- put on our tenth floor, which is 
really a psychiatric and acute care 
floor. So that's a further isolation.

CHAIRMAN KANE:

Thank you.

Questions from 
Commissioners?

COMMISSIONER SMITH:

Yes. Sheriff Gusman, good 
morning.

MR. GUSMAN:

Good morning.

COMMISSIONER SMITH:

You talk some about the data 
collection efforts and how that sort of
driven your practice. Can you talk a little bit about what you reported in terms of data, you know, sort of how you saw what kinds of allegations you had when you started reporting and where you are now?

MR. GUSMAN:

Well, I think that's probably the -- the biggest issue is what, and I'm going to use this term a laymen -- what the laymen thinks of rape is really not the complete definition, so. You know, we've been better educated through the publications, through the work of the Commission so that instances where, for example, there's groping or fondling are also considered within the -- the scope of the National Prison Rape Elimination Act. So that's one example, Commissioner.

That's why I think as more people become familiar with it, perhaps the data will improve and -- and, you know, we'll be able to -- to make some
COMMISSIONER SMITH:

So do you know -- can you tell the Commission what your numbers were? Do you have any sense of what those numbers were from when data collection began until the recent? I believe there's been 2005 data and 2006 data.

MR. GUSMAN:

I really hesitate to -- you know, the Prison Rape Elimination Act came about in 2003.

COMMISSIONER SMITH:

Right.

MR. GUSMAN:

I was elected in 2004. And I don't believe that there was any real reliable data prior to that. Since I've been there we have documented -- for example, in 2005 there were seven reports. None were substantiated. In 2006, and, again, this is a very broad view of the definition, four with three having substantiation.
COMMISSIONER SMITH:
And is that inmate on inmate, staff on inmate, or just overall?

MR. GUSMAN:
This is all inmate on inmate.

COMMISSIONER SMITH:
Okay. And staff on inmate?

MR. GUSMAN:
I don't think we -- see, that's a part of the area where we're -- we're still trying to get better at, so I don't have any data on that.

COMMISSIONER SMITH:
And the reasons that you don't have any data is that -- 'cause you don't think that those instances occurred, or is it because you don't have the records from them?

MR. GUSMAN:
Well, again, I think we're talking about -- there were no -- there were no incident, that I'm aware of,
that occurred. None that I'm aware of
that occurred.

COMMISSIONER SMITH:

So nothing that fit any of
the definitions, no sexual harassment,
no touching of inmates inappropriately
by staff, no inappropriate viewing,
nothing?

MR. GUSMAN:

That's why I hesitated
because I know that the -- the -- the
very definition is something that, you
know, we have to get better at
reporting, so. I'm telling you that
I'm not aware of any, but.

COMMISSIONER SMITH:

It sounds like you don't
have confidence in those numbers.

MR. GUSMAN:

Well, it's -- I'd say in my
remarks we're getting better and better
at reporting. And we want to get --
continue to get better at reporting.
And to say that I don't have
confidence, you know. When you read
the definition, as you just pointed out
some of the more -- more comprehensive
view of the definition, it's pretty --
pretty broad. Don't you agree?

COMMISSIONER SMITH:

I agree. But I also
understand that the data collection
effort has been going on for -- at
least three years?

COMMISSIONER FELLNER:

At least.

COMMISSIONER SMITH:

At least three years. So
I'm surprised that the 2006 data, you
know, wouldn't have at least some of
those elements there.

And I ask you not to put you
on the spot. But I do believe that
it's important when officials come
before us that we ask about, you know,
how they report it, what they report,
because I think that it gives us an eye
into this -- into this inquiry. And so
I'd have to say as a commissioner I'm
cconcerned that the 2006 data doesn't
include those kinds of data sets.

MR. GUSMAN:

Well, I didn't say it didn't include. You asked me a bunch of
different questions. And one of the
things you asked me was how much
confidence I had. And I ask my people
all the time. In fact, I use it a
little bit differently. And lots of
time I tell them -- when they're giving
me information, I'll tell them, are you
willing to put your head on a chopping
block on this? You know, that's
probably the way I'm responding to you
more in that regard. No, I'm not
willing to put my head on a chopping
block --

COMMISSIONER SMITH:

For those numbers?

MR. GUSMAN:

-- for those numbers.

However, we do have confidence in -- in
the general reporting mechanism. And
it's not by way of any excuse, but just
the reality.
We're coming back from a pretty difficult disaster and, you know, our current population is 2500 thereabouts, about 2400 today. A year ago it was a lot smaller, and the year before that we were about -- we were probably less than 400 or 500. So again -- and that throws the numbers off too, so.

COMMISSIONER SMITH:
But then I think that -- I'm glad you mentioned that because I think it's important to say that. Because it's important to say that our data collection efforts have suffered because of Katrina as oppose to --

MR. GUSMAN:
We've had tremendous staff turnover. We -- we've had both in the reporting, investigating and all of that, so it's been -- we're still recovering. We're still recovering. We're still trying to get better.

COMMISSIONER FELLNER:
May I ask a question?
Sheriff, what one of the problems with reporting in addition to the ones that you specifically had suffered because of Katrina and the aftermath is that inmates fear retaliation or fear stigma as a reason for not coming forward. And I wonder if you could describe what steps you've been able to take thus far to ensure that or to encourage, the very least, inmates to come forward. And do you have things like confidential hotline? Do you have -- do inmates have access to counselors outside the facility if they have been -- are victims? Can you sort of describe the ways that you seek to both encourage inmates to come forward and to provide services to them which will in turn, perhaps, give them the wherewithal to come forward with allegations?

MR. GUSMAN:

Well, first we have a confidential grievance procedure that
allows someone to confidentially send
information on to the warden in that
facility.

Secondly, the nurses that
works with Dr. Gore are daily on the
tiers not just passing medications, but
also inquiring of the health and
well-being of each of the inmates. And
they are always looking for instances
where further medical attention is
needed, whether it's -- it's a cut or
-- you know, we have full-time
psychiatrist on staff as well as -- we
have two part-time psychiatrist.

So there are avenues
available for them to seek help from
security confidentially as well as
medical confidentially. We think it's
worked pretty good.

COMMISSIONER FELLNER:

Thank you.

CHAIRMAN KANE:

Other questions?

Yes, Commissioner Nolan.

COMMISSIONER NOLAN:
Sheriff, you know all of our hearts were broke with what you and the people of New Orleans went through. And of course, we're with you and are with you. It's a tragedy. And your dedication of the service in the face of that is commendable.

I have a question about, I think you said, the tenth floor where the medical facilities are. And I just don't know what your thoughts are. One of the complaints I hear from victims of sexual aggression is that they're often put in protective custody, which saves them from further victimization but cuts them off from family visits, commissary. And so I wonder what the circumstances were with that medical floor be -- you know, are they limited in their privileges because of their placement there?

MR. GUSMAN:

No. We don't limit the visitation. Commissary is still available and -- you know, I say the
tenth floor as a -- one of our medical
areas. We also have, you know, a
medical area on the second floor of the
same building of that facility. So
it's -- it's just a place where we can
give greater isolation and more -- more
continued care on the tenth floor. We
have medical personnel left there 24
hours a day, seven days a week. And so
that's a -- that's another part of it,
but it's not a -- it's not in a sense
that it's isolation.

COMMISSIONER NOLAN:
Okay. Thank you.

COMMISSIONER SMITH:
I just have one other
question.
One of the things that you
mentioned was because of Katrina your
population had really -- has really
changed. Can you talk a little bit,
you know, just in terms of decrease; is
that correct?

MR. GUSMAN:
Oh, yes.
COMMISSIONER SMITH:

Right. Can you talk about where those, you know, sort of where those people went and sort of what circumstances are for them there, and whether you have any information about, you know, sort of issues around sexual violence in any of those facilities?

MR. GUSMAN:

It's a good opportunity for me to set some of the unfounded rumors and lies about the -- about the storm. We had 6,020 people -- inmates at the facility. Every single last one of them were evacuated safely to 38 different facilities in Louisiana, and two in Florida. It was a tremendous accomplishment, and really an astounding feat due in large part of the efforts of the staff that were there. We reopened -- you know, Katrina hit on August 29th, 2005. We reopened one facility.

COMMISSIONER SMITH:

And were you sheriff at that
time?

MR. GUSMAN:

I've been sheriff nine months. We reopened one facility on October 17th, 2005. And when we reopened that facility, the vast -- well, everybody was still out. And we were -- we were basically only using that facility as an intake for any current offenders. And we weren't in a position of bringing anybody back.

Courts hadn't opened back up yet. And the courts didn't open up on a partial basis until sometime in June of 2006. And that was when we really began to have responsibility to provide the defendants into the courtroom so the court could proceed.

During that period of time between October of '05 to, roughly, June of '06, we began the process of returning people back to New Orleans. But our facilities, again, were very, very limited. And we -- we reopened -- well, we opened rather a
temporary detention facility in
December of '06 with the help of FEMA
and GSA about a 700 or so bed facility.
It's been a continuing effort coming
back.

As far as, you know, the --
and see, another thing about our
population. Half of our population was
state sentenced inmates. So there
really wasn't a question of whether,
you know, we took those back because
they were -- they were just being held
by us, you know, as an accommodation to
the State, so the State kept that half.
The other half were a combination of
municipal offenders and also pre --
pretrial detainees. And it was really
the pretrial detainees that we focused
on getting back so that we could have
them -- have their day in court.

CHAIRMAN KANEB:
Thank you, Sheriff. Well,
you've certainly been through the war,
haven't you, early in your
administration? A positive attitude of
helping the whole system eliminate this scourge which we call, broadly, prison rape, but it is better described as sexual abuse in prisons is the reason we exist. And we -- we're here to help you and your colleagues. So thank you for appearing here today. We look forward to communicating with you. And again, thank you for a warm welcome to the City of New Orleans.

MR. GUSMAN:

Thank you very much, Commissioners.

COMMISSIONER AIKEN:

Thank you.