

8 MR. RIPPE: Yesterday we focused on  
9 transparency in America's corrections and then we  
10 focused on governmental oversight. Of course, this  
11 morning we just had a superb panel on conditions that  
12 create a positive change.

13 Our next panel this morning will highlight  
14 the corrections professions' best practices around  
15 internal oversight and accountability. I'm pleased  
16 to announce our three distinguished witnesses;  
17 Director A. T. Wall, Director Harley Lappin, and  
18 Sheriff Michael Ashe. These distinguished panelists  
19 will explore how corrections administrators aim to  
20 hold themselves and their systems accountable through  
21 sound management practices, effective grievance  
22 procedures, data collection, analysis and  
23 dissemination, internal auditing and professional  
24 accreditation. We'll also address the challenges of  
25 changing the culture and perception of corrections to

1 assure the facilities operate in a secure, orderly  
2 and humane manner.

3           Mr. A.T. Wall is the director of the Rhode  
4 Island Department of Corrections where he runs both  
5 prisons and jails statewide. Mr. Harley Lappin is  
6 the director of the Federal Bureau of Prisons. Mr.  
7 Michael Ashe has been the sheriff of Hampton County,  
8 Massachusetts, for over 30 years.

9           On behalf of the commission and everyone  
10 here present, I would like to extend my thanks and  
11 appreciation to each of our panelists for their time  
12 today.

13           Director Wall, would you begin please, sir.

14                   MR. WALL: Thank you, Commissioner  
15 Rippe.

16           My name is Ashwell T. Wall, III. I'm  
17 commonly known by A.T. I got my start in corrections  
18 30 years ago this May as a line probation officer and  
19 am now in my seventh year as director of our  
20 department, a position that I am proud and honored to  
21 hold.

22           We are a unified system. We're responsible  
23 for the state's prisons, jails, probation and parole  
24 services. We are not Texas or California, but we are  
25 representative of the smaller systems that account

1 for at least a third of the nation's correctional  
2 operations and I think what I have to say will,  
3 adjusting for size, will be relevant to the issues  
4 that the commission is considering in larger or  
5 smaller contexts.

6           First a frank discussion about the context  
7 for accountability. The fact is that the prisons and  
8 other correctional institutions that we run are the  
9 product of a political process. They are the systems  
10 that we all own, that we have designed, and we also  
11 need to remember that whatever else a prison sentence  
12 may seek to accomplish, it is what society has  
13 prescribed as punishment for the conviction of a  
14 crime. The sole basis for our right to intervene in  
15 someone's life in corrections is that they have been  
16 committed to our custody following commission of a  
17 crime.

18           Prisons are, I think, preferable to the  
19 historical alternatives of maligned medical  
20 practices, of torture, other forms of punishment, but  
21 by their very nature they have characteristics that  
22 have consequences for the issues of safety and abuse.  
23 They are total institutions, meaning that they are  
24 self-contained units, they are isolated from the  
25 larger world, all activities occur in the same

1 location, and the people who reside there are  
2 required to surrender control of their lives to  
3 authority figures. Mental hospitals, monasteries,  
4 boot camps, traditional boarding schools, they're all  
5 total institutions. Prisons represent a particularly  
6 prime example of them. And, of course, all of those  
7 institutions, while perfectly legitimate, are  
8 characterized by an imbalance of power. And in  
9 corrections, there are particular reasons why power  
10 and authority dominate. The fact is that we are  
11 managing large groups of people who did not elect to  
12 reside with us; they correctly perceive that their  
13 placement in this setting is punishment. Control,  
14 enforced by adherence to rules and regulations, is  
15 necessary under those circumstances. Also because  
16 incarceration is what society has prescribed as  
17 punishment, it entails certain deprivations referred  
18 to as the pains of imprisonment; loss of liberty,  
19 loss of freedom of movement, deprivation of access to  
20 certain goods and services, sharp limits on freedom  
21 of association, denial of sexual contact. It is the  
22 duty of our staff to enforce the deprivations that  
23 are hardwired into prison management and that leads  
24 to an adversarial relationship between the keepers  
25 and the kept.

1                   Finally, we have an ironclad no refusal  
2 policy, a diverse array of people differentiated in  
3 every respect except one; that they have demonstrated  
4 a willingness to violate social norms through  
5 commission of a crime. We're responsible for keeping  
6 all of those people safe along with our staff,  
7 visitors, and the surrounding community.

8                   That requires some authoritarian  
9 management. We all know that power can corrupt.  
10 Even good people can be corrupted by power and  
11 examples abound everywhere; academia, the church,  
12 corporate America, politicians, even families, and  
13 closed institutional setting are especially  
14 vulnerable because the power is so great and the  
15 space so concentrated. My point is this. It would  
16 be disingenuous to express shock that abuses can and  
17 do take place in such environments. The fact that  
18 they don't take place more often is I think a tribute  
19 to the character of those at all levels of the  
20 organization who conduct themselves with pride and  
21 professionalism amidst exceptionally challenging  
22 circumstances.

23                   So we recognize that correctional  
24 institutions, like all other organizations where  
25 power is the defining characteristic, have the

1 potential for abuse, we know that, and so as  
2 corrections administrators we have an obligation to  
3 move aggressively and proactively institute checks  
4 and balances and they include a variety. First,  
5 communication. Multiple channels to communicate  
6 problems; management presence touring housing areas,  
7 being present at meals, written communications,  
8 request slips, grievance policies that are locked  
9 into deposit boxes that can only be opened by special  
10 staff. Authorized links to outside authorities, the  
11 court's elected officials, the ACLU, the director.  
12 Telephone contacts. Unrecorded collect calls to our  
13 investigative units. In-person contacts. Regularly  
14 meeting with family members, former inmates to  
15 discuss issues of concern, the core of  
16 accountability. Investigations. Strong foundation  
17 and written policy; clear, explicit, what are the  
18 rules. Mandatory reporting. Requirement to  
19 cooperate fully. Strict prohibitions on retaliation.  
20 Uses of force, cell extractions requiring written  
21 reports and mandatory reviews up the chain of  
22 command. Security cameras, videotapes, audits,  
23 investigate protocols whereby Internal Affairs  
24 reports directly to the director, all investigations  
25 are investigated, training of staff, and

1 consequences. These systems are only credible in  
2 action. People need to know that, in fact, if the  
3 investigation documents misconduct something will  
4 happen to somebody and it will be proportional to the  
5 nature of the misconduct identified.

6           Ultimately this kind of system emanates  
7 from the culture. We have to promote a culture in  
8 which staff incorporate and integrate those values  
9 into daily operations. That's when they will take  
10 root, that's when they will be followed, and the  
11 formula is pretty simple. We provide tools, create  
12 expectations, provide resources, policies, post  
13 orders, mentoring, supervision, train staff and  
14 investigators, provide mechanisms for reporting,  
15 enforce accountability consistently and discipline  
16 proportionately when it isn't met. Ultimately  
17 accountability of any kind must be supported by the  
18 staff. Unless accountability is integrated into the  
19 culture, all the efforts to create and enforce it  
20 from either inside the system or outside the system  
21 are likely to be in vein. Thank you.

22           MR. RIPPE: Thank you.

23           Mr. Lappin.

24           MR. LAPPIN: Commissioner Rippe, other  
25 members of the commission, I'm Harley Lappin,

1 Director of Prison. It is certainly a pleasure for  
2 me to be here today and chat with you on what I know  
3 is a very important subject to all of us.

4 I'm a current employee with the Bureau of  
5 Prisons, I have been with the service 20 years,  
6 started as a case manager 20 years ago, worked my way  
7 up through the system as an associate warden,  
8 regional director, oversaw about 20, 25 prisons, and  
9 then became Director three years ago. I certainly  
10 appreciate the opportunity to appear before you today  
11 and discuss issues related to the oversight of  
12 correctional systems and effective management  
13 strategies but before I do, I would like to give you  
14 a little bit of background about the Bureau of  
15 Prisons, its philosophy, culture. I think without  
16 that context it doesn't tie into the oversight that  
17 we expect for employees and inmates as well.

18 Let me begin by stating that the mission of  
19 the Bureau of Prisons is to incarcerate offenders in  
20 facilities that are safe, secure, humane, cost  
21 effective, and to provide offenders with  
22 opportunities for self-improvement. The latter part  
23 of our mission relates to public safety, less  
24 somewhat than the former, but it is just as  
25 important. Inmate programs such as job skills

1 training, substance abuse treatment, faith-based  
2 programs, reentry programs provide opportunities for  
3 inmates to prepare themselves for a successful  
4 reintegration back into our society and to avoid  
5 further criminal misbehavior. These programs also  
6 allow inmates to be productively occupied during  
7 incarceration which allows us to run prisons more  
8 safely.

9           In furtherance of the mission, the Bureau  
10 of Prisons has several relevant core values which are  
11 deeply ingrained in the agency's culture. First, a  
12 recognition of inherent dignity of all human beings.  
13 Second, the expectation that the correctional staff  
14 will treat inmates fairly and with respect.

15           And, Judge Sessions, you will appreciate  
16 this, you and I chatted about it last night. And,  
17 third, the recognition that offenders are  
18 incarcerated as punishment, not for punishment.

19           Finally, oversee all staff and correctional  
20 workers first, with responsibility for maintaining  
21 safe and secure institutions and for meeting  
22 society's mainstream values and norms that help  
23 prepare inmates for a crime-free return to the  
24 community. While laws establish minimum standards of  
25 care to which all inmates are entitled, the Bureau of

1 Prisons has worked over its 75-year history to  
2 achieve the highest standard with respect to inmate  
3 management. Our agency now operates over 116  
4 prisons, housing over 188,000 inmates. All these  
5 facilities range in security level from minimum to  
6 high; some with very specialized functions such as  
7 medical centers or super maxes. We remain one bureau  
8 with institutions operating under the same policies  
9 and procedures throughout the country. Agency  
10 policies direct the internal systems of control and  
11 they apply to all Bureau organizational components  
12 and sites.

13 I provided to you a little list as I go  
14 through these. In case you would like to ask  
15 specific questions of the internal controls, please  
16 feel free to do so. If you don't have a copy, I  
17 think they can get you one.

18 The bureau's internal control systems of  
19 checks and balances are designed to achieve various  
20 objectives, including ensuring compliance with the  
21 applicable regulations, laws, policies and  
22 procedures, monitoring vital functions and  
23 operations, identifying weaknesses and enhancements  
24 needed in promoting efficient management practices,  
25 determining whether programs are achieving desired

1 results, enhancing program quality. Incorporating  
2 information from various sources results in holistic  
3 and comprehensive management.

4           The primary system of control is our  
5 program review or audit process through which the  
6 bureau subjects each of its programs or disciplines  
7 to a thorough, cyclical examination by  
8 organizationally independent, trained bureau subject  
9 matter experts. Institutions receive a rating based  
10 upon their performance on all review functions, as  
11 well as a listing of deficiencies or weaknesses  
12 requiring correction.

13           Management assessments are the first step  
14 in the program review or audit process in that they  
15 provide the structure for program managers to develop  
16 and update the program review guidelines or the audit  
17 steps and identify additional systems of controls or  
18 monitoring tools needed to ensure the performance and  
19 compliance with applicable policy, regulations, and  
20 American Correctional Association Standards are met.

21           In addition to the internal audit process,  
22 the bureau's senior management team, the executive  
23 staff, exercises extensive formal oversight of  
24 institution operations and performance. At our  
25 quarterly meetings the bureau's executive staff

1 reviews the data that's compiled through all of the  
2 various oversight mechanisms, including program  
3 reviews and some of the others I'm going to mention,  
4 and carefully reviews the performance of all  
5 institutions. And at each quarterly meeting,  
6 significant time is dedicated to reviewing  
7 institutions with specific security levels such that  
8 in the course of the year we look at every  
9 institution.

10           Some of the more important indicators that  
11 are reviewed are assaults, use of force, staff and  
12 inmate safety, capital costs, inmate program  
13 participation, union grievances, allegations of staff  
14 misconduct, inmate administrative complaints and  
15 others. One of the most important tools used by  
16 management to gather information about institution  
17 operations is the Prison Social Climate Survey.  
18 Administered annually since 1988, the survey provides  
19 an opportunity for staff to confidentially report  
20 their impressions about the conditions and operations  
21 at the facilities where they work. The survey items  
22 cover all aspects of the work environment for safety,  
23 to job security, to job advancement, to sexual  
24 harassment.

25           Institutional character profiles conducted

1 by regional teams of administrators and the regional  
2 director are done on a minimum of every three years  
3 and provide a great deal of descriptive and  
4 subjective information about institutions. The  
5 character profiles include observations of  
6 institution operations, interviews with randomly  
7 chosen inmates and staff, and input from outside  
8 agencies and organizations.

9           The Duty Officer Program assures that  
10 significant incidents at our facilities, including  
11 those affecting inmates in community programs, are  
12 reported to appropriate officials promptly and  
13 consistently. In this way senior staff throughout  
14 the agency are made aware of serious incidents such  
15 as homicides, suicides, escapes, disturbances, and  
16 the institution's response. The sharing of  
17 information promotes the openness and honesty among  
18 senior staff and allows the agency to make the  
19 greatest use of the knowledge that it gains in  
20 resolving these incidents. The bureau is fortunate  
21 to have relatively few major incidents in our  
22 facilities, in part because of our efforts to  
23 proactively identify and resolve potential issues.  
24 Serious instances having criminal implications are  
25 referred to the Federal Bureau of Investigation for

1 prosecution.

2 Both inmates and staff are encouraged to  
3 report incidents of misconduct or otherwise  
4 inappropriate behavior. The Administrative Remedy  
5 Program is the internal grievance process through  
6 which inmates may request consideration for review of  
7 any issue related to their conditions of confinement.  
8 This program requires timely investigational  
9 response, including redress as appropriate.  
10 Procedures exist for expedited handling of issues  
11 that inmates view as sensitive or emergency in  
12 nature.

13 All the allegations of staff misconduct,  
14 including allegations that a staff member has abused  
15 an inmate, are referred to the Office of the  
16 Inspector General which then refers back to the  
17 bureau's independent office of internal affairs those  
18 that they want to investigate. The Bureau takes all  
19 allegations of misconduct seriously and certainly  
20 investigates every allegation thoroughly, including  
21 referral of cases for criminal prosecution when  
22 warranted. There is zero tolerance for abuse of  
23 inmates.

24 There is one I didn't mention that's not on  
25 your sheet, it is not listed on your sheet, but I

1 would like to mention another oversight procedure and  
2 that is all of our facilities, the vast majority,  
3 have community relations boards. These boards are  
4 made up of local public officials, citizens,  
5 legislators, sometimes the media, business people,  
6 and routinely are staffed at those facilities, meet  
7 with the community relations board, use them as a  
8 sounding board to discuss issues of concerns, to  
9 enlighten them as to procedures and issues applicable  
10 to prisons, so that's one more that I didn't have on  
11 the list that I wanted to mention.

12           The bureau continues to effectively meet  
13 its mission to protect society through safe, secure  
14 and humane incarceration of offenders and thereby  
15 maximizing the likelihood of a successful community  
16 reentry. We take this role very seriously, and  
17 through critical self-examination we are assuring the  
18 bureau's readiness to meet the future demands of the  
19 agency.

20           I appreciate the opportunity to meet with  
21 you and look forward any questions you may have.

22                     MR. RIPPE: Thanks, Director Lappin.  
23                     Sheriff Ashe.

24                     SHERIFF ASHE: First of all, I'm just very  
25 honored to be here and I just applaud all of your

1 efforts in terms of your leadership and dedication  
2 for zeroing in on this particular subject, and I also  
3 would like to just acknowledge Scott  
4 Harshbarger regarding his leadership that he has  
5 provided in the State of Massachusetts and, here  
6 again, we talk about leadership. It is one thing to  
7 have a title, but it is another thing to obviously  
8 step up and do the work in terms of the substance  
9 that he provides and the integrity and so on.

10           First of all, I as Sheriff have to run for  
11 office. My background is obviously a social worker.  
12 I mention that because one of the words that has been  
13 singled out here is the politics of the job and I  
14 just ask each of you to try to run as a social worker  
15 for the office of Sheriff. So the first thing they  
16 would -- so I have been through this and I would just  
17 say that I remember being so concerned in terms of  
18 being accepted by the public from the standpoint of  
19 being a social worker because when you think of a  
20 social worker, they're usually going to give away the  
21 kitchen sink, and I remember a person saying that  
22 your theme in your campaign should be he protects  
23 people and their tax dollars.

24           The second thing is, is that I took over a  
25 job where there was sort of a warehousing or

1 custodial kind of model which I don't think was that  
2 atypical in terms of our particular county, I just  
3 think that there have been great strides, if you  
4 will, being made in corrections and so your efforts  
5 are to be applauded and I can't help but think  
6 because of your work we are going to continue to move  
7 inches further, you know, in our goal of  
8 understanding the issue and bringing about public  
9 safety.

10           What I would like to address is really  
11 seven principles that I think are very, very  
12 important in terms of bringing about accountability,  
13 positive, humane, safe, secure facilities. And the  
14 first principle would be the sense of balance, being  
15 firm but fair, if you will, having strength  
16 reinforced with decency. I as Sheriff certainly  
17 don't want to run a hotel, but don't want to run a  
18 cesspool of stagnation, frustration, and new crime.

19           The second point, as I mentioned earlier,  
20 the focus is on corrections, not on warehousing  
21 people, and what I'm about to sort of identify for  
22 you is my 31 years in office in terms of, if you  
23 will, I don't think I'm doing anything revolutionary  
24 but really, if you will, just being conscious of the  
25 population we're dealing with in trying to bring

1 common sense and leadership and a determined and  
2 sincere will to bring about change from the  
3 standpoint of affecting public safety.

4           In doing that, I would just like to  
5 elaborate on this third point that I have, and this  
6 is for staff to be held accountable, we must hold  
7 inmates accountable, and I certainly heard the  
8 commissioner from Arizona touch upon this.

9           First of all, we have to look at a typical  
10 inmate, and I think what we have in the Hampden  
11 County is not that different, if you will; nationally  
12 as well. Fifth grade education; 85 percent come  
13 there with drug and alcohol issues, 93 percent lack  
14 any marketable skill, 78 percent at the time of  
15 arrest aren't employed. So looking at that profile I  
16 must say that I as Sheriff am committed to trying to,  
17 if you will, use new language, if you will, and I  
18 think one of the things we've talked about is that  
19 the population we deal with doesn't, if you will,  
20 generate much empathy, if you will, from the public.  
21 Obviously they steal our cars, they maim our loved  
22 ones, et cetera, so it is very difficult to do that.  
23 On the other hand, the idea about public safety is a  
24 key thing and there's no question that certainly  
25 years ago out of sight, out of mind, and the idea

1 about incapacitation was in vogue. I must tell you  
2 today the sense of taxpayer dollars being invested  
3 into this particular area is of great concern and so  
4 certainly the reintegration and that balanced  
5 approach is obviously so, so important in terms of  
6 our work.

7           And on this issue, I would just say that  
8 one of the things we're all talking about, we're all  
9 representing and you stand for it as well, is the  
10 professionalization of our facilities. And so based  
11 on that profile, I as Sheriff over the years, and I  
12 must tell you it is not like being a genius and  
13 saying here is the answer, I would just say that  
14 myself and the staff have evolved this over the  
15 years, in 31 years. First of all, it is the  
16 establishment of that profile, but let's  
17 individualize the inmate; let's look at, for example,  
18 what are the deficits that he brings to this  
19 situation. So one of the things we did is establish,  
20 if you will, an orientation system that's very, very  
21 professional.

22           I can remember the old system, the inmates  
23 educated the other inmates. And one of the things  
24 that we really worked hard at was to establish a very  
25 professional orientation system, and I would just

1 touch upon the fact of a test, LSI, Level Service  
2 Inventory, where we're looking at eight criminogenic  
3 factors, and then, as well, making inmates aware of  
4 the rules and regulations. But the key thing is the  
5 fact that we're there to provide services for them  
6 and opportunities, if you will, challenges that are  
7 going to be available to them within the facility.  
8 So this firm but fear kind of approach in terms of  
9 with myself and the staff uniting to impact the  
10 inmate, we want to challenge him, I want to place  
11 demands on him, I want to, if you will, strife him  
12 towards excellence is an excellent point because we  
13 certainly know in sports and in classrooms around the  
14 country we see that striving towards excellence and I  
15 think in the past we haven't seen this in corrections  
16 and I think that's one of the aspects of our work.

17           One of the things that we put in place on  
18 this idea about challenging the inmates and putting  
19 demands on them was we put together a couple years  
20 ago a mandatory basic and intensive regimented  
21 program where we -- I call these the core principles  
22 that all inmates based on that profile as they came  
23 in, we put forth a five-week mandatory program. One  
24 of the things in my visits though the various pods on  
25 weekly visit is that I found that there was a great

1 deal of downtime and not allowing inmates to  
2 immediately get into, if you will, GED, substance  
3 abuse, victim impact programs, so this frustrated me  
4 and my efforts and we studied this issue for a whole  
5 year and tried to maximize the resources within the  
6 facility and we put forth this basic intensive,  
7 regimented program for every inmate at the point of  
8 entry which is a key point. So, again, this isn't  
9 this sense of he comes into the facility, this is the  
10 time when he is most anxious. I want to seize that  
11 opportunity, make him uncomfortable, bring tension  
12 into his world in terms of what it is all about and  
13 that's it; that we're challenging him to improve his  
14 life.

15           So what we did is obviously in this  
16 five-week mandatory program we put together such  
17 things as, for example, substance abuse,  
18 preemployment training, victim impact, cognitive  
19 thinking were just a few of the programs, and then  
20 each of them, for example, had a body of knowledge  
21 and we have faculty that presented it. All those  
22 programs took place, if you will, on time. There was  
23 a multifaceted faculty that was put together so if  
24 someone was out sick or on vacation, there was  
25 accountability in these programs.

1                   Following this five-week program they then  
2 could graduate into, if you will, remedial education;  
3 GED, vocational training, et cetera, et cetera.

4                   I then want to just touch upon the fact  
5 that the fourth point that I wanted to make here was  
6 that whether it is county corrections or state  
7 prisons, it should be part of the community. All the  
8 inmates come from the community; they all return to  
9 the community. It is so important to have a sense of  
10 reciprocity. One of the things we talked about is  
11 transparency, we've talked about openness. You and I  
12 know that how could we provide this safe, secure,  
13 humane facility. Certainly by allowing volunteers  
14 that come in from the community. In my case I have  
15 over 500 volunteers that come in on a monthly basis  
16 representing the faith-based initiatives, self-help  
17 programs in terms of A.A., N.A., Gamblers Anonymous,  
18 just to mention a few, as well as our education in  
19 the community.

20                   The other aspect is having college interns  
21 from the college systems that we have in our county,  
22 and we have approximately 50 to 75 interns that come  
23 in on a weekly basis.

24                   Fifth principle. Correctional supervision  
25 should always take place in the least level of

1 security that is consistent with public safety.

2            Sheriffs don't get elected to release  
3 people to the community prior to their discharge date  
4 because of the fear of the political ramifications if  
5 something failed. I would like to feel that I have  
6 the courage to take the risk. 45 percent of my  
7 inmates are in lower security and we have everything,  
8 if you will, from medium security all the way out to  
9 daily reporting. Back in 1986 because of  
10 overcrowding, again, rather than talk about the  
11 problem, talking about the complaining, we developed  
12 the first in the nation daily reporting system, the  
13 electronic bracelet system, where people could  
14 reintegrate back into the community, live at home,  
15 and participate in a correctional program that's  
16 going to benefit them.

17            I also wanted to highlight that in the  
18 secure, safe, humane facilities we challenge inmates.  
19 The key aspect is the reintegration back into the  
20 community. I always say to the inmates, "Anybody can  
21 do time, it is getting out and staying out." And so  
22 with this profile you and I know that a great deal  
23 needs to be done in terms of, if you will, building  
24 capacity in the community to effectuate jobs,  
25 housing, mental health help, all of these kind of

1 things, and I just wanted to just give a couple of  
2 examples in that way. The development of an after-  
3 incarceration support service. Every inmate that  
4 leaves our facility has a universal planning system  
5 and with that is that we partner up with the police  
6 departments in terms of police, probation, parole, as  
7 well as collaborating with other agencies,  
8 particularly social agencies, over 200 agencies in  
9 the community to effectuate that, and that's very,  
10 very important.

11           And I also just for the sake of time here,  
12 corrections should not be allowed itself to be a  
13 scapegoat for the larger society failures. You and I  
14 know, as I mentioned earlier, a hundred percent of  
15 the inmates that come to us have failed and with that  
16 you and I know that when the people go to the  
17 hospital and have to deal with accident, disease, we  
18 don't blame the hospital. It is so important in  
19 terms of the image, the professionalism and the  
20 dedication of our staff to contribute to public  
21 safety and seeing that, that is so important.

22           And then lastly in terms of the principle  
23 is respect. Respect of professionalism and the role  
24 of the correctional worker, respect for the humanity  
25 of all within the fences, respect for the physical

1 surroundings, and respect for the authority vested in  
2 staff in the name of the people.

3 Thank you very much. I look forward to any  
4 questions that you have.

5 MR. RIPPE: Thank you, Sheriff.

6 I will ask the first couple questions and  
7 then open it up to the panel at large.

8 As correction leaders could you all tell us  
9 to whom you consider yourselves accountable,  
10 personally accountable.

11 A.T.

12 MR. WALL: I am accountable first and  
13 foremost to the individual who appointed me and the  
14 people who confirmed me. That is to say, the elected  
15 leadership of the State of Rhode Island. The  
16 governor is my boss. I need to have his confidence,  
17 he needs to have my loyalty, and the people who  
18 confirmed me, the legislature, needs to know that I'm  
19 going to keep the promises that I made when they  
20 screened me and questioned me prior to my  
21 confirmation.

22 I'm also accountable to the larger public,  
23 that's a little bit of a diffuse sort of concept, but  
24 it can be expressed in a variety of ways. Local  
25 officials, advocacy groups, families of offenders,

1 victims, they're all stakeholders, they're all, if  
2 you will, clients, and I'm accountable to the  
3 offender population in this respect.

4           We have certain values that we articulate,  
5 we have certain rules and policies that we follow,  
6 and we need to have the integrity to adhere to them  
7 if we are going to be credible with the inmate  
8 population.

9           Last, of course, I'm accountable to our own  
10 staff. They're looking to me to be their leader.  
11 They need to have some confidence that I care about  
12 them; that I have their best interests at heart, and  
13 that I am stable and serious about what I do.

14           MR. LAPPIN: Truth be known, I'm most  
15 accountable to my wife. You agree.

16           As a public servant I see myself most  
17 accountable to citizens of this country to make sure  
18 that we do the best to run the safest, securest  
19 prison system in the country, if not the world. And  
20 obviously I'm directly accountable to the attorney  
21 general in this administration or whichever  
22 administration I might be serving under. Beyond  
23 that, obviously the judiciary and the other public  
24 interest folks who have a role and an interest in  
25 incarceration of our citizens and certainly in the

1 reentry of those folks back into our communities.  
2 But, again, a lot of folks, but certainly all of us I  
3 think at this table and beyond certainly see  
4 ourselves most accountable to folks that we serve  
5 each and every day, citizens of the United States.

6 MR. RIPPE: Thank you.  
7 Sheriff.

8 SHERIFF ASHE: I feel accountable obviously  
9 to the people who elected me, but equally the staff  
10 and the inmates. And, again, just as I said earlier,  
11 I not only provide a secure, safe, humane setting,  
12 but also the understanding is that providing the  
13 inmates the tools when they get out on behalf of  
14 public safety which I think is the key issue.

15 MR. RIPPE: As I mentioned at the  
16 beginning, yesterday we had two panels that focused  
17 on oversight and transparency. Could you tell us the  
18 role that external oversight and transparency play in  
19 each of your constituencies.

20 Director Wall.

21 MR. WALL: We've had good experiences  
22 and we've had bad experiences with outside oversight  
23 in my department over the years. There was a point  
24 at which, and you have to remember the political  
25 context of the times, these were the early 1970s,

1 there was a point in time at which the legislature  
2 became very involved in oversight of the corrections  
3 department, became beguiled by certain inmate leaders  
4 who exhumed some power and authority over them, and  
5 ultimately it was a significant contributor to the  
6 destabilization of the system.

7           That led to the second form of oversight  
8 which was the federal court which imposed, in  
9 essence, the equivalent of receivership over the  
10 entire system in 20 years of litigation. Mr.  
11 Bronstein was chief counsel for the plaintiffs and  
12 knows the history well. And while we had our  
13 difficult times, that oversight ultimately served to  
14 professionalize the department and to help us garner  
15 the resources we needed to run a constitutional  
16 system.

17           More recently there has been an attempt by  
18 certain advocacy groups to assert oversight on behalf  
19 of the people and we are concerned again about the  
20 naivety and about certain personal agendas, so it  
21 very much depends. I think when it comes to outside  
22 oversight, I don't think it is an up-and-down answer,  
23 I think it is more nuanced than that. I think it has  
24 to be based on a variety of considerations and it has  
25 to take account of the political maturity of the

1 jurisdiction in which it operates.

2           Some of the considerations that I think  
3 have to be asked are how clearly, what are the goals  
4 of oversight, how clearly are they stated, what is  
5 the purpose, what are the conditions under which  
6 oversight is going to be exercised; is it proactive  
7 and preventive or is it remedial; where does it fit  
8 into the department's history and culture, what's the  
9 motive of the people who serve, what's their  
10 experience, what's their skill, who oversees the  
11 overseer, because the fact of the matter is that  
12 oversight can run amok; ego, grandstanding can all  
13 get in the way. What's the composition of the  
14 oversight, what's the relationship between oversight  
15 and the established correctional leadership, those  
16 are all considerations that have to be answered  
17 individually for each jurisdiction in which it is  
18 contemplated.

19           MR. RIPPE: Thank you.

20           Director Lappin.

21           MR. LAPPIN: The majority of  
22 correctional oversight, although you might question  
23 it, is external, it is from the Office of Inspector  
24 General and GAL, that's where the vast majority of  
25 our oversight beyond what we do internally is focused

1 in the Bureau or Prisons, and there's a lot of that.  
2 Not a lot of requests. We get requests on occasions  
3 from outside groups to come in and assist in some  
4 way. It hasn't happened that often in the recent  
5 past; somewhat in the seventies as we got into  
6 operating supermaxes and the issues of confinement  
7 and so on and so forth, but, again, same concerns as  
8 A.T. on which direction that goes and how it is going  
9 to be managed and overseen if we begin to see an  
10 influx of requests for oversight beyond what we  
11 provide and what we see from GAL.

12           As far as transparency work, obviously  
13 we're not an open system but I can't say we're a  
14 closed system, we're a controlled system, and when  
15 groups have an interest and there's a connection,  
16 we're certainly amenable to folks visiting our  
17 institution. The community relations boards that I  
18 mentioned serve in that capacity, have easy access,  
19 assist us in relating to the public at large within  
20 those small communities. But throughout the course  
21 of the year we have tours of students and faith-based  
22 organizations, other interest groups, visit prisons  
23 at their request. So, again, beyond that, I can't  
24 think of anything that would be meaningful at this  
25 point.

1                   SHERIFF ASHE:  Again, if you are  
2  running a warehouse or custodial facility, naturally  
3  a closed system is obviously something that is very  
4  restrictive and very limited and, again, as I said,  
5  my commitment is obviously to challenge inmates and  
6  in doing so provide that safe, secure and humane  
7  setting so it is so crucial, it is so important in  
8  terms of meaning what you say in terms of the  
9  integrity and the professionalism of your work.  So  
10 first of all, I know back in 1975 when I took over as  
11 Sheriff is obviously open it up to the public from  
12 the standpoint of having community groups on a weekly  
13 basis to let them know what we're doing.  Not only  
14 that held me accountable but also the staff and let  
15 them know of the tremendous need we have for  
16 resources; money, of volunteers, jobs, mental health,  
17 et cetera, et cetera, it goes on and on, so it is so  
18 important to open that up.

19                   I think we have made great strides in my  
20 opinion.  I think we can think back and I know years  
21 ago of suicides, riots, disturbances and so on, and  
22 there was very little outside intervention and I can  
23 think of particularly Massachusetts.  Today, for  
24 example, I think the ACA, American Correctional  
25 Association, opened ourselves up to accreditation.

1 In my opinion, I'm a big believer in that because  
2 here are your peers are coming in and looking at your  
3 operation and it challenges everybody in terms of the  
4 transparency of what you are doing, and so I'm just a  
5 big believer in that external audit. And you and I  
6 know the biggest audit is ourselves in terms of  
7 walking and talking and visiting the place and  
8 holding ourselves accountable on behalf of the staff  
9 as well as the inmates.

10 MR. LAPPIN: And I would be remiss that  
11 I failed to mention as well accreditation. I'm a  
12 firm believer in it. Our commitment is a hundred  
13 percent accreditation.

14 MR. RIPPE: Are you there?

15 MR. LAPPIN: We are not there because  
16 we opened so many new prisons, so everything that has  
17 been in operation for a number of years are all  
18 accredited. The newer facilities immediately get  
19 into the process and we certainly welcome their  
20 assistance, their insight, their suggestions, and we  
21 have closely partnered with them, in fact, in the  
22 program review process, we've come up with the unique  
23 approach, because it is additional work on our staff  
24 and there are limitations, we are stretched, most of  
25 our agencies are stretched resource wise, with our

1 employees, with our staff. And so we've partnered  
2 with them, the American Corrections Association in  
3 this case, to look at how we can continue to have  
4 adequate oversight but not do it in such a way it  
5 overburdens our employees. Joint commission. We get  
6 accreditation at many of our locations on hospital  
7 accreditation as well.

8 MR. RIPPE: Judge.

9 JUDGE SESSIONS: Director Lappin, help  
10 me deal with my ignorance.

11 You have spoken of mushrooming, so 10 years  
12 ago you had how many, how many prisons?

13 MR. LAPPIN: 1980 we had 26,000  
14 inmates, about 24, 25 prisons. In 1990 about 60,000  
15 inmates, about 45 facilities, 50, maybe. And today,  
16 116 facilities, 188,000 inmates.

17 JUDGE SESSIONS: So a tremendous  
18 mushrooming.

19 MR. LAPPIN: Huge growth over the  
20 course of that time.

21 JUDGE SESSIONS: Will you accept that  
22 oversight cannot be meaningful unless we have  
23 standards?

24 MR. LAPPIN: Absolutely.

25 JUDGE SESSIONS: Tell me about the

1 Bureau of Prisons standards and what they might do  
2 and cover that would help states individually meet  
3 those standards that you find acceptable from the  
4 federal. The leadership role is what I'm looking at.

5 MR. LAPPIN: Well, I think you hit it  
6 on the head there, Judge. Leadership is critically  
7 important. All the things that I mentioned here as  
8 systems we put in place to provide the oversight mean  
9 nothing without very capable, qualified, competent  
10 people overseeing our institutions. I look back day  
11 in and day out at some of the most important things I  
12 do. It is clear to me that one of the most important  
13 things I do beyond my normal responsibility is to  
14 pick the right people to run prisons and when we do  
15 that well, we're very successful. In doing so, and  
16 to accomplish that, we have to do one of two things  
17 depending on your system. You either have to have a  
18 development and management approach to training your  
19 pool of candidates internally or I have to have a  
20 very good system of looking out beyond our system at  
21 very capable, qualified people who will come in and  
22 provide that leadership.

23 We have been fortunate in the Bureau of  
24 Prisons to develop our leadership from within in most  
25 cases and most of our wardens and executive staff

1 members are reliant employees in the federal prison  
2 system and move as I did up through the system as  
3 warden and so on and so forth. Some systems aren't  
4 able to do that for a number of good reasons and if  
5 you can't do that, you've got to be able to go out,  
6 reach out and find those folks who are capable to  
7 come in because in my opinion, again, that  
8 leadership, that cohesiveness between that senior  
9 management at that facility is critically important  
10 to carry out what systems you then decide to put in  
11 place and to do that, you've got to have some  
12 resources. And I have to say we were very fortunate  
13 through the course of the eighties and nineties as  
14 that growth occurred, the administrations, all of  
15 them, and the Congress recognized that the change in  
16 parole and the change in determinate sentencing and  
17 mandatory minimums and the federalization of drug  
18 laws and firearms laws was going to significantly  
19 impact the growth of the Bureau of Prisons and during  
20 the course of that time we received those resources.  
21 Not so much so since 9-11, we're struggling too now  
22 resource wise just like states are, have or have over  
23 years. So, again, I sympathize with what they faced  
24 for many years but it takes resources and a  
25 commitment from the legislators, from the

1 administration, to support those types of  
2 initiatives.

3 JUDGE SESSIONS: So help me again.  
4 Does the warden at X institution go to the shelf,  
5 pull out a book and that says "Standards of the  
6 Federal Bureau of Prisons" and know what is going to  
7 be checked on, what's required, what is done to meet  
8 those standards?

9 MR. LAPPIN: We are a very policy-  
10 driven agency.

11 JUDGE SESSIONS: Yes.

12 MR. LAPPIN: And you can probably reach  
13 out and touch, you, on our website, most of our  
14 policies are public other than those that are  
15 restricted for good reason, but, sometimes to our  
16 detriment because our staff complained that we over-  
17 control them but I think not so, I don't see that in  
18 the same light. But we are a very policy-oriented  
19 agency. Wardens can take something off the shelf and  
20 read it and use that as a guide, a direction, and our  
21 program review process is a method in which assists  
22 us in that regard.

23 JUDGE SESSIONS: I will repeat the  
24 second half of the question. What interplay is there  
25 between federal and state in connection with

1 standards for prisons?

2 MR. LAPPIN: I think there is a  
3 connectivity but some limitation. There's an  
4 association of directors. We talk about oversight,  
5 we talk about policy, we talk about those issues.  
6 The standardization through the American Correctional  
7 Association assists us in that regard. But for us to  
8 say there's a direct relationship between us, the  
9 federal system and the states, I don't think there's  
10 a specific relationship in that regard or the local  
11 folks. It is all through associations, it is all  
12 through assistance that we may be called upon by  
13 states to help us, or we ask states in return for  
14 some assistance.

15 JUDGE SESSIONS: Mr. Ashe.

16 SHERIFF ASHE: Judge, your point is an  
17 excellent one and obviously the federal government  
18 has led the way, if you will, over the years.  
19 Certainly states and counties, if you will, have been  
20 potentially over the years short in terms of adhering  
21 to standards, but I can assure you when I mentioned  
22 earlier about coming a long way, we have come a long  
23 way regarding standards and you and I know it is not  
24 because we're just doing this on behalf of inmates,  
25 it is because of the vulnerability politically in

1 terms of liability issues and so on that occurred.  
2 But given that, you and I know that do you mean what  
3 you say, and the standards obviously indicate that  
4 you are by first of all promulgating them and then  
5 practicing them as we're talking about in terms of  
6 whether it is ACA, whether it is the National  
7 Institute of Corrections or any of these agencies,  
8 and so in that way I'm indicating that we have  
9 certainly come a long way regarding that.

10 JUDGE SESSIONS: Then do the 50 states,  
11 all of them, have prison standards?

12 SHERIFF ASHE: Yes. To my knowledge,  
13 yes.

14 MR. LAPPIN: I couldn't speak to all 50  
15 states, but let me go back and mention one other  
16 thing, that there is connectivity to the federal  
17 government through the National Institute of  
18 Corrections, very good point that the sheriff raises.

19 Many of the state and the local jails rely  
20 on the National Institute of Corrections as a  
21 resource. The National Institutions of Corrections  
22 happens to be housed in the Bureau of Prisons, but  
23 their primary role and mission is to serve state and  
24 local jails and prison systems at their request,  
25 okay? It is not forced upon them, it is at their

1 request, and I think they do an excellent job of  
2 serving those localities and those system that  
3 request their assistance. And certainly when the  
4 National Institute of Corrections requests additional  
5 assistance from us, we certainly partner with them in  
6 providing that service and assistance to those  
7 states, prison systems, local jails, sheriffs,  
8 community corrections and beyond.

9 JUDGE SESSIONS: Thank you.

10 Mr. Wall, did you want to add to that?

11 MR. WALL: With regard to whether all  
12 the states have standards, every Department of  
13 Corrections has policies that govern its operations  
14 and the touchstone for those policies tend to be the  
15 standards that are associated with the accreditation  
16 process that is sponsored by the American  
17 Correctional Association. That doesn't mean,  
18 however, that there are uniform standards across all  
19 50 states. A policy may, for example, every state  
20 will have a policy on use of force and most of those  
21 policies will refer back to the standards of ACA but  
22 it is not mandatory and not required and there are  
23 undoubtedly some jurisdictions whose policies don't  
24 make reference to standards.

25 JUDGE SESSIONS: Well, we all know that

1 standards are always set above where you are and you  
2 are trying to adhere to them and gain that kind of  
3 institution that meets those standards and they're  
4 intended to be high and should be high. I don't know  
5 where we are on it and I want to know.

6                   SHERIFF ASHE: Judge, I just wanted to  
7 add in regard to the standards as well, there's been  
8 great growth over the years professionally in terms  
9 of let's say like the ACA, but you and I know too is  
10 that there is a paper trail associated with those  
11 standards and we're seeing more and more of that.

12                   JUDGE SESSIONS: Good.

13                   SHERIFF ASHE: That's the key.

14                   MR. LAPPIN: I'm not sure how familiar  
15 you are with the ACA process, if they have testified  
16 or not, but you are familiar with how the standards  
17 are established, the fact that the standards  
18 committee is made up of a well-rounded group of folks  
19 from both large prison systems, jails, community  
20 corrections, juveniles, and so, again, I think you  
21 have some good folks on there assessing what those  
22 standards should be and certainly the commission  
23 should go out and oversee the application of those  
24 standards at the facility but, again, it is  
25 voluntary. Not all states are as committed as

1 others, nor are all systems as committed as others.

2 JUDGE SESSIONS: Thank you.

3 MR. RIPPE: Richard.

4 DR. DUDLEY: I'm trying to get somewhat  
5 more of a concrete sense of internal monitoring and  
6 review of programs that are part of the system so,  
7 for example, if you are looking at the mental health  
8 aspects of the system, in addition to determining  
9 that it runs smoothly, for example, is there -- does  
10 internal review and monitoring attempt to determine,  
11 for example, whether inmates who come in denying a  
12 history of the mental illness or inmates who don't  
13 have a documented prior history of mental illness but  
14 who in fact are mentally ill are picked up through  
15 your evaluation practice as opposed to simply those  
16 who come in announcing that I'm mentally ill, I have  
17 a history of mental illness? Or when risk  
18 assessments are done is there an assessment of  
19 whether this bears any relationship to the mental  
20 health assessment so that people are not mistakenly  
21 classified as simply bad where in fact they're ill  
22 and have no ability to control their behavior and so  
23 that there's some understanding of what we're doing  
24 with risk assessment in contrast to or in  
25 collaboration with mental illness, or are we looking

1 at programming and the assignment of people to  
2 different programs? Is there some internal  
3 monitoring that looks at the appropriateness of these  
4 programs as it relates to fit for different inmates  
5 so that, in fact, the programming does increase their  
6 possibility of functioning on the outside as opposed  
7 to that it is an interesting program but it doesn't  
8 make any sense for Inmate A or Inmate B. So I'm  
9 trying to get a sense of does internal monitoring and  
10 evaluation of what goes on go on at that level as  
11 opposed to yes, we have the program; yes, it is  
12 running smoothly. Is my question clear?

13                   SHERIFF ASHE: Yes.

14                   The mental illness has been talked about a  
15 great deal here and I just wanted to again reinforce  
16 that, and certainly in the State of Massachusetts  
17 with the de-institutionalization that took place  
18 back, if you will, in the late seventies and early  
19 eighties is that a good nine to 10 percent, for  
20 example, of my population had severe mental health  
21 issues. So today I have 2,025 inmates and so I'm  
22 looking at a good 200 to 225 inmates have severe  
23 mental health issues and it is a crucial issue.

24                   First of all, putting the standards aside,  
25 what are we doing, for example, in trying to treat

1 that particular group. I can honestly say years ago  
2 that one would be decompensating, for example, in the  
3 facility and there would be little or no help that  
4 would be provided. If anything, they saw this as a  
5 behavior and disruptive issue. And, again, it has  
6 only been in the last 10 years that, if you will,  
7 there's been stepping up, if you will, from the  
8 legislators in terms of providing some services.

9           So the answer to your question is, first of  
10 all, is the leadership needs to identify that this is  
11 an important and significant issue and to develop  
12 strategies, and, of course, strategies in this case,  
13 as in every legislative group, there's always a group  
14 that's very interested in mental health and it is so  
15 important to bring that to their attention.

16           Our case in the State of Massachusetts is  
17 that we had the chairman of Ways and Means who  
18 recognized this as an issue and provided, if you  
19 will, X numbers of dollars so that we could obviously  
20 enter into a partnership with the behavior health  
21 network so that when an officer, for example, does  
22 see, for example, somebody decompensating in his  
23 podular living area, that he can notify the forensic  
24 services and they can send in a clinician to  
25 obviously assist and help. And so naturally the

1 first thing is that services are there. Of course,  
2 it is different degrees for different facilities.  
3 And then, plus, go back to the judge's point, that  
4 there is a standard there in terms of the services  
5 being provided and so on, not only internally because  
6 we do have standards teams that monitor what we're  
7 doing on a day-to-day basis, we provide not only just  
8 every three years the luxury of having ACA come in,  
9 but we have internal standards, people within our  
10 facility who are monitoring this on a day-to-day  
11 basis and bringing it to our attention when that  
12 standard is not being met, and so I just wanted to  
13 clarify that.

14 MR. LAPPIN: The answer to your  
15 question, at least in our system, is yes, but it  
16 varies on how depending upon the type of program you  
17 are looking at, but let's take mental health as an  
18 example that you mentioned.

19 The audit process would look at is every  
20 inmate screened as they come in the door and if  
21 screened and there's an indication of some type of  
22 mental health concern, suicide, so on and so forth,  
23 what then occurred that ensured that we provide  
24 adequate assessment and treatment and support to that  
25 individual. As that auditing comes in they're going

1 to step back over the last two or three years and  
2 look at it, what incidents that occurred that would  
3 reflect that maybe that didn't happen, did they have  
4 suicide attempts and, if so, what was the evaluation  
5 of what occurred, how did the staff manage it, so  
6 they do a case history on certain cases. But then  
7 they randomly look at the inmate population in a  
8 given institution to determine, first thing, are the  
9 basic policy requirements as far as review and  
10 evaluation being done at the onset of that person's  
11 period of incarceration and if an indicator is  
12 evident, how is that managed. And then, of course,  
13 you have inmates that may become ill after  
14 incarceration. How are those inmates identified, and  
15 if identified, how are they tracked, how is that  
16 managed, so they're looking at those types of  
17 specific steps on things like health care.

18           Let me take -- we're moving as well just  
19 like everybody else towards a more performance-based  
20 evaluation. There are some programs that are more  
21 conducive to that, so let's take the prison industry.  
22 Many of our prisons have industry programs. It is  
23 not just good enough for us to provide the program to  
24 keep inmates productive. That's certainly a good  
25 reason to do it and keep the prison safe but what

1 impact does it have. So we tie to that what's the  
2 impact of recidivism of an inmate working in an  
3 industry. Our research reflects an inmate who works  
4 in the prison industry for six months is about 24  
5 percent less likely to come back to prison and more  
6 likely to get a job. And so we've tried to do that  
7 for other programs, GED, getting a GED, getting a  
8 vocational training certificate, completing drug  
9 treatment. So in some programs that's more tied to  
10 what's the outcome, is this having an impact, rather  
11 than what are you actually doing even though there is  
12 a standard practice for most of those things. So,  
13 again, it depends on the program, but they do drill  
14 down if there's an indication there that there's a  
15 concern or area of weakness to try to determine what  
16 was the area of weakness and what needs to be done to  
17 correct that.

18 MR. WALL: Commissioner, I think that  
19 safety can be defined in a number of ways and  
20 certainly one is whether someone with special needs  
21 such as mental health issues is treated  
22 appropriately. As my counterparts have said, we do  
23 have standards, the National Commission on  
24 Correctional Health Care is very credible in that  
25 respect, we do audit for compliance with those

1 standards. Same in environmental health. Safety can  
2 be defined as is the institution sanitary. I should  
3 say that I also take the terms "safety" and "abuse"  
4 very literally because if inmates or, for that  
5 matter, staff don't feel protected from harm inside  
6 those institutions, protected, if they don't feel  
7 that their lives and their bodily integrity are safe,  
8 then nothing good can happen there, that's the  
9 foundation.

10 DR. DUDLEY: What I'm trying to ask is  
11 to the extent that you have in the federal prison  
12 system, for example, program options that might  
13 prepare you differently for the outside -- I  
14 understand what you are saying about demonstrating  
15 that program X has been helpful with regard to  
16 recidivism -- but as the question asks, how do we  
17 track persons to Program A versus Program B? In  
18 other words, would the outcomes be higher if did a  
19 better job of deciding who should get a GED program  
20 versus who should get factory, industry, and do we  
21 look at it at that level. Similarly with regard to  
22 the mental health programs, I understand what you are  
23 saying about the provision of treatment, providing  
24 mental health services and looking at the quality of  
25 services for those who are identified to be mentally

1 ill. I'm trying to understand how do we look at the  
2 question of whether we're in fact identifying people  
3 who are mentally ill. In other words, do we go back  
4 and see that, you know, are there people who through  
5 our risk assessment have ended up in a level of  
6 placement and that by review we realize that we  
7 ultimately missed; that they were, in fact, mentally  
8 ill and should have been tracked to the mental health  
9 system as opposed to a shoe, that's the kind of  
10 question I'm trying to understand.

11 MR. LAPPIN: I see that as a daily  
12 operational expectation. The bottom line is as well,  
13 if we miss people we're going to know because we're  
14 going to have people who go into either a health  
15 crisis or a mental health crisis, and we certainly  
16 monitor the number of suicides we have and see if  
17 there's a trend in a certain location or certain type  
18 of facility. But day in and day out, have we tied  
19 the appropriate treatment plan to an inmate's needs,  
20 it is not an easy task as I'm sure you all realize.  
21 We're making progress.

22 In that regard, we are piloting now a  
23 system to assist the inmates upon entry to identify  
24 what needs they might have and then that information  
25 gets carried over to the case managers who try to

1 encourage inmates to participate in those programs.  
2 Obviously with something as critical as health or  
3 mental health we're going to move that inmate in that  
4 direction, but let's take your example of the person  
5 being managed in seg versus in a hospital. One of  
6 our controls is that the warden and his executive  
7 staff will look at every single case in segregation  
8 every week and if there's an inmate in there who --  
9 and that team would include a psychologist and  
10 medical staff member so that we can say why is this  
11 person in segregation because you are right, those  
12 kinds of folks can fall through the cracks very  
13 easily. But one of our controls is you will look,  
14 you will know who is in seg and for what reasons and  
15 if we identify inmates who are there for mental  
16 health reasons, and maybe that's the right place for  
17 them given their situation, but even if they there,  
18 are they getting the appropriate treatment and care  
19 given that condition is an operational issue that  
20 occurs as part of the policy requirement and controls  
21 that we have in place to ensure those things are  
22 happening.

23                   SHERIFF ASHE: Doctor, certainly I know  
24 you are aware of the first 24 hours in terms of the  
25 assessment and the services being provided. I would

1 just also respond to the need too for continuing to  
2 work very closely with mental health, particularly as  
3 the person is reintegrating back into the community,  
4 and in that partnership equal responsibility in terms  
5 of dealing with these issues, that's all part, in my  
6 opinion, of the work that we have to do. And  
7 certainly, just as the director of the federal  
8 prisons has pointed out, is that certainly being  
9 human, professionally these aspects might be missed  
10 but I can assure you that they are picked up, if you  
11 will, in the pod living situations because we have a  
12 team that's providing this kind of services and so on  
13 inside.

14 MR. RIPPE: Thank you.

15 Judge Gibbons.

16 JUDGE GIBBONS: I understand that the Bureau of  
17 Prisons has 116 separate facilities. Does the Bureau  
18 of Prisons require that each of those facilities  
19 provide to it a morbidity report with respect to  
20 every death that takes place there?

21 MR. LAPPIN: Yes, we do.

22 JUDGE GIBBONS: Do they require a  
23 report with respect to every injury that takes place  
24 there?

25 MR. LAPPIN: There is a report for

1 every injury, again, that's reported to us that we're  
2 aware of. As far as deaths in the institution, we  
3 also have an outside consultant who comes in and  
4 randomly evaluates the inmate's situation leading up  
5 to that death and provides us outside --

6 JUDGE GIBBONS: The review of the  
7 morbidity and injury reports are random?

8 MR. LAPPIN: We do an internal review  
9 of all of them. We do have a contractor who comes in  
10 and can look at all of them if they want to, but  
11 typically they do a random evaluation of cases that  
12 they select.

13 JUDGE GIBBONS: Are these reports  
14 maintained in a central place in Washington?

15 MR. LAPPIN: I don't know exactly where  
16 they're maintained. My guess is there's probably a  
17 central location in the Health Services Division, but  
18 certainly it would be maintained at least with the  
19 inmate's file.

20 JUDGE GIBBONS: Is there public access  
21 to those records?

22 MR. LAPPIN: I have to check on the  
23 releasability given some of the health care  
24 privacies, but guess the person is deceased, it is  
25 probably releasable. I'd have to check.

1 JUDGE GIBBONS: And I suppose with the  
2 injury there might be privacy concerns.

3 MR. LAPPIN: There could be privacy  
4 concerns.

5 JUDGE GIBBONS: But with respect to the  
6 morbidity reports --

7 MR. LAPPIN: There's no privacy issue.

8 JUDGE GIBBONS: No privacy. And thus  
9 somebody wanting to make a study of the causes of  
10 death in the federal system would have a central  
11 resource to look at.

12 MR. LAPPIN: There would be a resource  
13 for them to look at.

14 JUDGE GIBBONS: Do you know of any such  
15 resource with respect to state institutions?

16 MR. LAPPIN: I'm not familiar enough.  
17 I have to defer to my colleagues.

18 SHERIFF ASHE: Certainly on a county  
19 level, as one can imagine, the seriousness of death  
20 obviously is reportable to the D.A. and the  
21 investigation takes place, et cetera, so there's no  
22 question about the accountability of that. So as far  
23 as major accidents that might occur in terms of  
24 injuries and so on, that's certainly reportable based  
25 on degrees but not every single one, there's not an

1 accountability of that other than internally within  
2 your own sheriff's department that we have there.

3 MR. RIPPE: A.T., did you want to  
4 respond?

5 MR. WALL: With regard to morbidity,  
6 yes, we too do reviews internally shared by our  
7 director of health services, but including people  
8 from outside the department. Those results are  
9 forwarded to the state medical examiner as well so  
10 that there is somebody conducting it there.

11 JUDGE GIBBONS: And available for  
12 public inspection?

13 MR. WALL: To my knowledge, no, unless  
14 the medical examiner would be willing to reveal them.  
15 However, if you are talking about research and  
16 analysis as opposed to the medical records  
17 identifiable to a specific individual, then the  
18 answer is yes.

19 JUDGE GIBBONS: Thanks.

20 MR. RIPPE: Dr. Gilligan.

21 DR. GILLIGAN: Both yesterday and today  
22 we have heard comments indicating that sometimes  
23 outside inspectors, say, independent of the  
24 institution or the correctional system coming in have  
25 been observed to precipitate crises or violence or

1 riots rather than to be helpful in preventing these  
2 things or bringing them to some kind of resolution.  
3 I was interested in getting more information on how  
4 that happens and what has gone wrong when that  
5 happens. And I say that, just take a moment, based  
6 on my own experience over some 30 or 35 years in  
7 having been involved in negotiations and a number of  
8 ongoing violent incidents in prisons; hostage taking  
9 incidents, riots, suicidal crises where an inmate  
10 threatened to jump from a tower, one incident where a  
11 correctional officer was psychotic and was holding  
12 the whole institution at bay with weapons. In all of  
13 these situations it turned out that the only way we  
14 were able to get these situations resolved really was  
15 with the help of people that came in who were  
16 independent of the institution or the correctional  
17 system. What the inmates in crisis were asking for  
18 was somebody to listen to their grievance who was  
19 outside the institution in which it occurred, so I  
20 was powerfully impressed with the degree to which  
21 people independent of an institution may serve to  
22 diffuse or bring to a close an ongoing violence  
23 crisis. But it is precisely because I think that can  
24 be so helpful, I would like to get your help in  
25 understanding more clearly what goes wrong when the

1 opposite happens, what should we know about or how  
2 should we train and supervise inspectors who are  
3 coming in to find out what's going on within a prison  
4 before there is an incident of this sort, before  
5 there is a riot or a hostage-taking or whatever, the  
6 desperate means of trying to get people's attention.

7           Maybe Mr. Wall, especially since you  
8 mentioned, you referred to one incident. I'm still  
9 interested in understanding in more detail what were  
10 the details, what were these people saying or doing  
11 that seemed to provoke violence on the part of the  
12 inmates.

13           MR. WALL: Certainly there are various  
14 kinds of situations in which outside intervention can  
15 occur. You are describing an acute episode of an  
16 individual crisis. Other types of oversight would be  
17 preventive in nature; somebody who simply sort of  
18 comes in and screens the operation. Then there are  
19 those which are exercises in response not to a  
20 particular crisis, but a systemic kind of crisis; the  
21 classification system has fallen apart, the health  
22 care system is inadequate, so on and so forth. And I  
23 think that you have to look individually at the  
24 nature of the need for outside oversight. One size  
25 can't fit all. There are times when it certainly has

1 proven helpful. There are also many times, by the  
2 way, where that kind of crisis resolves successfully  
3 from within; hostage-taking, suicide attempt,  
4 barricading one's self in a cell block. Those things  
5 are very often resolved very effectively within as  
6 well.

7           With regard to those cases where I think  
8 intervention can and has run amok, it really does  
9 depend on the skill, the knowledge, the  
10 professionalism, the savvy of the people who are  
11 invited in or who invite themselves in in the case of  
12 elected officials.

13           The situation that I described in the 1970s  
14 was one in which, again, the tenor of the times was  
15 to an openness, complete transparency to the  
16 detriment of security in some cases. And legislators  
17 became involved with inmate organizations and would  
18 come in, would host banquets within the institution,  
19 would invite inmates to come out of the institution  
20 escorted by them to testify. I mean, things that  
21 seem inconceivable to us now but those with long  
22 enough memories will recall when these kind of  
23 episodes occurred. My experience is that somebody  
24 who is naive can become seduced by the most powerful  
25 inmates in the system, the most articulate, the

1 heavies, the ones who put themselves forward, and  
2 their interests are not always the same as the  
3 welfare of the inmate population in general.

4           Similarly, there are cases where well-  
5 meaning people come in, solicit complaints from  
6 inmates, ask them what's wrong, and leave the inmate  
7 population to believe that they have the authority  
8 and the power to make things better. They, in  
9 essence, make promises that they can't keep and that  
10 is very -- these are people who have been betrayed  
11 over and over again and those kinds of betrayals are  
12 devastating and we end up reaping the consequences of  
13 those. Those are some examples.

14           MR. RIPPE: Margo.

15           MS. SCHLANGER: I have a question for  
16 Director Lappin but I don't mean to keep you from  
17 answering that first one first.

18           MR. LAPPIN: I will just go back.

19           I will agree with A.T. that although we  
20 have not had a lot of experience with that, I think  
21 folks coming in a little naive is a concern and,  
22 therefore, in those scenarios where we need to have  
23 outside assistance, we need to be more proactive,  
24 identify who those individuals are and work with them  
25 in advance, and let me use the example of, and the

1 only one that comes to mind right now is our  
2 emergency preparedness.

3           We know, we assume at most times we can  
4 handle most of those issues but you can't be  
5 absolutely sure. So in light of that, we get with  
6 the local law enforcement in those given areas, we  
7 see what other resources, the FBI, see what other  
8 negotiation resources, see what other critical  
9 incident teams are available, and our staff works  
10 collectively with them in advance in preparation and  
11 scenario planning and practice; one, so they learn  
12 about what to expect in the prison setting if in fact  
13 they have to come in and what not to expect. And so  
14 I think in any scenario, I think that would be wise  
15 so that we don't have someone coming in and  
16 committing, doing something that would be  
17 inconsistent with what we can actually do or  
18 accomplish because that in and of itself escalates  
19 the situation, but I think there's plenty of  
20 opportunity in advance of those things to occur to  
21 step back and look at who and then how we do we pull  
22 together and work through those.

23           MS. SCHLANGER: My question is about  
24 all of these different types of internal review and  
25 accountability that you talked about, and what I'm

1 really curious about is how much is it fair to expect  
2 from that kind of system and how much is too much to  
3 expect so let me tell you what's kind of prompting  
4 that.

5           We heard yesterday about some problems  
6 In Florence. We didn't hear in detail but we heard  
7 about the criminal prosecution of the correctional  
8 officers in Florence, and what I wondered when I then  
9 read your testimony was, is that the kind of thing  
10 that internal review ought to be catching or even did  
11 catch, I have no idea how that stuff came to light,  
12 or is it too much to expect that the internal review  
13 is going to catch these deep, deeply problematic but  
14 individual kinds of officer problems, is that the  
15 kind of thing that it is just not going to get that  
16 and there's going need to be a different system that  
17 gets that or is that the kind of thing that in your  
18 internal review can catch.

19           And then I had a question related to that  
20 which was I gather, again, from yesterday's  
21 testimony, that some reforms were instituted after  
22 all of that and I assume they weren't reforms that  
23 told people that they shouldn't, that told  
24 correctional officers not to beat up inmates, I  
25 assume that they were accountability reforms, and I

1 wondered which of the things you told us about was  
2 new and related to all of that and how that's all  
3 working.

4                   MR. LAPPIN: I can't say that one or  
5 the other might lend us to that information more so  
6 than not. In my experience as a warden I relied  
7 heavily on my own internal investigative unit at that  
8 prison and the staff and the inmates to each and  
9 every day give us insight into what's going on in the  
10 prison and that's what goes back to our best offense,  
11 in our opinion, and defense in running safe prisons  
12 is effective communication with inmates; that we're  
13 out there walking and talking each and every day,  
14 that staff at all levels from the warden right on  
15 down are accessible and there's a system of gathering  
16 that intelligence, it saves us each and every day.  
17 And my guess is that most of those issues evolve  
18 either from staff or inmates reporting those things  
19 to the leadership or it is working its way to the  
20 leadership whose obligation it is to report that.

21                   Granted, some of the things I've mentioned  
22 here could pick up on those, especially if we see  
23 some trends. We look at how do cell phones get in  
24 the prisons? They aren't getting mailed in. More  
25 than likely there's an employee bringing those things

1 in, so it is obvious based on that intelligence that  
2 there may be a problem tied to employees or employees  
3 who are not clearly meeting our expectations. And  
4 believe you me, we would like to have the best  
5 methods of selecting folks from the beginning and  
6 although we have good systems, we're not perfect and  
7 sometimes we hire people that we probably shouldn't  
8 have hired. Or as A.T. mentioned, when they get into  
9 that position the sense of control and authority  
10 changed them and they do things they shouldn't do.  
11 So I think for me, the character profile is an  
12 example. We are in there talking with staff and  
13 inmates. This is not an issue of is this program  
14 performing, this is a character profile. A cultural  
15 assessment is how effective is the leadership at that  
16 facility in gaining information from their staff and  
17 inmates, is there open communication, and in doing so  
18 we would glean, hopefully, insight into what someone  
19 may or may not be doing and you open an investigation  
20 and then you just like investigators do, they  
21 investigate, and we do as much as we can to prevent  
22 that from occurring or eliminating those folks from  
23 the facility. And the aftermath, and most of us have  
24 been there, we have had staff that have done things  
25 they shouldn't have done. I was just in L.A.

1 yesterday, you saw it in the paper. We had some  
2 correctional officers arrested for bringing in  
3 cigarettes and bringing in cell phones.

4           That impacts those employees there. The  
5 majority of those employees who are dedicated,  
6 hard-working public servants whose peers have  
7 deceived them, who some of those employees don't  
8 believe that could have happened, that the  
9 management, the administration is wrong, so there's a  
10 wealth of emotions that occur in that work unit and  
11 it is leadership's job to address those issues and in  
12 addressing those issues continue to train, continue  
13 to set the expectations, continue to put in place  
14 the, reinforce the standards that we have established  
15 across the board so that we have less of that and  
16 when we suspect it is happening, that people are  
17 forthcoming in telling us. So it is a combination of  
18 things but to me it is really -- that's why, again,  
19 it goes back to leadership, it goes back to the folks  
20 who are there day in and day out managing the staff,  
21 managing the inmates, the familiarity with their  
22 staff and their inmates. If we have a good job of  
23 that, we have less of those of issues. When we slip  
24 and don't we know quickly, then we step back and hold  
25 them accountable. And sometimes when those things

1 happen and we believe it shouldn't have happened we  
2 remove people we replace them with others that we  
3 think can perform at a higher level.

4                   SHERIFF ASHE: I just wanted to follow  
5 up. It was very well put in terms of the  
6 accountability.

7                   Again, I think when you are looking at the  
8 warehousing/custodial kind of concept versus  
9 corrections, this is what lends itself, if you will,  
10 to incompetence and unprofessionalism. And, again,  
11 any correctional facility that, again, it is  
12 highlighting; for example, challenging, placing  
13 demands on inmates, this is something that is very,  
14 very important and significant and was highlighted  
15 earlier about the walking and talking aspect of your  
16 leadership team and the standards that are being set  
17 forth and so on in terms of this aspect is crucial.

18                   MS. SCHLANGER: So when you see a  
19 serious problem like that and there was a moment  
20 before you knew about it and now there's a moment  
21 that you know about it, is one of the things that you  
22 do to think about how you missed it before you saw  
23 it? I mean, in other words, do you audit the  
24 auditing, or is that sort of too metaphysical and we  
25 just don't do that?

1                   MR. WALL: I think any good system has  
2 after-action reviews. You are talking about various  
3 forms of accountability. One is auditing and  
4 reviewing records, those are prophylactic and  
5 diagnostic, and then you have an investigation when  
6 something happens that wasn't detected, that wasn't  
7 detected before it ripened into abuse, and in those  
8 cases, yes, clearly the investigative process is the  
9 key, you have to have multiple channels for  
10 reporting, so there are a variety of ways that what  
11 happens in there can get up to you or to the level of  
12 the person who can take action. You have to have a  
13 credible investigative process, a very aggressive  
14 one. And as I said before, there absolutely has to  
15 be proportional consequences, serious consequences.  
16 That's when people know you mean it.

17                   Finally, you must have an after-action  
18 review, you've got to analyze what went wrong, what  
19 could have been done differently, why things happened  
20 as they did.

21                   MR. LAPPIN: We would like to do a  
22 better job of knowing in advance when those things  
23 happen and certainly some of the controls that we put  
24 in place -- I was a warden who was on the receiving  
25 end of those controls -- and it was basically an

1 assessment of your leadership and your ability to  
2 understand the staff and the inmates and it is a bit  
3 intimidating. And I have also been the giver of  
4 those. I have gone out and it is hugely resourceful  
5 for the first person overseeing those prisons and  
6 those wardens because those are the types of issues  
7 you get to in advance of that. Your staff are  
8 telling me, the inmates are telling me, and I tend to  
9 believe that that's an issue here and it is really a  
10 heart to heart between the person who supervises that  
11 work on what needs to be done in advance of there  
12 being a critical situation.

13 MR. RIPPE: Gentleman, on behalf of  
14 Judge Gibbons, the commissioners and everybody here  
15 present, we want to thank you for a very insightful  
16 and most useful panel in the work of the commission.  
17 Thank you very much.