
Committee Meeting

of

SENATE LAW AND PUBLIC SAFETY COMMITTEE

“The Committee will hear testimony from invited guests concerning the results of the investigation of the Edna Mahan Correctional Facility for Women by the United States Department of Justice, and discuss the causes and consequences of sexual abuse at the facility”

The following bill will be considered:

Senate Joint Resolution No. 79

LOCATION: Committee Room 4
State House Annex
Trenton, New Jersey

DATE: May 12, 2020
10:00 a.m.

MEMBERS OF COMMITTEE PRESENT:

Senator Linda R. Greenstein, Chair
Senator Joseph P. Cryan, Vice Chair
Senator Nia H. Gill
Senator Nicholas J. Sacco
Senator Anthony M. Bucco
Senator Declan J. O’Scanlon, Jr.



ALSO PRESENT:

Senator Loretta Weinberg
Senate Majority Leader

Wendy S. Whitbeck
*Office of Legislative Services
Committee Aide*

Alison Accettola
*Senate Majority Office
Committee Aide*

Sarah Fletcher
*Senate Republican Office
Committee Aide*

This transcript was prepared using an outside recording not designed for transcription purposes. Therefore, portions of this transcript may not be completely accurate as portions were inaudible and/or indiscernible.

Meeting Transcribed by
The Office of Legislative Services, Public Information Office,
Hearing Unit, State House Annex, PO 068, Trenton, New Jersey

Linda R. Greenstein
Chair

Joseph Cryan
Vice-Chair

Nia H. Gill
Nicholas J. Sacco
Anthony M. Bucco
Declan J. O'Scanlon, Jr.



Wendy S. Whitbeck
Amanda D. Holland
Office of Legislative Services
Committee Aides
609-847-3870
Fax 609-777-2715

NEW JERSEY STATE LEGISLATURE

SENATE LAW AND PUBLIC SAFETY COMMITTEE

STATE HOUSE ANNEX • P.O. BOX 068 • TRENTON, NJ 08625-0068
www.njleg.state.nj.us

COMMITTEE NOTICE

TO: MEMBERS OF THE SENATE LAW AND PUBLIC SAFETY COMMITTEE

FROM: SENATOR LINDA R. GREENSTEIN, CHAIRWOMAN

SUBJECT: COMMITTEE MEETING - MAY 12, 2020

The public may address comments and questions to Wendy S. Whitbeck, Committee Aide, or make bill status and scheduling inquiries to Marybeth Webster, Secretary, at (609)847-3870, fax (609)777-2715, or e-mail: OLSAideSLP@njleg.org. Written and electronic comments, questions and testimony submitted to the committee by the public, as well as recordings and transcripts, if any, of oral testimony, are government records and will be available to the public upon request.

The Senate Law and Public Safety Committee will meet remotely on Tuesday, May 12, 2020 at 10:00 AM in Committee Room 4, 1st Floor, State House Annex, Trenton, New Jersey.

Due to the public health emergency, the State House Annex remains closed to visitors and the public will not be allowed to attend the meeting in person. The committee will take oral testimony on bills, by telephone and/or video, limited to three minutes. If you are interested in testifying orally, you should fill out the SLP Committee Registration Form located on the NJ Legislature home page. The form must be submitted by 3:00 PM on 5/11/20. Committee contact information will be forwarded to you.

The public is encouraged to submit testimony electronically in lieu of oral testimony. Written testimony will be included in the committee record and distributed to the committee members. Written testimony should be submitted to: OLSAideSLP@njleg.org.

The committee will hear testimony from invited guests concerning the results of the Investigation of the Edna Mahan Correctional Facility for Women by the United States Department of Justice and discuss the causes and consequences of sexual abuse at the facility.

(OVER)

The following bill(s) will be considered:

| | |
|---|---|
| SJR-79 Greenstein (pending intro and referral) | Creates commission to study sexual assault, misconduct, and harassment by staff against inmates in State correctional facilities. |
|---|---|

Issued 5/5/20

For reasonable accommodation of a disability call the telephone number or fax number above, or for persons with hearing loss dial 711 for NJ Relay. The provision of assistive listening devices requires 24 hours' notice. CART or sign language interpretation requires 5 days' notice.

For changes in schedule due to snow or other emergencies, see website <http://www.njleg.state.nj.us> or call 800-792-8630 (toll-free in NJ) or 609-847-3905.

SENATE LAW AND PUBLIC SAFETY COMMITTEE

STATEMENT TO

SENATE JOINT RESOLUTION No. 79

with committee amendments

STATE OF NEW JERSEY

DATED: MAY 12, 2020

The Senate Law and Public Safety Committee reports favorably and with committee amendments Senate Joint Resolution No. 79.

As amended and reported by the committee, Senate Joint Resolution No.79 establishes the "Commission to Protect New Jersey Inmates from Sexual Assault and Sexual Misconduct" to research issues concerning the sexual victimization of inmates by correctional police officers, employees, contractors, and volunteers in this State's correctional facilities.

The 17-member commission is to be comprised of two Senators from different parties and two members of the General Assembly, also of different parties, as well four ex officio members or their designees, including the Commissioner of Corrections, the Attorney General, the Director of the Division on Women, and the Public Defender. The nine public members that are to be appointed by the Governor are to include: a former inmate of the Edna Mahan Correctional Facility for Women, a victims' rights advocate, a representative of an organization that defends civil rights or promotes social justice, a faculty member of a college or university located in this State with expertise in women's issues, a representative of a collective bargaining unit representing correctional police officers, a representative of the New Jersey Coalition Against Sexual Assault, a person with expertise on the federal Prison Rape Elimination Act of 2003 (PREA), a representative of a Quaker organization promoting lasting peace with justice, and a representative of an organization working for racial, social, and economic justice, as well as greater unity in the community.

The joint resolution specifically directs the commission to:

(1) assess the degree of a facility's compliance with the provisions of the PREA, including the PREA audit process and whether these audits should be unannounced, and determine how current standards can be strengthened to further protect the inmates from sexual assault and sexual misconduct;

(2) ascertain the current policy and procedures for investigating allegations of crimes and offenses by an inmate of sexual assault, sexual misconduct, and other criminal acts by correctional police officers, other staff members, contractors, and volunteers including the

current means of reporting these allegations and whether they should be reported to a neutral third party that is not an employee of the Department of Corrections (DOC); the parameters governing the investigation of the complaint and how it is determined if an allegation is substantiated or unsubstantiated and whether the Special Investigations Division (SID) of the DOC can fairly and impartially conduct these investigations; whether the inmates' due process rights are being protected during the investigation; how the facility prevents retaliation by a DOC employee against whom there is an allegation of sexual misconduct and whether the employee is or should be suspended, either with or without pay; and whether an inmate is receiving adequate services to deal with the trauma resulting from the sexual misconduct;

(3) explore the feasibility of increasing the female to male staff ratio in Edna Mahan Correctional Facility for Women and determine if the current policy governing cross gender searches and surveillance should include further protections for inmates;

(4) consider whether it would be appropriate to establish a citizen oversight board to monitor a facility;

(5) research the availability of additional training and technical assistance from the PREA Research Center;

(6) consider issues concerning the sexual victimization of inmates by correctional police officers, employees, contractors, and volunteers in this State's correctional facilities for males;

(7) study any other issue it deems relevant to enhance the safety and security of inmates in State correctional facilities.

The commission is required to organize within 30 days of the appointment of its members. The commission is to select a chairperson from among its members. Seven members of the commission would constitute a quorum for the transaction of business. Members of the commission are to serve without compensation, but they are to be reimbursed for necessary expenses incurred in performing their duties for the commission.

The commission is required to issue to the Governor and the Legislature a preliminary report of its findings and recommendations six months from the commission's organizational meeting and a final report, including legislative proposals, within one year of the meeting. The commission would expire upon submission of the final report, unless it deems further deliberations are necessary, in which case it may be extended for two subsequent periods of six months.

Based on past and present criminal convictions, pending criminal charges, and civil lawsuits against Edna Mahan staff and the DOC, it is fitting and proper for the Legislature to establish a commission to identify the causes and consequences of sexual assault in Edna Mahan, as well as in correctional facilities for male inmates in this State, and analyze current DOC policy and procedures to determine how they can

be modified to improve the safety and well-being of these incarcerated inmates.

COMMITTEE AMENDMENTS:

The committee amended the preamble section of the joint resolution to reflect recent information concerning criminal charges and convictions, as well as reference the United States Bureau of Justice report on sexual abuse at Edna Mahan.

TABLE OF CONTENTS

| | <u>Page</u> |
|---|-------------|
| Brenda V. Smith, J.D.. Professor, and Senior Associate Dean Faculty and Academic Affairs, and Project Director The Project on Addressing Prison Rape Washington College of Law American University | 6 |
| Eric Rico Dean's Fellow Washington College of Law American University, and Law Clerk Public Defender Service District of Columbia | 33 |
| Patricia Teffenhart Executive Director New Jersey Coalition Against Sexual Assault (NJCASA) | 46 |
| William Sullivan President New Jersey Police Benevolent Association (PBA) Local 105 | 61 |
| Frank M. Crivelli, Esq. Counsel New Jersey Police Benevolent Association (PBA) Local 105 | 62 |
| Adrian B. Ellison President Fraternal Order of Police (FOP) Lodge 174 | 79 |
| Bonnie Kerness Program Director Prison Watch American Friends Service Committee (AFSC) | 99 |

TABLE OF CONTENTS (continued)

| | |
|---|-----|
| Rick Robinson Chair Criminal Justice Committee Newark Unit NAACP New Jersey State Conference | 101 |
| Lydia Thornton Prison Reform Advocate | 102 |
| APPENDIX: | |
| Testimony submitted by Brenda V. Smith, J.D. | 1x |
| Testimony submitted by Patricia Teffenhart | 13x |
| Testimony, plus Exhibits, plus Statement of Position of the Fraternal Order of Police Lodge 174 New Jersey Investigators Association, plus Correspondence submitted by Adrian B. Ellison | 16x |
| Testimony submitted by Bonnie Kerness | 81x |
| Testimony, plus attachments submitted by Rick Robinson | 83x |
| Testimony submitted by Lydia Thornton | 87x |

TABLE OF CONTENTS (continued)

APPENDIX (continued)

| | |
|--|------|
| Investigation of the Edna Mahan Correctional Facility for Women Union Township, New Jersey submitted by United States Department of Justice Civil Rights Division United States Attorney's Office District of New Jersey | 91x |
| New Jersey Department of Corrections Response to DOJ Report on Edna Mahon Correctional Facility for Women submitted by Marcus O. Hicks, Esq. Commissioner Department of Corrections State of New Jersey | 122x |
| Letter, dated October 16, 2019, addressed to Senator Linda R. Greenstein from Marcus O. Hicks, Esq. Acting Commissioner Department of Corrections State of New Jersey | 123x |
| Testimony, plus attachments submitted by Jean Ross, Esq. Representing People's Organization for Progress | 127x |

pnf:1-107

SENATOR LINDA R. GREENSTEIN (Chair): We're ready for roll call.

MS. WHITBECK (Committee Aide): Senator O'Scanlon.

SENATOR O'SCANLON: Here.

MS. WHITBECK: Senator Bucco.

SENATOR BUCCO: Here.

MS. WHITBECK: Senator Sacco. (no response)

Is Senator Sacco with us?

SENATOR GREENSTEIN: I don't think so, but I'm not sure.

MS. WHITBECK: He's listed, but I don't see him. Okay, we'll go back to him.

Senator Gill.

SENATOR GILL: Here.

MS. WHITBECK: Senator Cryan.

SENATOR JOSEPH P. CRYAN (Vice Chair): Here.

MS. WHITBECK: And Senator Greenstein.

SENATOR GREENSTEIN: Here.

MS. WHITBECK: Senator, you have a quorum.

SENATOR GREENSTEIN: Thank you.

Are we ready, folks?

MS. WHITBECK: You can start the hearing whenever you like.

SENATOR GREENSTEIN: Okay, thank you.

I also want to say before we start that this may eventually be transcribed. So when people speak, if you can just say your name; just your last name is fine. Just mention your name, and then say what you're going to say so they know who's speaking.

Okay, I'm going to start with an opening statement.

We're gathered here, for the second time in just a little more than two years, to revisit the horrific situation that has come to light at Edna Mahan Correctional Facility for Women in Hunterdon County. This situation is the sexual assault and abuse of inmates by duly-sworn correctional officers.

We invited the Department of Corrections to participate in this hearing, but they declined, citing, as they said, ongoing litigation with Department of Justice.

In April, the U.S. Department of Justice, Civil Rights Division and the U.S. Attorney's Office for the District of New Jersey provided notice, pursuant to the Civil Rights of Institutionalized Persons Act, that there was reasonable cause to believe that conditions at Edna Mahan violate the 8th Amendment due to sexual abuse of prisoners by staff. From October 2016 to November 2019, five corrections officers and one civilian employee were convicted or pled guilty to the sexual abuse of 10 women.

Long-standing problems with staff sexual abuse has been documented for decades. One judge said a pervasive culture at Edna Mahan allowed corrections officers to abuse their positions of authority.

The major findings of the Department of Justice report are, one: failures in policies and practices that discourage reporting of sexual abuse. Victims who report are often subject to harsh and isolating conditions. There are inadequate policies for monitoring against retaliation, and prisoners are unaware of their rights to report incidents of retaliation.

Two: Response and investigation of allegations of sexual abuse are inadequate.

Now, most of this is about the SID Division, which is the Investigative Division; and we do have a representative here who will refute some of these things. But this is what the report says. It's very negative on SID. SID conducts insufficient investigations, according to the report. SID investigators do not apply the proper standard of proof. PREA standards say that they are to use no standard higher than preponderance to determine whether allegations are substantiated, but they use a higher standard so most allegations are not substantiated. That's the reason why we'll see lots of reports of problems; very few reports say that anything has been substantiated. They use the wrong standard of proof.

Conclusions of SID investigations are insufficient to provide direction on corrective action. SID fails to investigate adequately. There are delays in conducting timely investigations. They are not independent or unbiased, and they have insufficient training. And finally, there's a lack of confidential reporting which discourages prisoners from reporting.

Point three: Edna Mahan fails to ensure a reasonably safe environment. They have a failure to secure their physical plant -- the way they're physically set up with a lot of cottages, everything is spread apart -- that causes a lot of problems, because there are a lot of areas where people can go and essentially hide.

There are plans for comprehensive camera coverage, but they never seem to have adequate staff monitoring of the cameras, or plans to increase the number of staff. That means that there are lots of cameras, but they're either not focusing on the areas where they need to focus, or they're not being watched; and so incidents continue to take place.

Lack of security allows staff to bring contraband into the facility, and staff deployment puts prisoners at risk of harm. There's inadequate supervision of inmates, they don't deploy staff to observe and secure areas where abuse can occur, and they need to create more gender-specific posts to protect inmate privacy.

Point four: Officials at Edna Mahan know, and knew, of the risk to prisoners from the staff, and they disregard it.

Due to multiple indictments, civil suits, and a 2005 Third Circuit opinion, Department of Justice found that Department of Corrections was aware of the problem but failed to take reasonable measures to prevent it from continuing. Edna Mahan has set up a system that deprives the Administration of the detail of incidents of sexual abuse and harassment. Neither the PREA Compliance Manager nor the Edna Mahan Administrator have access to SID investigative reports or case files. And I want to repeat that; that is a very important point. They're saying that the very people who run the institution do not have access to reports and files. There's a lot of lack of communication there.

And the last point: Department of Corrections and Edna Mahan failed to remedy systemic deficiencies that enables sexual abuse to persist.

Although the Department of Corrections has said that it has taken steps -- and we'll talk about some of them later -- it was found that many of their initiatives are incomplete or lack acceptance at the facility level. For example, there are expanded gender-restricted posts, but not enough female officers to staff them. They expand the cameras, but they don't have proper monitoring of the cameras.

And recommendation are often disregarded. For example, it was asked that several SID investigators be recused because they had a personal relationship with the staff that they're investigating; and that was not followed.

And very, very briefly, I did receive a letter in October from the Commissioner -- he's not here today to talk about it, which would have been great -- but he talked about some of the kinds of things that they're doing. And unfortunately, we don't have anyone to help us evaluate if these are really working. For example, he instituted something called a *SAFE Task Force*, which stands for *Safety and Accountability for Edna*. That Task Force is supposed to be overseeing everything, and we don't have any sense of how accountable it is. Lots of videos, and posters, and other information that they say is put around for the prisoners to look at. They've appointed a few new people, like a director-level staff member and PREA Coordinator, who tour weekly; a new PREA Liaison has been appointed, who is an Assistant Superintendent, tours regularly. Hotlines of various kinds, which is very important. Because one of the issues is whether people really feel safe using the hotlines.

They have various ways to report abuse. The Office of the Ombudsman; the SID, or Special Investigations Division. There's a third-party dedicated hotline, and they have something called *JPay*, an inmate self-help kiosk system.

So all of these are ways they can report. It isn't clear they feel safe.

And so those are some of the major things that they're talking about, that they say they're doing. Again, I'm sure they're incomplete, and I'm sure that -- we don't have any real way to evaluate them at this point.

So that, at least, gives you a little bit of the other side of the issue, and there's a lot to talk about here.

And I want to ask if anybody else wants to make a brief opening statement. (no response)

Okay; I don't see anyone wanting to do that.

So I will start with our guest Brenda Smith, who is a Dean and a Professor at American University College of Law. She testified two years ago. She is a national expert on this topic, and she will tell us about her background and some of her thoughts on this.

P R O F E S S O R B R E N D A V . S M I T H , J . D . :

Good morning, everyone.

SENATOR GREENSTEIN: Hello.

PROFESSOR SMITH: First, thank you, Senator Greenstein, for inviting me back.

As you know, I have a very long interest in this issue; and, in fact, even though I'm from Florida -- which is really an outpost of New Jersey (laughter) -- given that I have been to New Jersey and actually have testified before, I'm thinking of changing my citizenship and moving to New Jersey.

But honestly, even though this is a very serious situation, I am happy that you asked me back. Because, as you know, this is actually my life's work. Yes, I am a Professor at the Law School; however, I was appointed to the National Prison Rape Elimination Commission in 2003 by then-House Majority Leader Nancy Pelosi. I served in that capacity until 2013, when the

Prison Rape Elimination Act standards were finalized. And as Senator Greenstein indicated, I was invited to testify before the Committee two years ago.

I also want to introduce my research assistant Eric Rico, who is second-chairing me, and I thank him for being there.

And when I came two years ago, I testified about the pervasive problem of sexual abuse at the Edna Mahan facility. I also, after my oral testimony, provided my written testimony -- which I will also do this time as well, because I think that there's information that will be of use to the Committee.

About two months after that hearing in February of 2018, the Department of Justice notified New Jersey of its intent to open an investigation of the situation that existed at Edna Mahan. And again, I want to applaud you for the work that you did two years ago, because it created the conditions to be where you are at this point. And information is actually knowledge.

I was asked by the Committee to come back today to discuss the April 7, 2020 CRIPA notice, issued by the Department of Justice, and to make some recommendations, perhaps, for going forward.

I'd also say that I appreciate, if people have questions as I go along, to actually write them down and then I'm more than happy to answer those questions if I can.

As Senator Greenstein indicated, I have a long history in working in this area. In addition to serving as the Senior Associate Dean for Faculty and Academic Affairs at the American University Washington College of Law, I also testify today as the Director of the Project on

Addressing Prison Rape, which I founded in 1998. And that program was actually a successor to a program that I had founded at the National Women's Law Center, which was called the Women's Education and Empowerment Series.

I talk about that today because that was actually a program that I ran at the Lorton Minimum Security Annex, which was an old army barracks that was repurposed as a minimum security prison in Virginia for women serving sentences of more than a year. And so while I also speak as a Commissioner, I also speak as someone who spent over 30 years working directly with women in custody, and I want to share some of my insights from that.

So for example, talking about the prison at Lorton. Like many states, even though D.C. is not a state, the Lorton Minimum Security Annex was the only prison for women. Like Edna Mahan, it was also plagued by problems that were similar to the ones that were outlined in the report of the U.S. Department of Justice and the U.S. Attorney for New Jersey: sexual abuse of women in custody, poor investigations, few prosecutions, inadequate human resources responses, inadequate and inappropriate staffing and supervision of the women, few programs for women, and few services for survivors of sexual victimization.

I served as Class Counsel in litigation against the D.C. Department of Corrections. That case was called *Women Prisoners v. D.C.*, and it was filed -- a case that was filed in 1993. It was resolved in 1994; it was Federal litigation, and it was monitored until 2003.

So what I'm sharing today is that the conditions that existed at Lorton that are similar to the conditions that exist right now at Edna Mahan, resulted in Federal litigation and monitoring for over a decade.

I also share that history -- and I'm sharing that history to forecast the potential trajectory for Edna Mahan unless it takes significant action. If the State of New Jersey doesn't find a way to remedy the long-standing problems related to providing humane and constitutional conditions to women in its custody, it will find itself in the same situation as the women's prison in D.C., which was monitored by the court and by lawyers. And that's really not a place that I think anyone wants to find itself in.

I also want to point to the same conditions that existed for the Julia Tutwiler Prison for Women in Alabama, which has been under the supervision of the U.S. Department of Justice, pursuant to a CRIPA investigation similar to the one that has occurred in New Jersey. Tutwiler has actually been under supervision now for five years because of its failure to improve the conditions of confinement and ensure safety for the women under its care as outlined in the CRIPA report.

So today, New Jersey has an opportunity to learn from D.C.'s former women's prisoners and from Tutwiler to put policies, procedures, and practices into place for the concerns that were raised in the report.

What I want to do is, I want to go briefly through the report, if I may. Briefly stated, the report found that the systemic failures and Edna Mahan's policies and practices discourage the reporting of sexual abuse, do not provide an adequate response to an investigations of allegations of prisoners' sexual abuse, and result in inadequate supervision that provides opportunities for further sexual abuse.

The CRIPA notice further outlined issues that the New Jersey Department of Corrections either knew or should have known about that contribute to this dangerous state of affairs. And I think that language is important: *knew or should have known*, because that is also a legal standard that relates to liability for civil rights abuses.

First, the report noted a pervasive pattern of sexual abuse of female inmates, primarily from male staff.

As Senator Greenstein indicated, from October to November of 2019, five Edna Mahan correction officers and one civilian employee were convicted or pled guilty to charges related to sexual abuse of more than 10 women under their watch.

What I think is also important is that the press that has related to that has a way of diminishing the confidence in the Department of Corrections, and that is also not a good thing.

A second problem: Problems monitoring and preventing sexual abuse, which to our knowledge are still pervasive at Edna Mahan. This is what the report talked about. They talked about the 1913 physical plant which prevented actual detection. That physical plant offered numerous blind spots from cameras and supervision sightlines.

There were also dilapidated and unused buildings throughout the compound, and staff did not know who had the keys or access to some of those buildings.

These are just a few of the things that they noted.

The report talked about the refusal to change policies to better monitor and prevent sexual abuse. For example, the staff balked at the idea of getting permission from the Shift Lieutenant before removing a woman

from her cell during count because it could possibly delay mealtime. Removing women from cells during count is a known opportunity for sexual abuse, okay?

Also, I think Senator Greenstein alluded to that; but at the time of the report, the New Jersey Department of Corrections did not require recusal of SID investigators who had personal relationships with the staff that they were investigating.

The Department of Justice also noted a code of silence that existed, where Edna Mahan officers were unwilling to speak out against other officers for fear of retaliation. And some officers were actually involved actively in concealing this conduct.

Again, another red flag: contraband brought in by staff. The security lapses at Edna Mahan allowed staff to bring contraband into the facility, which contributes to a coercive environment and gives rise to misconduct.

I will just do the top -- you know, sort of the headlines for the others.

An environment that was built on discouraging reporting of abuse. These are not my words; these are words from the findings. There was a sense that women felt that they were punished if they reported. So for example, when a prisoner reported an incident of sexual abuse, the person who reported was immediately taken out to the Medical Unit for physical examination in handcuffs and shackles, scanned by body orifice security scanner, searched for contraband, strip-searched, and taken to the temporarily closed Custody Unit. If that was the case, that really doesn't encourage anyone to actually want to report.

One of the other problems with this, is that when people are placed in what typically is seen as segregation, it also limits their opportunities to participate in programs which, in many instances, can reduce the amount of time they serve.

Again, other issues: the lack of confidentiality in reporting. Senator Greenstein has already talked about the JPay system, which are actually terminals within the Edna Mahan housing unit near prisoner telephones, and where prisoners congregate, and the lack of confidence in the confidentiality of those.

There were also concerns about custody staff reviewing the grievances; that again, another place where there was a lack of confidence.

The SID hotline calls are recorded, and the SID staff reported instances in which supposedly confidential information would get back to the grounds, indicating a breach of privacy.

The fear of retaliation. We can talk about that later, but obviously when someone is in custody, there is a fear that they will be retaliated against in terms of recommendations regarding their release; being taken out of assignments where they can make money; or, as I indicated before, being placed in what actually constitutes segregation.

I won't go into the investigation of sexual abuse that the Department of Justice found; and I'm happy to answer those questions when we get to a Q and A.

I think another area that is also important is the inability to review any past instances and to make substantive changes to prevent future abuse. The Department of Justice observed that there was not a Sexual Assault Review Team to actually look back and to figure out what you could

learn from some of the past incidents. The PREA Compliance Manager and Administrator, which would be the warden, did not have access to any investigation files -- just findings or e-mail. In fact, they had no factual information for which to design and implement corrective actions to prevent future abuse.

And then, also, in terms of staffing issues. There was a finding that the staff were insufficiently deployed in housing units to prevent sexual abuse from occurring. One male officer supervised 50 women in a building with two floors, an attic, and a basement -- and spotty camera coverage.

Obviously, there's a need for more female-designated posts.

Where I want to end is -- I want to end on recommendations.

And I apologize for speaking so quickly and so densely, but I know that there are a lot of people here, and there are other people who are testifying. I just want to get this out here, and then really be available for questions.

I want to end with my recommendations.

I won't repeat the minimal remedial measures that were listed by the Department of Justice. And I also recommend that the Committee consider the following.

First of all, I recommend that the Committee consider decarceration. As of January 2020, there were 555 women at the Edna Mahan facility. While not an overcrowded facility, fewer women incarcerated there would obviously decrease the opportunities for women being sexually abused while incarcerated. Thirty-five percent of women incarcerated at Edna Mahan are there for nonviolent offenses. And in the Alabama situation, Alabama DOC found that at Tutwiler many women's

custody levels were historically over-classified due to a reliance on classification instruments and processes designed for male prisoners. So to look at the classification process.

Also, I'd note that given the COVID-19 crisis, and given the second death of a woman at the facility due to COVID-19, and the rising prevalence of the pandemic at Edna Mahan and prisons across the country, the State should step up its efforts to release incarcerated persons to lesser forms of confinement.

Second, I'd like to mention independent oversight of Edna Mahan Correctional Facility. At Tutwiler, a court-appointed monitor does monitoring visits, op review, and a report every six months. Rather than waiting for a monitor to be appointed under a settlement with the Department of Justice, the New Jersey DOC might want to consider having its own monitor for Edna Mahan, such as an identified person with an independent Ombudsman Office who can act in such a capacity. It could also hire a consultant to monitor Edna Mahan to make it more independent and set up the process. But I think that assigning someone within the Ombudsman Office could be more permanent, given that they are already funded.

Finally, there is another piece of legislation, which is called the *Dignity for Incarcerated Primary Caretaker Parents Act*, and it strengthens the office of the corrections Ombudsman, allowing this office to conduct unannounced inspections, investigate complaints, and ensure compliance with laws and policies governing the treatment of prisoners. New Jersey may consider employing this Act to hire a staffer assigned to monitor Edna

Mahan, along with advisory committee members who were formerly incarcerated there.

And I think the other thing that I would say is staffing. I'm not going to talk at length about that, but certainly having more female staff, increasing female-only posts-- I understand that it's a challenge to (indiscernible) more women to adult corrections, but New Jersey can learn from the progress made by other agencies. And I'm happy to talk about that in the Q and A.

Training and technical assistance -- and I suggest this because-- I think that it's important to have training not just to acknowledge PREA or the policies, but actually to actualize them, and actually to make sense, and make sure that they make sense for how the Edna Mahan is constructed. There are many, many resources -- free -- from the Department of Justice for technical assistance and training. And I would suggest that the New Jersey Department of Corrections apply for them, and I think that its application would be seen favorably.

And finally, in terms of what I think the Commissioner should think about doing -- even though, of course, I have no authority over the Commissioner -- finally, it's to plan; to think about people who should not be incarcerated. And certainly COVID-19 plays a role in this. Contracting for TTA, improving staffing and monitoring, and also finding funding for training and technical assistance, increasing salaries and cameras.

That's a long laundry list, and I hope that I've given you some food for thought. And I look forward to further discussion about this in this hearing, or either at a later time.

SENATOR GREENSTEIN: Thank you so much, Professor Smith. We really appreciate the testimony and just the benefit of your knowledge.

I do want to announce, also, that we have at the hearing -- besides our regular members, we have Majority Leader Senator Weinberg here. So we're very glad to have her. She is another expert on this type of topic, and certainly we're really glad to have her.

Senator Weinberg, would you like to start with the questioning? Do you have questions?

SENATOR WEINBERG: Thank you very much, Senator Greenstein. Thank you for including me in this hearing.

And I join you in expressing regrets that the Commissioner of the Department of Corrections is not here with us, because he could answer some of these questions.

And thank you, Professor Smith, for going through the report. I read the report, and I appreciate your comments.

I have really one question, because in my interchanges with Commissioner Hicks, he's talked quite a bit about something called the *Board of Trustees*, which is an all-women membership at Edna Mahan prison. But I'm very unclear about what their responsibilities should be. They are appointed by the Commissioner, I believe. And they do have scheduled meetings, according to the website, but the meetings are not public.

So I'm wondering if you could give us any input into this Board of Trustees and what their role should be there.

PROFESSOR SMITH: Okay.

One of the things that's interesting, and is actually sort of a little bit of an artifact of women's prisons, is prisons were started by Quakers or people who were interested in doing uplift for what they saw as fallen women, or women who were not meeting their expectations in the community. And so often they have been -- for many of the women's prisons they had similar Boards of Trustees that would provide books or materials for women.

In many ways, their power has been diminished. And so I think that the Board of Trustees -- I mean, what I would do is I would look at what their statutory authority is. Are they allowed to go in and do unannounced visits? Do they testify before this Committee or before the Legislature about the needs of women in custody? And so I think often they can end up providing -- being more ceremonial than actually having any power to do anything. But they could be an important resource.

Does that answer your question?

SENATOR WEINBERG: Yes, what you're describing almost sounds like a women's auxiliary, right now, to help handle extra toiletries for women prisoners -- that kind of thing. And they are a pretty high-powered group, according to what I read online. I mean, there are lawyers and some advocates on there. Is this something that, in your experience, you would suggest that we give more power to, in the way in which you just outlined it?

PROFESSOR SMITH: You know what? Yes. I mean -- but again, I think that it's important for even those people to have training and authority. You guys have a lot -- not you guys; again, I should move to New Jersey, right? (laughter)

SENATOR WEINBERG: You're welcome to come, by the way.

PROFESSOR SMITH: Thank you.

SENATOR WEINBERG: I see Senator Gill smiling. She and I will be your welcoming committee. (laughter)

PROFESSOR SMITH: You have ombudsmen. You certainly have the Department of Justice now. I think that these high-powered women -- these people who are serving on this Committee could be empowered to actually be another important force in terms of advocating for better treatment, and also I would say identifying other resources in terms of improving the conditions for women in custody.

And so yes, I think that -- I had not explored them as an option, but it certainly seems to me that they could be a part of the solution.

SENATOR WEINBERG: Okay; and I just have one more question. And again, I appreciate everybody's courtesy, and certainly Senator Greenstein in inviting me.

And I'm sure Patricia Teffenhart will talk, when she talks about training and such. But how do we provide-- Let me backtrack. This is such a classic environment for the kind of sexual assault, sexual harassment that mostly women, sometimes men, are dealing with, and that we're dealing with still in the modern contemporary age. Based on my age, I thought we had -- every time I think we maybe made (indiscernible), apparently we haven't. How do we provide, in an atmosphere where you have women inmates, male guards by and large, the environment set up for a classic taking -- doing sexual assaults, sexual harassment -- how do we provide really confidential sources for the inmates at Edna Mahan to report these excesses that we know are still going on today? I mean, when we heard from the Commissioner -- they have cameras; but they can't get the union membership to review the videos because they don't want to turn their brothers in, I guess, if they find

wrongdoing. How do we improve the entire atmosphere in a place that is classically set up to do these kinds of excesses?

PROFESSOR SMITH: Well, I would actually-- You know, in my testimony I talked about D.C. and Alabama, just in terms of the kinds of findings. Given that you are a strong union state, I think that it would be useful to look at other states that have a similar makeup and have actually confronted and sort of gotten over the hurdles here.

One state that comes to mind is actually Rhode Island, where A.T. Wall was the Commissioner of Corrections -- and may still be the Commissioner of Corrections there -- who did a wonderful job, had a strong internal investigations unit that really systemically went out and sort of set the tone by saying, "You know what? When we're trying to provide safety, we have no permanent friends and we have no permanent enemies. If you are in violation of the law, and if you are in violation of our policies, then what's going to happen is that we're going to pursue you." And I think that that happens -- that needs to be not only from the prosecution's point of view, but it also needs to happen in terms of discipline and firing (indiscernible).

I say that the second is really -- you have to do something very much about getting more women in, specifically to supervise women in the Edna Mahan facility. You have to end this process of cross-gender viewing, cross-gender searching. And I think that that will actually have a tremendous impact as well. There needs to be top-to-bottom ongoing training for the staff, training and coaching for the staff, and for the administrators, and also training for the women; and absolutely a way for people to confidentially report out.

I also think that -- one of the things that I did while I was running my program in D.C. is that I was actually a legal services organization, and I came in every week and I did an education program for the women called the *Women's Education and Empowerment Series* -- which I'm happy to share with you -- which was a way of increasing the capacity of those women, but also creating an ability for women to be able to report to someone in a legal services organization.

SENATOR WEINBERG: Did you serve as legal services? Did you serve as a reporting entity for the women in your group?

PROFESSOR SMITH: So what actually happened was, I actually went out initially to just educate women about resources that were available to them to help them with child custody issues. And so I actually didn't go out to intentionally be involved in litigation. But at some point, when my clients started conceiving while they were in custody, and when I started having to arrange for them to get out of custody, and also to go out for prenatal care, it became clear that they needed to be sued. And that's what happened in D.C. And at that point, I then started providing different kinds of services for those women, and we eventually ended up having independent monitoring. We also had something called the *Corrections Information Council*, which goes in -- it's an external agency, perhaps like your Ombudsman's Office, that actually goes in and monitors, and does that confidentially.

So I think that there are a number of different kinds of tools that you can use. You could certainly have a legal services organization going in to help women with some of the legal issues that they have. You could also

have a legal aid services agency going in and actually enabling women to make reports to them.

SENATOR WEINBERG: Okay, thank you very much.

Thank you for your courtesy, Senator Greenstein and members of the Committee.

And through you, Senator Greenstein, perhaps we can ask staff to take a look at Rhode Island. I think you pointed them out--

SENATOR GREENSTEIN: That would be great.

SENATOR WEINBERG: -- as being a good (indiscernible). (Indiscernible) of maybe an outside monitoring agency, like legal services or anything similar. Because I think the biggest problem-- I've been to Edna Mahan, in fact, quite some time ago, under a prior Administration. I actually had lunch there with a group of the women inmates. And I came away from that very long lunch thinking, kind of peculiarly, I could have been having lunch with any group of my girlfriends--

PROFESSOR SMITH: Exactly.

SENATOR WEINBERG: --while wearing the same thing. That was the only difference. I mean, it was a long interchange. In hindsight, I don't know how honest everybody was with me, for obvious reasons.

PROFESSOR SMITH: Yes.

SENATOR WEINBERG: Hoping, I think, that is the most important link -- that we find some way that women can bring forth any issues around sexual assault and sexual harassment that are going on there, or any others, I guess, in a safe and confidential manner.

So thank you; and thanks again.

SENATOR GREENSTEIN: And thank you very much.

PROFESSOR SMITH: Senator Greenstein, I just want to emphasize multiple ways of reporting and multiple groups of people being able to go in. Sunshine is the best disinfectant.

SENATOR GREENSTEIN: Yes.

SENATOR WEINBERG: Okay, thanks again.

SENATOR GREENSTEIN: Thank you, Majority Leader; we really appreciate it.

I actually just have a couple -- very few, but a couple of questions that I forgot to ask before.

Professor, can you talk about the issue of Federal oversight, the pros and cons of it, and whether you think something like that-- I know you talked about getting oversight by the Department of Corrections, but what about the idea of Federal oversight?

PROFESSOR SMITH: That was actually one of the reasons I mentioned Tutwiler. I think that where New Jersey is right now is that it has an opportunity -- it actually has an opportunity to respond to the findings that the Department of Justice actually outlined. And there's going to be a period of time where the Department of Justice is going to be looking to see whether New Jersey has actually responded to the recommendations that it made.

If it does not respond to them in an expeditious fashion, or in a substantive fashion, then they may find themselves with Federal oversight. And I think in some instances it can be a good thing. One, it can actually provide the State with access to resources that it might not have had ordinarily. It puts the State on the fast track to be able to get access to technical assistance and training. It can also get you really smart people who

can come in with a different set of eyes and actually be able to see things that you may not have been able to see before.

It also has the ability to build and create -- build capacity in your own State. I think given the depth of the issues that have been raised at Edna Mahan and the long-standing nature of them, both Federal and local oversight, working in concert, I think is actually the best plan. And you have many different mechanisms here, but it just seems like they haven't all been curated in a way that can be effective for Edna Mahan.

SENATOR GREENSTEIN: Interesting.

The other question I wanted to ask you is a chronological one. The actual investigation here took place in the summer of 2018. We did our hearing in February; they went into the place, and also looked at records, in July of 2018. The report didn't come out till April of 2020.

PROFESSOR SMITH: Right.

SENATOR GREENSTEIN: Do you have any sense that either anything has improved during that time just from the report, or whether mechanisms were put in place in such a way that things will improve?

And the third thing is, just to see if guards are still carrying out some of these rapes, for example. Is that actually taking place, or is there a chronological gap here in the report?

PROFESSOR SMITH: You know, I think that it's fair to say that there is a gap since-- I think there's a gap between the report, you know, sort of when they came and did the work and the actual report. But I think the indication of whether those conditions still exist are actually in terms of what is happening on the ground. What are you hearing? What is New Jersey reporting about incidents of sexual abuse and misconduct since then?

And I guess what I would say is that it's not a situation of no news is good news; because it's not as if you can have all of that going on in 2018, and then something magically happens and it's done. I actually have notes that talk about even more recent litigation and more recent prosecutions as well.

And so I think that -- I don't think that you can assume that those conditions don't still exist. And I think that the way to find out would be to go in and review it and to see what changes have been made. Certainly, that could happen through the Department of Justice, it could happen through your Ombudsman's Office, it could also happen by someone who is retained independently to go in and do that. But I think that you absolutely have to check.

SENATOR GREENSTEIN: Now, on the issue of the Ombudsman, and it was in the Dignity Bill that you mentioned--

PROFESSOR SMITH: Right.

SENATOR GREENSTEIN: --there was some mention of it. It doesn't seem like they've been very active up until now. And whether they could become active, I'm not sure. But it doesn't seem at the moment like they're active. In fact, whenever I ask people who's the Ombudsman, not one person knows the name of the person -- which is not a good sign.

PROFESSOR SMITH: Exactly. That is not a good sign. I mean, people need to know who the Ombudsman is. The Ombudsman needs to have an ongoing presence in the institution. The Ombudsman should probably be making reports to you, to this body, about what's going on. And maybe they need to be empowered, maybe they need additional resources, maybe they need different training, maybe they need different leadership. I

do not know. But it seems to me that you have a number of organizations that potentially could do this, but I think that they need to be--

SENATOR GREENSTEIN: Empowered.

PROFESSOR SMITH: They need to be empowered -- and I don't want to say *deputized*, because that sounds like law enforcement -- but they need to be told that they need to do that, and they need to come back and tell you what they found. They should not be acting in a vacuum. I mean, that's also the importance of oversight -- you know, having to show up and testify before the Senate about what you did with the money that you gave them, or the authority that you gave them.

SENATOR GREENSTEIN: The last question I have -- which was somewhat asked by Senator Weinberg -- is this issue of hotlines. How do you set up phones, hotlines, so that people feel comfortable? I mean if you're a person in a prison, and you have to walk over to a telephone, I would think that would be difficult. People watching you -- whether it's other inmates or guards; maybe somebody standing right next to you when you speak. What are the conditions for setting up a good hotline in a prison?

PROFESSOR SMITH: You know what? Some of the ones you've actually identified. One is while officers may be able to sort of see you-- First of all, it should not be a red phone on the wall that says *hotline*. You know, what it should be is, it should be a number-- The same place that you get to make a phone call to your family, there should be-- I saw somebody go like this (indicates). It should be a number that you could call out -- you should be able to call out, and so no one knows, right?

It also needs to be a situation where the number that you call out to is not monitored. You know, there has-- And so I think that those are

some of the conditions; and whoever receives those calls has to have the authority to do something about them, and will do something about them.

Again, I would suggest-- I mean, first of all, New Jersey is ripe to receive assistance from the PREA Resource Center for all of these kinds of issues, in terms of sort of working out the logistics and the mechanics of doing something that it clearly looks like you want to do and recognize that needs to be done.

SENATOR GREENSTEIN: Thank you.

Senator Cryan, do you have anything?

SENATOR GILL: And I do, when you get through with Senator Cryan.

SENATOR GREENSTEIN: Okay; Senator Gill too.

SENATOR CRYAN: Is it *Doctor* or *Professor*, Ms. Smith?

PROFESSOR SMITH: You know, as tenured professors, we get called-- I'm happy with being Professor or Ms. Smith; it doesn't matter.

SENATOR CRYAN: Professor, thank you.

From your national experience, the Special Investigative Unit -- is that a national model? How do other state prisons have an investigative unit, and is the way we do it in New Jersey the national model, so to speak?

PROFESSOR SMITH: Here's what I would say.

A lot of states actually have-- There are many, many different models. A lot of states actually have the investigations done outside. It's not a part of the Department of Corrections, and it's done outside because you want to have access to, sort of, external resources that sometimes are not available inside the agency. Many are done by the state police; in some places

there also may be Federal authorities that are involved, depending on what the history is of the agency.

I think that in trying to figure out what the best -- sort of the best mechanism for New Jersey, it's really important to see whether what you have now is working or not. If it's not working, then it's trying to figure out what you need to do in order to make it work.

SENATOR CRYAN: I don't think there's much debate, given this subject matter, it doesn't work with Edna.

The reporting of the SID. For example, when I was Sheriff, or Under Sheriff, we provided monthly reports. Certainly, I shared them with them. We talked about the fact that the administrators-- And by the way, to my knowledge there were five administrators during the length of period of the abuse at Edna, which I find to be shocking. Five different leaders have permitted this; it's not like one only -- and four Commissioners, including the current. So it's systematic, and it's (indiscernible), at least in my mind.

Is it, in your experience, common for an administrator or for, I assume a Commissioner -- I don't know who the SID actually reports to. I couldn't tell who the SID actually gives their data to -- is it common for them not to be involved in this type of activity? Because I can tell you, as a Sheriff, I would never have permitted it. Do you have any insight into that?

PROFESSOR SMITH: Well, I think that the fact is -- that I think that for the Commissioner to be involved in, sort of, personnel matters is fine. But when there's an issue that is a criminal justice matter that rises to the level of a crime, then the agency actually has to have the ability to conduct a good investigation, an investigation that has the credibility and coherence that it will stand up in court. It actually needs to have the tools

to be able to collect evidence. It also has to have the ability to be able to mount investigations that are likely to result in findings. And it also has to be neutral. And so if those conditions are not present, and also if you're reporting up to someone who also has the potential to be liable, then I think that that creates issues.

Now, what I will say is, I actually pointed out to you about the Rhode Island model. In Rhode Island there was a separate Department of Internal Affairs, which was totally separate and actually was sworn law enforcement. And so they had a very different relationship, a very different training. They had good relationships with the state police. And so I think that that's another model. Again, as we talk about seeking technical assistance -- that's also one of the places where you could seek technical assistance.

SENATOR CRYAN: Okay.

PROFESSOR SMITH: Looking at what your situation is, what would be the best model for you?

SENATOR CRYAN: Could you tell me -- shifting gears a little bit from your appearance -- is there a national ratio? One of the things that surprised me in reading this was the fact that I think there were 39 posts identified as gender specific; only 17 were filled -- that the Commissioner can assign corrections officers at will to my knowledge; somebody can correct me. Are there ratios for these things on a national standard in a female prison? Do you have any sense of that at all?

PROFESSOR SMITH: So the standards -- what I do is point you to the Prison Rape Elimination Act standards, which talk about having gender-specific posts. There are the ACA standards, they're local standards;

and then there are also best practices. All of them-- And also the case law talks to having gender-specific supervision for women in places where they are sleeping, where they are dressing or showering, on escorts, medical visits, so on and so forth. And so yes, there are standards that relate to that, and it certainly is a best practice to have gender-specific staffing in women's institutions, yes.

SENATOR CRYAN: I'm sorry, one other follow-up on a SID question for you.

One of the things we read was about the training of officers -- where, I guess, we're going to hear in a little while about the shortage of investigators -- is it national practice that you have investigators trained in specific (indiscernible) for handling sexual abuse? One of the complaints I think we read here was that the investigator -- for lack of a better way to put it -- trained generally, but not specifically, to specific issues. Are you aware of any of that?

PROFESSOR SMITH: So what I would say is, I would say again, sort of a *Floridaism*. People need to abide in their own calling. So you pretty much need to do what you are capable of doing. And so collecting evidence and investigating sexual assaults is a specific skill which you would know. That is not something necessarily that someone who is hired as a correctional officer would have skill in.

SENATOR CRYAN: Right; (indiscernible) trained as investigators.

PROFESSOR SMITH: Right--

SENATOR CRYAN: The comment back is, "Hey, we need more training in regards to specific types of issues; one being for (indiscernible)."

PROFESSOR SMITH: Right; but I guess what I would say is -- I would say you probably have those resources already available in the community, in terms of law enforcement, that would go through, and would investigate, and do a collection at a crime scene, and so on and so forth. And I will admit that I don't know everything about New Jersey's resources; but the fact is that unless they have that specific training, then I don't think that they should be doing those investigations. Because it's unlikely to contribute to the collection or preservation of evidence that could be used in a prosecution.

SENATOR CRYAN: I won't ask you about rape kits or things like that, but I will ask you about standards on investigation times.

PROFESSOR SMITH: So why are you not asking me about rape kits?

SENATOR CRYAN: Well, one of the things-- Because frankly, I'm a little surprised that in these reports it doesn't indicate that these 50 inmates were given rape kits.

PROFESSOR SMITH: Right.

SENATOR CRYAN: Which I find to be astonishing. Do you agree with that, or am I off base?

PROFESSOR SMITH: It is astonishing, but it also speaks to-- When I came and I testified two years ago, the New Jersey, I think, Commission on Sexual Assault -- I may not have the name correct -- was there. And so it suggests that those connections have not been made or fostered, because if those connections had been made, the kinds of policies, resources, connections that need to be made at Edna Mahan would have been. And we're talking about Edna Mahan here now, but I think it's also

important to talk about-- We're talking here about Edna Mahan; it's not to suggest that there are not similar issues that are happening in other correctional facilities throughout New Jersey.

SENATOR CRYAN: Okay.

I want to give everybody else a chance, so just a couple, quick, other questions -- and it's on the investigative piece.

I don't know the camera retention cycle. Obviously, there's a couple of issues with the cameras, right? Lack of; obviously, the invasion of privacy that goes with lack of; as well as the camera -- how long do they keep the video? What I found surprising was in the report -- that there were a couple times noted that investigation follow-up sometimes wasn't done for 45 days until questions were asked. You know, again, from a previous (indiscernible), that's not acceptable. Our timing, I'll just say, was significantly shorter; I'll leave it at that.

PROFESSOR SMITH: Right.

SENATOR CRYAN: I was wondering if you could talk about-- Plus, I wondered whether or not the camera video was actually 30 days, and these folks were asking after 45; but I don't know the data. I hope to get that out of this hearing actually.

Can you talk about investigative times on a national standard? Is 45 days acceptable? Is that-- I mean that, to me, was a shocking finding in here.

PROFESSOR SMITH: Forty-five days for completing an investigation?

SENATOR CRYAN: No, the initial follow-up and questioning was the way I--

PROFESSOR SMITH: Oh, I'm sorry.

Yes, particularly in the case of sexual assault. I mean, actually for anything; but especially in the case of sexual assault.

One of the other things that I want to mention-- Because one of the things that you're concerned about in a matter of sexual assault is actually getting in, getting the victim scene, making sure that the victim has support, collecting any kind of information from the victim, and then also from others. I mean, just, again, Investigations 101 is that you really want to preserve the evidence, you want to collect and preserve the evidence, you want to get the statements as close as you can to the time when they occurred. And you want to provide resources for victims and witnesses.

I also think that one of the other points that I wanted to make, that you didn't talk about, is actually who has access to those cameras -- I'm sorry, the video -- and what happens to it. Where is it stored? What is the integrity of the video actually?

SENATOR CRYAN: Those are actually -- I have those questions; They're coming up for someone else.

But I do appreciate and thank you.

Sorry to take (indiscernible); thank you.

SENATOR GREENSTEIN: Thank you very much.

We have Senator Gill.

SENATOR GILL: Thank you, Professor.

Professor, have you had the opportunity to view the October 16, 2019, letter from the Commissioner to the Senator, outlining procedures that he has taken?

PROFESSOR SMITH: You know what? I have not had the-- Eric, have I had the opportunity to look at that letter?

ERIC RICO: No, I don't believe you--

PROFESSOR SMITH: No, I don't believe that I -- I do not believe that I've-- I may have it; I do not believe that I've had the opportunity to review it.

SENATOR GILL: Thank you.

And that's why it's very important that the Commissioner should be here. Because we would be able to have a dialogue, and to make determinations about what things have taken place, are those things sufficient, are they legal, and are they effective. So without the Commissioner here, we are not able to make a real-time evaluation of actually what's happening with respect to the Administration. So the absence of this Commissioner from this hearing I think is both meaningful and certainly something that could have been avoided. And he should be here; the public demands that he's here. We can have transparency and work towards some solutions as we go along.

There's another question I'd like to ask you. The CRIPA notice. Is a CRIPA notice a notice that we are suing you, or is it a notice that if you do not comply with the things we've outlined, there's a possibility of litigation?

PROFESSOR SMITH: I think it's the latter; it is the latter.

And actually, what they are trying to do is to say, "We've gone in, and we have seen all of this. We're actually not trying to sue you; what we're trying to do is we're trying to actually help you to actually come into compliance."

And in the event that they are not able to do so, they can proceed with litigation.

SENATOR GILL: And it's my understanding that the Commissioner -- or they have asserted the position -- that because they have received a CRIPA notice, they are in litigation and, therefore, that's one of the basis upon which they would not appear.

And I guess my last question to you is, the fundamental use of the incorrect legal standard in order to review the complaints and determine if they are credible enough to move forward -- is that a major defect as you see it, with respect to what's happening in New Jersey?

PROFESSOR SMITH: Yes, I do believe so.

I also just want to say that one of the things that we know and we hear constantly about people who are in custody is they fear retaliation, they fear not being believed. And they fear this because if, for example, by correctional policy, you tell a lie or you're untruthful, that can result in discipline. And so if you set that really high standard, then it also pushes down reporting, which then allows you to say, "We don't have any complaints."

But what we also know about sexual assault is that there's a tremendous amount of shame, there's a tremendous amount of trauma. Even people in the community feel like they don't want to report because people are going to blame *them*. And so think about someone who's already in custody.

And so, yes, the fact is that it should be a lower standard for people to be able to come forward and actually report without fearing discipline.

The final thing that I would say about that is you want to encourage reporting. What we talked about in, sort of, the Prison Rape Elimination Act world and sexual assault in custody, is you want to encourage reporting. Because then what happens is, that indicates that you're creating a safer environment where people can talk to you about kinds of interactions that they're having that might not rise to the level of assault, but at least may be actionable in terms of saying to people, "You know, you need some training about how you interact with these prisoners." "No, you shouldn't be standing outside of somebody's shower and watching them while they shower, if you are a male staff member." "No, you shouldn't be watching them while they undress." "You should not be doing certain kinds of searches."

And so, again, if you create a reporting culture, it's more likely to create a safer culture.

So yes, I think that the standards should be lower.

SENATOR GILL: And my last question.

Do you-- I mean, I understand that the Department of Justice indicates that it's a civil rights violation. Do you also feel that the situation in New Jersey is a human rights violation with respect to sexual assault and rape?

PROFESSOR SMITH: Absolutely.

SENATOR GILL: So as we proceed here, to keep in mind that this is a constitutional and a human rights violation. And I am sure if this happened in any other country we would be standing, shoulder-to-shoulder, to talk about the human rights violations.

And so it also underscores why the Commissioner should be here, because this is a human rights violation. And it would appear from your discussion that the only way we may be able to proceed to protect these women is to have the Federal government monitor the State prison facilities. And I would say that is an admission of a lack of leadership, a lack of will, and a lack of determination in New Jersey as it relates to protecting the human rights of poor, and black, and brown, and incarcerated women. And the Commissioner should know that, and certainly the Governor.

Thank you.

PROFESSOR SMITH: If I may, one of the things-- Just because I didn't have a tremendous amount of time to prepare for the hearing, one of the things that I will do, and will send over to the Committee, are two documents. One is a report from the UN Committee on Human Rights; and also from Amnesty International, specifically talking about these issues of sexual victimization in U.S. prisons and how they are a violation of human rights. And so I will make that information available to the Committee.

The other information that I would recommend strongly to the Committee is the recent report by the U.S. Committee on Civil Rights that actually did a really important hearing over the course of two days about the situation of women in custody that really specifically talked to many of the issues that we're addressing here. And it would actually be a wonderful resource for New Jersey to look at, in terms of thinking about what it might do in this moment, because this is a moment where there can be improvements, specifically at Edna Mahan.

And I'm happy to make those resources available as well.

SENATOR GILL: Thank you very much.

SENATOR GREENSTEIN: Thanks; thank you, Senator Gill.
Senator O'Scanlon, do you have anything?

SENATOR O'SCANLON: I do; thank you, Chairwoman.

And thank you for being here. The information you bring to us about these issues is always so valuable.

What distresses me is that -- and I think Senator Weinberg referred to it earlier -- is that we're still talking about these issues. It's a tragedy, and we need to get around to fixing it. So I echo the previous Senators who spoke before me.

I don't have specific questions -- they asked my questions -- other than this one. Which state in the country handles these issues best? Is there one that is getting it, I don't want to say, *exactly right*, because that doesn't exist. Is there one that's doing it really well? Because it seems to me that a lot of these issues, in solving them, shouldn't be this intractable where it has taken, well, till now -- to still be talking about them.

So is there one place where we can go and look-- And you just mentioned you're going to send over one document -- but it just seems to me that, again, not all of these issues are easy to solve; but many of them are not intractable. And how we haven't solved them is baffling to me.

Is there someone doing it right?

PROFESSOR SMITH: You know what? That is such a good question.

So what I would say is that as long as we have the number of people in custody that we have, under the conditions that we have them in, nobody is going to be able to do it well because we have people in conditions of extreme vulnerability.

And so they are very vulnerable. I think that there are places that do things better. And one of the reasons, unfortunately, that they have ended up doing things better is because of the kind of oversight that you're doing right now, and because they have been sued, okay? And unfortunately, it's unfortunate that that is often what has to happen in order for people to do better.

You know, I pointed out Rhode Island, I pointed out D.C. Another place that I would actually point out would be Iowa and Idaho. But all of these places have actually-- And then also the Feds as well -- the Federal prisons. But each and every one of them have faced litigation and actually have kind of gotten it together after that.

One of the other things that I also want to mention that actually sort of relates to how serious this is-- Several years ago, when I was actually doing training with the investigators for the Department of Justice, I was training all of their investigators. Right after that training, one of the investigators went to serve a warrant at FCI Tallahassee, a women's prison, specifically around sexual abuse in custody. That officer's name was Buddy -- William "Buddy" Sentner. And he was shot and killed in Tallahassee as he was trying to serve a warrant.

SENATOR O'SCANLON: Wow; distressing.

PROFESSOR SMITH: And so what I'm saying to you is that this is very serious, and that often changes don't happen until you actually have a terrible incident where someone-- And you've already had that -- where people have been sexually assaulted. And then what often happens is there's not only loss of life on the prisoners' side, but also a loss of life on the custodial side. And so at the same time that we've been talking about the

lack of safety for women, this is also a lack of safety for correctional officers as well. And so they actually need to get on board with this too.

SENATOR O'SCANLON: Got it.

Well, thank you very much for being here. Thanks for making yourself available to us again; I appreciate it.

And thanks Chairwoman for having this.

I do apologize; I have been triple-booked for this 11:30 hour, so I will try to pay attention. But thank you for doing this, Chairwoman; I appreciate it.

SENATOR GREENSTEIN: Thank you, thank you.

Senator Bucco, do you have anything?

SENATOR BUCCO: Thank you, Chairwoman; yes.

It's distressing to know that it takes litigation to get these horrible abuses corrected. I hope that we will move fast in New Jersey to correct this situation that we're faced with.

I just have one question; and there are a lot of good recommendations. Professor, you spoke of a lot of procedures on how to stop these types of abuses, going forward. But what are we doing for the mental health of the women who have already suffered these abuses? I think that that's critical that we have something concrete in place to make sure that they get the treatment they deserve for the environment they've suffered under.

PROFESSOR SMITH: So again, a really, really great point. That's why it's really important to have sexual assault services and good connections to your sexual assault services providers out in the community. I was very impressed, when I was at the hearing in 2018, with the providers who were there -- so having those kinds of connections. Funding them to do

this work would be great, and also increasing the capacity institutionally to provide those services would be really important.

I also want to make a point here -- which is, many of the women who we're talking about, who are under your care, came into your institution with deep histories of victimization and abuse, sexual and physical; which, again, made them much more vulnerable while they were in the institution. And so I think that, just as a given, those are services that should be available; and the services can often also be a preventative factor and a place where women can report abuse as well.

So I absolutely echo your recommendations there.

SENATOR BUCCO: Well, thank you, Professor; thank you, Chairwoman. This has been troubling testimony for us all to hear, I'm sure. But I look forward to us getting this corrected as quickly and swiftly as possible.

Thank you.

SENATOR GREENSTEIN: Thank you.

Senator Sacco, do you have anything?

SENATOR SACCO: No, I think the testimony has been excellent so far, and I appreciate it a great deal.

So thank you, Chairperson.

SENATOR GREENSTEIN: Okay, thank you very much.

And the one other thing that I would like to ask before we go on to the next person-- When we had our conversation before this hearing, Professor, we talked about a bill that I've had in, since the last hearing, that made it through the Senate very quickly; but just for some reason, never made it through the Assembly. And finally, we put it in again. And I wasn't sure

whether to put it in because it-- And I'm on it with Senator Gill; she joined me on the bill. It creates a commission to study sexual assault, misconduct, and harassment by staff against inmates in State correctional facilities, mostly emphasizing Edna Mahan, but it goes beyond that.

And I was actually not going to put the bill in again, and I thought maybe it was dated, its time had passed. But you encouraged me to put it in again.

Can you talk about why it's important to have a task force like that?

PROFESSOR SMITH: So I can talk about that just from the point of view of having served on the Prison Rape Commission.

You know, when I signed up for the Commission in 2003, I was told that it was going to take two years; and that Commission didn't finish until 2013. And I think some of it was because there was a lot to unpeel. I think that given the work that you have done already, dating back to 2018, and the hearing that you're having now, and the number of people who are here, and all of-- I think that you could actually make a tremendous difference and a tremendous contribution here in empaneling that Commission to actually look at what has happened over the past couple of years; to look at your PREA reporting; to look at the CRIPA report. And then also to chart a path forward. There's a lot going on, there are a lot of resources here. But it seems like there needs to be some sort of creating some coherence in terms of what you're seeing, what you're finding, and what are the next steps. Who's doing what, what are the gaps, and how can you empanel and empower some of the resources that you have?

And I also think that given all of the criminal prosecutions that you've had, and the existing gaps that we've identified in this hearing, one central locus to be able to do that would be very useful. And it could also be a real service to the Legislature, in terms of coming back on a yearly basis to talk about what it has found, what the connections are that it's making, what recommendations it's making. Because honestly, as someone who is from-- I'm speaking as an outsider. People who are from New Jersey will have intimate knowledge of how New Jersey works, and that's something that a commission like that could actually do. So I would support that.

And Senator Greenstein, before I leave, I also want to say to people, to the extent that I haven't answered your questions, because this format is a little -- you know, you can't really see people. To the extent that I haven't answered your questions or not answered them fully, or if you think I haven't answered them accurately, I really invite you to reach back out to me with follow-up questions. And as I submit my final testimony, I'm actually happy to answer those questions as well.

SENATOR GREENSTEIN: Thank you.

And although I have not mentioned it yet, I have to mention it. We were law school classmates. That's how I got to have such a great person here at this hearing, because we were in the Juvenile Justice Clinic together back down at Georgetown.

PROFESSOR SMITH: We were also in the same section, I think.

SENATOR GREENSTEIN: In the same section, yes.

PROFESSOR SMITH: Right.

And I also want to point out, again, that I didn't know this, Ms. Accettola is actually a graduate of Washington College of Law.

SENATOR GREENSTEIN: Yes, that's right. She's sitting right there.

PROFESSOR SMITH: And so, you know, we get-- And guess what? We're free, right? (laughter)

SENATOR GREENSTEIN: Free of law school.

PROFESSOR SMITH: Yes, yes; we're free.

So I thank all of you. And I just, again, have to say that I have been so-- Even though New Jersey has a very serious problem here, I have been so impressed, each time that I've come, by the questions that you ask, the deep knowledge that you have of what's going on in your institutions; and what I sense is your commitment to do better, and to have a safe, secure, humane, and constitutional environment for women who are in your custody and just in general.

So I appreciate the opportunity to come and be helpful.

SENATOR GREENSTEIN: Thank you so much; we really appreciate it.

Thanks a million; we appreciate it.

PROFESSOR SMITH: Thank you; take care.

SENATOR GREENSTEIN: What I want to do, very quickly, before we go on to Patricia Teffenhart, our next witness-- I just want to tell you a couple of bills that went through the last time, after we had the hearing -- they were almost all signed -- other than the one I mentioned, the task force -- all the others were signed, except one.

Okay, so one of them requires reporting of the inmate abuse by employees of State correctional facilities and establishes a reporting and investigation program. The problem is, all of these bills were just signed recently, and they haven't even gone into effect yet. But this one was signed in January of 2020, and it's effective August 1, 2020. That goes back two years -- putting these bills in.

The next bill, S-2522, limits cross-gendered strip searches in State correctional facilities, signed in January, effective May 1 of this year.

The next one, S-2532, requires correctional officers receive 20 hours of in-service training, including four hours in prevention of sexual misconduct, non-fraternization, and manipulation. That was just approved January of 2020, effective not until next year, February 1, 2021.

S-2533 requires the Office of Victim-Witness Advocacy to provide services to certain inmates. It was approved January of 2020, effective May 1, 2020.

The Dignity Act -- which you've heard about before -- was approved January 2020, effective August 1, 2020.

And the one that did not go through required only female corrections officers to be employed at Edna Mahan. There was a feeling that you're not going to have only females there; you're going to have a mix. So I think that one may have been a bit too extreme.

And then, finally, we have the Task Force.

So as you can see, many of the bills that were put in last time did get signed into law. Now, there are a lot more things that we can do legislatively; a lot of suggestions in all the reports, including the Department

of Justice. But at least we made a start, and many of these things will go into effect shortly.

The next witness--

SENATOR GILL: Chairwoman, before you go--

SENATOR GREENSTEIN: Yes.

SENATOR GILL: --I have a question.

SENATOR GREENSTEIN: Senator Gill.

SENATOR GILL: For those who actually would be affected, and have been, it's not required that we pass them in statute. Those could have been regulations and procedures--

SENATOR GREENSTEIN: Oh, absolutely.

SENATOR GILL: --that were put in place by the Department of Corrections.

SENATOR GREENSTEIN: That's absolutely true.

SENATOR GILL: It wasn't as if you needed statutory authority to do these things that have been outlined in the report. And you did not need statutory authority to do those things that have been passed by law.

SENATOR GREENSTEIN: That's 100 percent true.

SENATOR GILL: So it's a good step for the Legislature, but that does not remove the obligation and requirement of the Department of Corrections to have those things in place now, and going forward.

SENATOR GREENSTEIN: I'm glad you brought that up, because you're 100 percent right. That really is our path in the Legislature; most of those things could have easily been done by the Department. You're right -- and should have been.

Okay, the next person is Patricia Teffenhart--

SENATOR WEINBERG: Excuse me, Senator Greenstein.

SENATOR GREENSTEIN: Yes.

SENATOR WEINBERG: Since some of these bills became law, and will be -- or became effective about 11 or 12 days go--

SENATOR GREENSTEIN: Right.

SENATOR WEINBERG: --on May 1, perhaps also a letter from your Committee to the Department of Corrections reminding him--

SENATOR GREENSTEIN: Yes, that's a great idea.

SENATOR WEINBERG: --that these are now law -- and others coming up, I guess, in August and next year -- and that you would like to know what steps he's taking to comply with requirements.

SENATOR GREENSTEIN: That's a great idea.

Alison, are you getting that? Yes, we will be doing it.

SENATOR WEINBERG: Okay, thank you.

SENATOR GREENSTEIN: Thank you.

SENATOR WEINBERG: Thanks.

SENATOR GREENSTEIN: Patricia Teffenhart, New Jersey Coalition Against Sexual Assault.

Thank you.

PATRICIA TEFFENHART: Well, thank you, Chairwoman Greenstein and members of the Committee, for inviting me to join you here today.

I do have prepared remarks, so I'll read through them. But then I also -- I've taken some good notes of the questions our colleagues in the Legislature have asked, and so I'll try to respond to some of them as well.

My name is Patricia Teffenhart; I am the Executive Director for the New Jersey Coalition Against Sexual Assault, or *NJCASA*. And we exist to elevate the voice of sexual assault survivors and service providers representing New Jersey's county-based sexual violence service programs, or *Rape Crisis Centers* as they're more commonly referred.

As you likely know-- And I was super impressed that so many members of this Committee had read such a thorough and robust report. It certainly wasn't easy reading. Reading reports like this really does require us to refill our cups a little bit and take good care of ourselves. Because reading about other people's trauma is challenging. So I'm appreciative that you did take the time to read through all of the disclosures that were included in the report.

And so many of you are familiar with the parameters of the Prison Rape Elimination Act, or PREA. But as you know, those standards detail incarcerated survivors' rights to access to rape crisis center advocates for the core services of hotline, counseling, and medical accompaniment.

As you also likely know, PREA encourages, but does not mandate, facilities to collaborate with, or attempt to collaborate with, community-based rape crisis centers.

And so in 2017, for the first time, we and a few of our local programs were contacted by the Juvenile Justice Commission. And we were being asked, really, in a state of *audit urgency*, to sign MOUs with facilities that grossly violated PREA standards and our own standards for service provision -- mainly around the parameters of confidentiality.

And so it's been years now that we've been navigating the challenges of understanding the unique role we and our confidential sexual

violence advocates play in relation to providing services to incarcerated survivors. And I am happy to report that we have made some progress, at least in relation to the Juvenile Justice Commission. Just earlier this year, NJCASA signed an MOU with the JJC to support cross-systems training, technical assistance, and ongoing collaboration.

It is important to note that no such agreement exists between NJCASA and the Department of Corrections. In fact, the partnership that used to exist between Edna Mahan and the county-based sexual violence service program in Hunterdon County dissolved in 2018, leaving women in that facility with even fewer resources for support. They do still have access to a 24-hour hotline that provides services to all servers in Hunterdon County. But ongoing counseling services that were originally part of an agreement between Hunterdon County programs and Edna Mahan dissolved in 2018. That's also highlighted in that DOJ report.

And this report details multiple PREA and constitutional violations. And it also makes clear that mismanagement and misconduct continued even after the facility received high-profile attention regarding reports of rampant sexual abuse.

And we know that sexual violence and oppression are intrinsically linked. This report lays bare how an incredibly vulnerable population, women who are incarcerated, have that vulnerability taken advantage of.

I enumerated in my prepared remarks a number of the findings of the report. But Professor Smith did such an excellent job outlining them even more that I won't be repetitive.

And the reality is that PREA has a range of standards designed with the overall aim of eliminating sexual abuse for those who are incarcerated. However, without culture change, accountability, transparency, and a true commitment to reform, PREA, as affirmed in this report, means nothing. In fact, the report itself states that, “An important component to eradicating sexual abuse in correctional settings is staff participation in identifying abusive conditions and their responses to these conditions. This is why the PREA standards require that staff members are trained on preventing, detecting, reporting, and responding to sexual abuse, and that staff have a duty to report ‘any knowledge, suspicion, or information’ regarding sexual abuse or sexual harassment of prisoners. Edna Mahan officials opined that to the extent that culture has changed, it is only because officers are now afraid of being caught. The candid statements that Edna Mahan staff offered to the Department demonstrate that, while NJDOC and Edna Mahan may be working to reform their system, a deeper cultural change is necessary.”

That paragraph is taken directly from the report, which really does speak to some of the questions from the Majority Leader and others on this Committee regarding how we can make these changes.

And to be honest, what today’s conversation should put front and center is that the fact while today’s hearing is specific to *one* correctional facility and its need for immediate improvement, we need for this conversation to extend and expand just beyond PREA and just one facility. We can do better than this in New Jersey.

So let’s find a way to complement this conversation with one that explores the possibility of restorative justice. It is overdue for us to

expand avenues to justice that prioritize opportunities for healing and accountability, without being complicit in the perpetration of violence. In a 2014 article published in the *Journal of Interpersonal Violence*, M.P. Koss said, “Restorative justice focuses on repairing the harm caused by a crime through direct involvement of those affected. This approach acknowledges that crime has adverse effects not just on victims, but also their family, friends, and community members. Restorative justice aims to fulfill expectations for justice while holding those who have caused harm accountable for their actions.”

I’d like to remind everyone that this testimony that I’ve read today includes excerpts that I read, identical to those back in February 2018, the last time this Committee held a hearing to discuss this very issue.

I am thrilled that the Chairwoman has decided to reintroduce SJR-79 to move this conversation forward. It is clear that external oversight is necessary; the DOJ report makes that clear.

And no one deserves to be raped; and everyone deserves to be safe, no matter where they reside in New Jersey.

So I look forward to continuing to work with members of this Committee, and our colleagues across sectors, to ensure that survivors have access to the services they need, deserve, and to work to eradicate a culture that allows these kinds of violent acts to be perpetuated against women and others who are incarcerated.

Speaking to some of the questions that were asked, specifically by members of the Committee and the Majority Leader -- honestly, one of the things that I love most about-- I hate the fact that we have to keep having this conversation. But if I get to have this conversation and hear from

Professor Smith, I feel rejuvenated. She's always such a wealth of information. There's nothing that she said that I could ever disagree with. In fact, I was taking, like, diligent notes; like, "Oh, we have to remember to bring this into the conversation." She's just -- she's brilliant, and everything that she said we echo, and second, and support.

There were questions asked around culture change. And the Majority Leader and I work very closely on the Committee that we're -- that she established that we're working on to address misogyny and harassment in government and politics. And the key elements are the same. We're talking about power and control; we're talking about a culture of secrecy and silence; and the idea that there's going to be some kind of retribution if you come forward and articulate the things to which you've been subjected.

And that was reiterated in so many different elements of this DOJ report. Both not only that women who were residing at Edna Mahan knew that if it came to the attention of anyone working that they had made a disclosure-- But also that even among colleagues responsible for creating a safe and equitable environment within that facility knew that there would be retribution and payback had they made disclosures.

And so I believe that SJR-79 is essential, because it's clear that there has not been good oversight and accountability. I have lots of the same questions that Senator Cryan asked, about where are these reports going. We're conducting these investigations, but no one on the outside is being made aware of what's going on. And that's how this culture is able to fester -- that there is no opportunity to shine the the light of day on it, unless there's really good investigative journalism that leads us to shine a spotlight on it, as we did in 2017 and 2018; or now this DOJ report being made public.

And so having an external commission that is designed to gather information and provide strategic guidance and oversight is critically important. And we've seen where that's been successful in other issues relating to sexual violence. The Legislature, back in 2015 -- my gosh, sometimes I feel like I just got to this position, like, yesterday, and then I think about all the good work that we've done together and I'm reminded that it's been actually quite some time -- but we created together the Campus Sexual Assault Task Force. And that Task Force, and the report and the recommendations that we issued, actually have laid the foundation for some of the really good work that is now being run by the Office of the Secretary of Higher Education.

And so as we talk about the opportunities for us to provide guidance and a roadmap, these kinds of commissions and task forces give us those opportunities to pull in external experts who have the resources and none of the strings attached -- to actually be authentic and transparent in our recommendations, and to hold the systems to which we're responding accountable. And if we can do this on campuses -- because we've been alarmed by the reports of sexual violence on campus -- then it would seem to me that it's beyond time for us to do the same when it comes to serving incarcerated people. That this is multiple years of conversations -- there are just acts that are being committed under our watch and with our tax dollars, and it's time for us to make a change.

I also want to add-- There were questions relating to rape kits and hotlines. As I mentioned in my prepared remarks, it's encouraged, but not required, that correctional facilities have Memorandums of Understanding with local rape crisis centers. We are very fortunate in New

Jersey that we do have a Rape Crisis Center in every one of our counties. Our colleagues who are tackling these issues in other parts of the country don't have such access. In many instances we're looking at regional models for rape crisis centers. We don't have that burden here in New Jersey. And so we've been working very closely with all of our local programs to ensure that any corrections facility in their county has access to their 1-800 hotline. Our hotlines are answered 24 hours a day, 7 days a week, 365 days a year. And our advocates who answer those hotlines are confidential. And so any of the information that's shared with an advocate on the other end of that line cannot be disclosed.

Now the challenge is -- as some of you have already identified -- making sure that individuals who are incarcerated have actual confidential access to those hotlines. We, on the advocacy side, won't pierce confidentiality; but that doesn't mean that there's not a professional working in that institution who isn't listening. There are institutions that have-- I love that Professor Smith said, "Please don't have a red phone." There are facilities that have the proverbial red phone, or the people who are using the PREA line know that there's a camera watching them. So maybe they're not being recorded, but the fact that they're using the PREA phone is now evident to everyone in the facility.

We've had a number of challenges in getting the right hotlines connected to our correctional facilities in New Jersey. And in many instances, as I articulated in my prepared remarks, there's a sense of urgency when the State knows that there's about to be a Federal audit. And because the guidelines don't mandate MOUs, for years what was happening was they were trying to establish a good-faith effort. And so they would send an e-

mail to a random person at a local sexual violence service program or rape crisis center and say, “We’d like to establish an MOU with you, and here are all the things that we’d like this MOU to do or say.” And as you can imagine, it took a lot of back-and-forth between our advocacy programs and those facilities to really clearly delineate what the limits of our programming could be, and what the confines of our confidentiality were.

We’ve had MOUs submitted to rape crisis centers that are asking for our programs to reveal the names of the people with whom they’ve been speaking, or the content of their calls. And clearly, those are MOUs that none of our programs would sign. And so in the absence of an MOU, what was sometimes being submitted to the Federal auditors was an e-mail that said, “Look, we tried to reach out to this program, and they didn’t respond,” or “They wouldn’t signed an MOU.” And, in fact, I know that that’s happened, because that happened to us back in 2017, when they started reaching out to us. That was the claim, that “We tried to get an MOU with NJCASA, and they wouldn’t sign it.” Of course not delineating all of those details, saying, “Well, why wouldn’t we sign the MOU? Because you’re asking us to do things that are beyond the scope of our work, or you’re asking us to breach confidentiality of victims who are accessing services.”

And so there’s a lot of work that needs to be done. I am hopeful and I’m thankful that so many of the bills that we started talking about a while ago have now been signed. I look forward to having them be implemented. But the reality is that training without accountability and oversight will only get us so far. As we’ve worked across systems on issues relating to training, for example, what we know is that it’s too easy to check off a box to say, “This law requires that everybody in these facilities be trained

for X number of hours and get this content,” and they check it off. But if the culture doesn’t change, if there isn’t a system by which when people are behaving poorly, they lose their jobs, that they’re held responsible, the training is just going to be a surface thing that they can all say they did, and we can say that we did to make ourselves feel better -- without any actual change for the people who are being impacted or who are being victimized.

I think to also bring to the conversation -- Professor Smith mentioned that a number of women who are incarcerated are already survivors; and that is true. The Vera Institute of Justice, in a report in 2016, indicates 86 percent of women who are incarcerated are already survivors of sexual assault. So not only are we looking to reduce, minimize, and eliminate the ongoing acts of sexual violence that are happening in our correctional facilities, but we do need to ensure that those who are incarcerated have access to the services of rape crisis programs for counseling, for access to hotlines.

Individuals who are incarcerated are still entitled to all of the same remedies that survivors on the outside are entitled to. And so Senator Cryan asked about rape kits. Our Sexual Assault Response Teams in each of our counties do -- they are standing ready and able to provide forensic medical exams, a court accompaniment, and confidential crisis hotline and counseling support to survivors. But they’re only going to be accessed if survivors feel comfortable actually making that phone call. And we know that until that culture shifts, that won’t happen. And even if we’re able to eliminate the instances of sexual violence occurring while people are incarcerated, that statistic that enumerates how many of those who are incarcerated have a previous history of this particular type of victimization -- it will do us well to

ensure that there are substantial, funded MOUs between these institutions and the rape crisis centers so that when we're moving people out of incarceration and back into our communities, we've taken this opportunity to also help heal some of their trauma.

There's a lot of work to do, and NJCASA stands ready to do this work, our rape crisis centers across the state stand ready. We have regular calls with our programs, making sure that they know how to answer a call when someone calls from a place of incarceration, making sure that they understand how to maneuver all of their limits of confidentiality.

But also a large part of what we do, unfortunately, is about safety planning. When a survivor calls that hotline from an institution, and they say, "I don't know if anyone can hear this call," or "I know that there's a video camera watching me," we have to walk through all of those elements of how can we keep them safe as possible, while also ensuring that they have access to services. And again, none of that will change unless we can shift the culture; and the culture change starts with accountability, oversight, and, quite honestly, people losing their jobs if they're being found to cause harm. And it would seem to me, very clearly, that the DOJ report commands that we take that kind of swift and harsh response. We can't play around with this any longer, and we can't continue to put people's lives at risk.

So I'm happy to answer questions. I'm so thankful that we're having these conversations, and I'm really hopeful that we're on the brink of something really meaningful here in New Jersey.

SENATOR GREENSTEIN: Patricia, we are very proud of the work that you do, and we all feel safer because of what your agency does.

So thank you very much.

MS. TEFFENHART: Thank you, Chairwoman.

SENATOR GREENSTEIN: Senator Gill, do you have any questions?

SENATOR GILL: Thank you, I have no questions.

SENATOR GREENSTEIN: Okay, thank you.

Senator Cryan?

SENATOR CRYAN: Patricia, thanks for your comments.

So one of the things that strikes me in the report is that the inmate is moved after the inmate makes an allegation. Do you happen to know -- is the officer relocated?

MS. TEFFENHART: I don't know that; I'd be happy to look into that, if that would be helpful, Senator.

SENATOR CRYAN: Could you also-- You mentioned the supports that you provide through CASA. We talked earlier, and you mentioned no rape kits. Do you happen to know if any social worker or any sort of support services are provided? You touched upon it, but could you -- is there anything provided for someone who makes a claim of being abused?

MS. TEFFENHART: I mean, all of our rape crisis centers are available to provide the same services to incarcerated survivors as we would to individuals in the community.

SENATOR CRYAN: Okay.

MS. TEFFENHART: So that includes if they call a hotline and they indicate that they've been recently victimized, and they'd like to have a rape kit done -- that would trigger a Sexual Assault Response Team coordinating that. And facilities have different parameters, and the Sexual Assault Response Teams are also part of the Prosecutor's Office. And so some

facilities you might have their rape kit conducted within the institution itself in order not to transport the victim outside of the facility. In some facilities, you might be transporting them to the hospital. But it's all very well-coordinated between the advocates on our side of things, the forensic nurse examiners, and our colleagues in law enforcement. It's not surprising to me that those are not services that are being accessed with any level of frequency, because the idea of actually making that external phone call that would trigger external people coming in really does increase the risk for future violence against those who are making those calls.

The other thing that it's good to note about the rape kits is that there's a time sensitivity -- within five days of victimization. And so if it takes a survivor a long time to reconcile and weigh those scales of, "If I make this phone call, I may be subjected to future violence," we may have blown that five-day window out, and they wouldn't even be eligible to have that forensic medical evidence collected.

SENATOR CRYAN: Okay. And you don't know of any pattern of calls to the Hunterdon County Prosecutor's Office that follows through with this, right?

MS. TEFFENHART: I am not aware that there has been a substantial number of calls anywhere in the state for survivors who are incarcerated trying to access Sexual Assault Response Team service.

SENATOR CRYAN: Last quick question for you.

I know CASA is involved, and does such fabulous work -- and thank you for all the fabulous work.

The Prosecutor's Office is an arm of the Attorney General. Does the Attorney General have any role here? And if he does, have you dealt with

it at all? Because I'm surprised, on the reporting piece, that there hasn't been more of a role.

MS. TEFFENHART: So we do work very closely with the Attorney General's Office. And, in fact, I sit on the statewide Sexual Assault Response Team Advisory Board, and I worked very closely with my colleagues across sectors on the updated Sexual Assault Response Team standards that the AG released in November 2018. We haven't had very substantive conversations explicitly around incarcerated survivors. Most of the conversations we had at the coalition level have been with JJC, as they have been trying to increase their fidelity to PREA and ensure that Juvenile Justice inmates have access to services.

SENATOR CRYAN: Okay; so we need to get inmates on the radar screen.

MS. TEFFENHART: We haven't had the same traction with DOC. But we encourage--

I'm sorry, Senator; I missed you.

SENATOR CRYAN: No, no, you go ahead. I'm just -- it just sounds like a scenario that needs more support.

MS. TEFFENHART: Yes, I agree. And I think that one of the things that we all know to be true, across all of our municipalities, is that home rule is a real thing in New Jersey. And that even when we create directives and guidance that are designed for there to be fidelity to a certain model across the state, we're still (indiscernible) with providing the correct level of oversight to ensure that fidelity. And so we see that, even with the regular Sexual Assault Response Team standards that were issued as a directive in 2018, there's still a considerable lack of compliance to those

standards. And until there is stricter oversight all the way around we will find ourselves in the position we're in now, where survivors in one facility or one part of the state are getting access to different quality of service than they are somewhere else.

SENATOR CRYAN: Thank you so much; thank you.

MS. TEFFENHART: Thank you, Senator.

SENATOR GREENSTEIN: Thank you very much.

Senator Bucco, do you have anything?

SENATOR BUCCO: No, Chairwoman, I do not.

Thank you.

SENATOR GREENSTEIN: Okay, thanks.

And Senator O'Scanlon, do you have anything?

MS. WHITBECK: He's not on the call anymore.

SENATOR GREENSTEIN: He's not on; okay.

And Majority Leader Weinberg.

SENATOR WEINBERG: No, thank you very much.

SENATOR GREENSTEIN: Okay.

SENATOR WEINBERG: And thanks, as usual, Patricia. I don't know how you keep it all up. But thanks for keeping it up.

MS. TEFFENHART: I could say the same to all of you.
(laughter) Thank you for having me.

SENATOR GREENSTEIN: Thanks.

Senator Sacco, do you have anything?

SENATOR SACCO: No.

SENATOR GREENSTEIN: Okay; all right, very good.

Well, thank you very much for your testimony, and for the great work.

MS. TEFFENHART: Thank you.

SENATOR GREENSTEIN: We really appreciate it.

Okay, next I'll call on Bill Sullivan, President of PBA Local 105.

And you're here with Mr. Crivelli, is that right?

WILLIAM SULLIVAN: That's correct.

SENATOR GREENSTEIN: Okay; so we also have Mr. Crivelli.

Okay; so Bill, go ahead.

MR. SULLIVAN: Good afternoon, and thank you for the opportunity to testify before the Committee this morning.

I have taken a look at the Department of Justice report, and will state that a large number of policy changes have been implemented within the Department of Corrections prior to the report being published.

What I will say is 99 percent of my membership act in a professional manner and serve the State of New Jersey with dignity and honor. It is shameful that the 1 percent that have no honor in serving as correctional police officers outshine the body as a whole.

The members of PBA Local 105 welcome additional training, and we sincerely hope that budget restraints do not hinder the opportunity to fully educate and train our correctional police officers. Together, working with Commissioner Hicks and administrative staff, we need to continue to change the culture and stigmas of the New Jersey Department of Corrections. As a union, we will continue to advocate for training and continue to push policy changes throughout the Department of Corrections that will benefit our members, the inmates who we care for, and the citizenry of our state. As

sworn correctional police officers, we take our duties and responsibilities very seriously. And at the end of the day, we welcome change that will help better serve the Department.

That's pretty much just our statement, and we're open to any questions the Committee might have.

SENATOR GREENSTEIN: Thank you.

Do you have anything Mr. Crivelli?

F R A N K M. C R I V E L L I, Esq.: I do not; not at this time.

SENATOR GREENSTEIN: Okay.

MR. CRIVELLI: Nothing specific, Senator; however, what I will state is there is pending litigation, at this point in time, with the Department. So dependent upon some of the questions that are asked to Mr. Sullivan, I may interrupt just for that purpose in and of itself.

SENATOR GREENSTEIN: When you said *pending litigation*, are you talking about the Department of Justice, or something else?

MR. CRIVELLI: Something else; it's litigation between the union itself, as well as the State of New Jersey.

SENATOR GREENSTEIN: Okay, okay.

All right. Senator Cryan, do you have something?

SENATOR CRYAN: Hey Bill, how are you doing?

MR. SULLIVAN: How are you doing, Senator?

SENATOR CRYAN: All right; and Bill, thanks for being here. You could have bailed. Thanks.

MR. SULLIVAN: I'm not bailing; I'm here to represent my membership.

SENATOR CRYAN: Bill, I have to ask you the first question.

The 99 percent who watched the 1 percent go bad -- why haven't they spoken up?

MR. SULLIVAN: That's a good question.

I think they have spoken up, for the most part, because a lot of them who have been prosecuted have been from officers telling the stories -- from coming forward. So I think they do speak up, for the most part.

SENATOR CRYAN: All right. I mean, I have to tell you, as you read these reports -- and we're all offended -- the question I asked in the beginning with the Professor was -- this has been going on since at least (indiscernible). That's four Commissioners and five Administrators. How does it stay there that long, and how does it stay that prevalent for that long, with your guys being part of it?

MR. SULLIVAN: Well, I do think that the delay in making our Commissioner no longer the *Acting Commissioner* but the actual Commissioner-- He was just made Commissioner, I think, in January. So he's only had a couple of months to pretty much remove some of the old staff members who have been lingering around for 10, 15 years in positions. He has a couple of good ideas and a couple of policies he's about to implement. And I think if you guys give him a chance he'll make a lot of good changes.

SENATOR CRYAN: Okay.

All right, I have a couple of others for you; I have a few, actually. Do you know the length of time that the camera retention is right now?

MR. SULLIVAN: Off the top of my head, I believe it's 90 days.

SENATOR CRYAN: Okay.

MR. SULLIVAN: It actually depends on what institution. Edna Mahan has 250 cameras, so the DVR -- some of them, depending on which cameras, I think are a minimum of 45 days and a maximum of 90 days for retention at this time.

SENATOR CRYAN: Well, you read the report; you saw that some of these initial questions don't start for after 40 days -- 45 actually is listed in the report.

MR. SULLIVAN: Well, from an investigation standpoint, from a union standpoint, you have 45 days to bring charges against a staff member for misconduct.

SENATOR CRYAN: Right.

MR. SULLIVAN: So 45 days -- they have to bring some sort of formal charges.

SENATOR CRYAN: Right, okay.

What about -- have you seen an installation of cameras in the past couple years -- an expansion of that?

MR. SULLIVAN: Massive amounts of cameras. I work at East Jersey State Prison. I think when I started, in 2006, we had seven cameras; and now we have 450.

SENATOR CRYAN: Okay. I'm really only talking about Edna--

MR. SULLIVAN: So in the past three years, we've had an influx of cameras being installed throughout our correctional facilities.

SENATOR CRYAN: All right; how about in Edna? Because we specifically--

MR. SULLIVAN: Edna, I believe, it's 150 in the past two years have been installed.

SENATOR CRYAN: Do you know of many more blind spots left?

MR. SULLIVAN: Well, that's pretty much going to be eliminated with the pilot program they have for body cams for the officers at Edna Mahan Correctional Facility. I believe it was in the process of being implemented until the COVID hit with us. So I believe it will be implemented shortly, with all the officers wearing body cams.

SENATOR CRYAN: Is there a body cam pilot in Edna now?

MR. SULLIVAN: Edna and Northern State Prison both have body cam pilots. I believe the manufacturers of the cameras have been selected and the money has been allocated for that.

SENATOR CRYAN: Okay. The data for the body cams -- does that go to the SID, or who retains it and who gets to see it?

MR. SULLIVAN: Well, the policy they put out said the Lieutenant is supposed to monitor the daily storage of the body cams.

SENATOR CRYAN: So does the Lieutenant have accessibility after daily storage, or how does it work?

MR. SULLIVAN: So all they do is store the body cam footage, and it's only accessed by administrators. So no officers have access to view the cameras.

SENATOR CRYAN: Okay, but administrators can? Because one of the concerns here, Bill, is obviously this idea that administrators don't see anything, which allows a culture to continue to pervade. Can

administrators see body cam data and review it at any time, to your knowledge?

MR. SULLIVAN: According to the policy, they do audits, monthly audits of specific cameras. But also they have to, anytime there's an allegation, review camera footage.

SENATOR CRYAN: Well, I can tell you just from being Sheriff, going and reviewing, body cam data has saved hours in terms of investigations and showed-- Cameras really protect officers; they really do, at the end of the day. They protect officers' actions.

MR. SULLIVAN: I agree, and I think a lot of allegations will be swiftly investigated and unfounded, based off having those cameras. So I think they'll help the officers be vindicated.

SENATOR CRYAN: Hey, Bill, in the process, the inmate is moved in Edna upon an allegation. What goes on with the officer?

MR. SULLIVAN: The officer is usually, depending on the severity of the allegation, either sent home, suspended with pay, pending a Loudermill hearing; or the officer is move to an outside post with no inmate contact until the allegation can be vetted and investigated. And that's throughout all institutions throughout the state.

SENATOR CRYAN: Okay; the report doesn't indicate that clearly. That's the way it's done in--

MR. SULLIVAN: Yes, any PREA investigation -- the officer is removed from the facility with no inmate contact until it's investigated.

SENATOR CRYAN: Okay. And how does SID work? Who sees the SID data? And I know you've been on this call for the last couple hours, or whatever a Zoom is called. In my world, you reported it to the

Prosecutor, ultimately giving it to the Attorney General, and anytime you'd follow through. How does it work for your guys?

MR. SULLIVAN: So I believe the Chief, who is Duane Grade, would give that information-- We have a PREA Coordinator; her name is Jennifer Malinowski. She's the Director of PREA, and I think Program Services. So she would be the one who would be looking at the footage and investigating it. So she would get the information from SID and then evaluate it.

SENATOR CRYAN: How long has Duane Grade been there as Chief?

MR. SULLIVAN: He's been there through a couple of Administrations. He left and then came back, but he's been there a while.

SENATOR CRYAN: Okay; a couple of other quick points, and then I'll summarize it up.

The reports talk about training and lack of investigators that has come to the Committee's attention. Have you seen, as somebody who represents your officers -- is that a substantial issue, and could you talk about it a little bit?

MR. SULLIVAN: Well, the investigators go through the DCJ Academy, which is separate, and they usually hire from the pool of officers, sergeants, lieutenants, and are trained by the DCJ.

But as far as officer training, we definitely need some more officer training. And not just at Edna Mahan; it needs to be statewide.

You know, the three training days we get a year aren't sufficient to cram all the policy changes and different laws you guys enact into -- enough time.

SENATOR CRYAN: Okay. They're all good laws though, right, Bill?

MR. SULLIVAN: No, they're good, but we just need to be trained. And a lot of that time -- the 20 hours of training you guys passed will be beneficial to us and, hopefully, we can get some more training and not just cram and go through the motions.

SENATOR CRYAN: The last thing -- up at Edna, one of the things in the reports talks about different entrances, and lack of cameras on some of those entrances and egress, and so on. Can you comment on that, and has that been fixed, and your thoughts on it?

MR. SULLIVAN: Well, you come in to Edna through the main gate; you're screened out there.

I think the problem with Edna is the cottage styles they have set up, and the layout. I think ultimate sky for you guys to do something would be to build a state-of-art facility within Central New Jersey for the women -- you know, kind of reinvent the wheel and start from scratch. That would be the top.

But yes, there are a lot of cottages in the layouts. But they have, like I said, put a lot of cameras throughout the institution.

SENATOR CRYAN: The report indicates there are still cameras needed to be completed, though. Would you agree with that?

MR. SULLIVAN: I haven't really looked at every single camera in the facility. But I did tour there last month to check on the officers, and you could see cameras outside every building and inside every building. And they have caught officers, for disciplinary reasons, sleeping or whatever else. So I do know there are cameras.

SENATOR CRYAN: Right. How about the gender-specific posts? The report talks about 39; only 17 assigned. Have you seen the Commissioner, or through your union, reassign gender officers appropriately, or is there still a concern here?

MR. SULLIVAN: Well, I believe every housing unit is now gender-restricted, and they have over 90 gender-restricted posts. So I believe a bulk of the jobs at Edna Mahan are gender-restricted.

SENATOR CRYAN: So to your membership -- did they feel like it's -- for a lack of a better way to put it -- males are working in the appropriate spots and females are now -- that it's not an issue? Would that be a fair way to put it, or is that-- The report is pretty damning on that.

MR. SULLIVAN: I think the problem is you had some good officers working in those jobs with nights/weekends off -- Saturday, Sunday, first shift. And they were abruptly moved from their job positions when they did nothing wrong.

So I think the shock of changing the jobs kind of didn't sit easy with the membership that was actually doing their job correctly. So it kind of had a negative impact on the staff by moving their jobs.

SENATOR CRYAN: Thank you; thank you, Madam Chair.

Thank you.

SENATOR GREENSTEIN: Thank you.

SENATOR CRYAN: Thanks, Bill.

SENATOR GREENSTEIN: Majority Leader, do you have anything?

SENATOR WEINBERG: Yes.

The report states -- and I'm not sure whether it was a result of their investigation or from the Commissioner of Corrections himself -- that your members are hesitant to review the videos, I guess for fear that they would have to turn in colleagues if they found any wrongdoing. Can you address that? Is that accurate, or is it true, or is it a result of lack of training, or whatever?

MR. SULLIVAN: That came from a DOJ report, I believe. And I don't think any correctional police officer would have reservations about doing their job as they're supposed to be doing. You know, like I said, the 99 percent of us will do our jobs to the best of our abilities. I don't really find that to be accurate.

The problem is, you don't put officers reviewing camera footage. There's nobody reviewing it because there's no job code just for an officer in charge of reviewing camera systems, due to budget restraints. So I think you'd have to put an officer in that position to make that determination, before you do.

SENATOR WEINBERG: Okay, so you don't think the structure is set up to enable the review. So even if they're keeping the videos for 45 days or 90 days -- if they don't have the personnel there to actually review them--

MR. SULLIVAN: Yes, I would agree that you need somebody to actually watch the cameras 24 hours a day. And right now there are no facilities that have a dedicated person to watch the cameras.

SENATOR WEINBERG: Okay. Well, then, what is the-- Is it appropriate to have somebody who reviews the videos on some regular basis? In other words, if they're not being watched 24/7, can they be reviewed?

MR. SULLIVAN: They do have random camera audits, where they take certain cameras, and they review them monthly, and they do reports on what's viewed; and it's done by supervisors. But that's -- like I said, it's not every camera is watched, or the cameras aren't watched 24/7.

SENATOR WEINBERG: So are those videos reviewed now? Is there a process--

MR. SULLIVAN: Yes, so they do camera audits. So they are being reviewed by -- I believe it's the Lieutenants and the Majors monthly, with random camera audits.

SENATOR WEINBERG: Okay.

All right; thank you, and thank you for being here. As Senator Cryan said -- and I will repeat it less eloquently than Senator Gill said it -- it would have been really helpful to have the Department of Corrections represented here. And I don't understand -- or maybe I do understand -- but their lack of attendance is inappropriate.

But thank you for being here.

MR. SULLIVAN: No problem.

SENATOR GREENSTEIN: Actually, I had a couple of quick things here.

Bill, of all these different programs that the Commissioner listed in his letter to me, and we've talked about them a little earlier -- different staff members, new staff members, whatever -- what are some of the changes that he's made so far? I guess he first got in in 2018; is that right? Prior to that, I think he was the Chief of Staff to the last Commissioner, so he's been around for a while. What are some of the changes he's made that you think are good?

MR. SULLIVAN: Well, from an officer's standpoint, he's created a wellness program to promote officer wellness and mental health. You know, it's trying to help boost the morale and available resources for our correction police officers. So I commend him for his wellness program. And I know he's got a lot of initiatives that he'd like to do for the inmate population. And he has a number of policies that we keep having to discuss, that they're trying to implement. I know they're trying to put together a Sexual Assault Investigation Unit within SID, the body cameras. And I think he's shown, throughout the Department -- in the past, we don't have an open door policy for communication. He's done better at communication with everybody.

SENATOR GREENSTEIN: Okay. And how do you think confidential reporting would best work in a prison like Edna Mahan? Hotlines and other things -- what do you think are the best ways of implementing that?

MR. SULLIVAN: Well, right now they have these JPay kiosks throughout the institutions that you type out your e-mails and you send your loved ones correspondence. It's completely confidential, and often off to the side. So those would be the best tools for an inmate to report or contact individuals who need to be. They do all the--

SENATOR GREENSTEIN: Do you know -- are they're being used?

MR. SULLIVAN: Oh, they use the kiosk more than the telephones -- the inmates do.

SENATOR GREENSTEIN: Okay.

Just one other thing -- on the body cameras. Do you know how the institution will make sure that the information on the camera is protected? Because I guess there's sometimes been a problem with camera footage showing up on inappropriate sites.

MR. SULLIVAN: Well, I know the retention is going straight from the officer to a Lieutenant; they put that in the policy. So I guess you could narrow down, if some footage went missing, to the Lieutenant who received the body camera footage. So there's more of a chain of custody with that; there's more accountability.

SENATOR GREENSTEIN: Thanks, Bill.

Let me just get Senator Sacco -- did you have a question?

SENATOR SACCO: No. You know, much of this comes down to just putting money in the budget to get cameras set up so everything is open. You know, without the ability for people to review what's going on, things are going to happen. And I think in a lot of our -- even in our local holding cells the cameras all had to be upgraded to prevent suicides and other things that could possibly happen.

So I just think that the camera system is extremely important, and money should be put into that, and that would be a help to everybody who works there and the inmates.

SENATOR GREENSTEIN: I agree.

SENATOR WEINBERG: Senator Greenstein?

SENATOR GREENSTEIN: Oh, yes.

SENATOR WEINBERG: They have purchased an upgraded camera system. But according to the Commissioner it was halfway installed,

I guess, when COVID-19 struck, and that held up the installation. I don't know if it has moved ahead, and maybe the union leaders could tell us that.

But I don't think it's the equipment; I think it's having the personnel to be either manning it or reviewing the videos afterwards.

SENATOR GREENSTEIN: Any comment on that, Bill?

MR. SULLIVAN: Well, as far as the-- The civilian staff do the installations -- the ITIs and the maintenance individuals. And they are, of course, because of COVID, at home right now, because they're not essential. They do have some maintenance staff who are doing major repairs, steam leaks, and all that. But as far as new installations, they haven't been conducting those during COVID.

But I do agree, and I will echo, that you do need a dedicated staff member to view the cameras at all times. That would help not only just curb sexual assaults, but look for violence amongst the inmates, different assaults. You miss a lot of assaults. You need people watching the cameras 24/7; it'll help the overall security of the institutions. And not having the dedicated person -- I think has been done because of budget restraints throughout the years.

SENATOR GREENSTEIN: Senator Gill.

SENATOR GILL: I just want to go back to make sure that I understand.

Are you saying that the procedures to protect the women could not be put in place unless and until the Commissioner fired or got rid of *old-timers*, as you said?

I'm trying to understand that logic. Is it your position that changes could not be made while certain people were employed at the facility?

MR. SULLIVAN: I think the problem was that the Commissioner wasn't given his full ability to hire and fire people until after he was confirmed by the Murphy Administration and you guys. That's an outsider looking in. I don't have inside information.

SENATOR GILL: Okay, and that's why I wanted to make this clear -- that the Acting Commissioner has the same powers. And so you don't have to wait until someone becomes permanent in order to address what is a civil rights and human rights violation. And so I wanted to find out if that was your opinion -- so it's your opinion of an outsider looking in.

MR. SULLIVAN: Yes, because--

SENATOR GILL: It's okay, I just wanted to make sure that that is your personal opinion; that was not--

MR. SULLIVAN: No; it is. A lot of changes were made right after he was confirmed. So that's where I get my assumption and opinion from.

SENATOR GILL: Okay.

Now, we also know that has gone on for years. So it is not something that is new, but it has not been taken care of, in terms of the procedures and the issues outlined by the Justice Department, correct? It's been going on -- the sexual assaults, the rapes, the issues presented have been going on for a long period of time.

MR. SULLIVAN: As a union official, I would say throughout all of our correctional facilities, I have had officers who have been removed, criminally charged, for sexual assault statewide.

SENATOR GILL: Okay. And so this is something-- And I do believe the Commissioner -- the Acting Commissioner and the Commissioner now -- he was already employed at the Department of Corrections. Wasn't he the Deputy Commissioner?

SENATOR GREENSTEIN: Chief of Staff.

MR. SULLIVAN: He was the Chief of Staff for a brief amount of time. But before that, he was the Director of Program Services. When Phil Murphy was elected, he became Chief of Staff.

SENATOR GILL: So he's been at the Department of Corrections for a period of time.

MR. SULLIVAN: Correct.

SENATOR GILL: Okay. And that period of time has been covered by the DOJ, in terms of the sexual assaults and the rape of women in the prison -- if you know.

MR. SULLIVAN: Yes.

SENATOR GILL: Okay. And so that it isn't as if there was someone who came in new, from outside the culture, and outside the employment of the Department of Corrections.

MR. SULLIVAN: I understand what you're trying to say. He came from the Division of Programs and Services; he never worked as an officer, or social worker, or a psychologist, or a director overseeing operations. So he kind of is an outsider.

SENATOR GILL: He worked in administration. You don't have to be an insider to know that women are being raped--

MR. SULLIVAN: Correct.

SENATOR GILL: --in the jail. You don't have to be an insider to know that women are being sexually assaulted in the jail, and you don't have to be an insider to know that there were convictions of the corrections officers for raping women in jail. That was a pretty known fact, right?

MR. SULLIVAN: Well known, yes.

SENATOR GILL: Okay; thanks a lot.

Thank you.

MR. SULLIVAN: No problem.

SENATOR GREENSTEIN: Thanks.

Senator Bucco, do you have anything?

SENATOR BUCCO: I'm good, Chairwoman; thank you.

SENATOR GREENSTEIN: Thank you.

And Senator O'Scanlon; I don't know if he is still on here. (no response)

MS. WHITBECK: He's not still on anymore.

SENATOR GREENSTEIN: Have I gotten everybody? I think so.

My last question would just be -- Bill, can you make suggestions, listening to all the things today -- and you have been listening carefully -- can you make any suggestions for the future about what might change the culture or the situation at Edna Mahan?

MR. SULLIVAN: Well, I think we have to start with the hiring process of our correctional police officers. They start off at \$40,000; they

make \$44,000 after a year. Frankly, the candidate pool is getting less, and less, and less, and we're getting a lot of people who maybe shouldn't be correctional police officers, based off the pay.

You talk about recruiting women to work in the facilities. I think the physical fitness portion of the academies have gotten a little too intense. They need to go back to the educational aspect of having a smart correction officer and a fit correction officer, and not just somebody who can-- I just think the academy has shifted towards physical fitness, and needs to go back to more of a mental aspect. And like I said, if you want to recruit women you're going to have to lessen some of those physical fitness standards. Because I do see a lot of candidates, throughout my tenure here, who slip through the cracks based off not be able to do certain things.

And ultimately, I think you need to build a new state-of-art institution centralized in New Jersey to house women in correctional facilities. But that's, like I said, the *sky*.

But I just advocate for training for the officers, and additional staffing for these posts that we mentioned earlier -- about cameras and whatever else you guys see fit. We just need more staffing, more training.

SENATOR GREENSTEIN: Thank you very much. We really appreciate your coming and your excellent testimony.

Anybody else have anything? (no response)

Okay, thank you very much.

MR. SULLIVAN: All right; thank you, everybody.

SENATOR GREENSTEIN: Now we'll go to Adrian Ellison, another part of policing at the prison -- investigating in prison.

And Adrian is the President of FOP Lodge 174, and he is one of the leaders of the SID investigators.

So thank you for coming.

ADRIAN B. ELLISON: Thank you.

Good afternoon; so yes, it is afternoon now.

Let me introduce myself. My name is Adrian Ellison; again, I'm the President of the Investigators Association. So I represent the DOC, Juvenile Justice, and parole. I've served as the President for the last three terms; I was Vice President twice. I've worked in Corrections for 27 years. And also, I'm an Adjunct Professor at Monmouth University.

So thanks again for having me. And I've been waiting, so I guess I'll be prepared for your questions and give you the responses, if you want.

SENATOR GREENSTEIN: Oh, okay. So did you want to make your statement, or just take questions?

MR. ELLISON: Okay, I'll make my statement; I'll do an opening statement.

SENATOR GREENSTEIN: It might be easier if you do that, and that way we can ask you questions.

MR. ELLISON: Okay, first I would like to commend the investigator staff that I represent over at SID for the DOC. It's because of their investigative efforts that we're having this conversation now about Edna Mahan.

.The investigators have been severely understaffed. I've been advising the Department for years, written and verbally, about how we're understaffed and how difficult it is for two people who investigate such a myriad at one particular facility. We're the only law enforcement agency in

the State of New Jersey that does not have specialized units, like all other police departments do: homicide, sex assault, domestic violence, and so forth.

So I've been trying to get the Department to actually incorporate different units. And I kind of echo your frustration, because I've been trying to get a meeting for the last two years with the Commissioner. So hopefully after this, maybe we can sit down and have some positive dialogue as to the problems within SID, starting with the management.

A a lot of times -- just to give you a little background history -- the work that we do is incident-driven. It's not something where we come to work every day and it's a particular case. It's all incident-driven, so we respond based off of incidents. And sometimes those responses require an immediate response to the facility. So being that we're on Edna Mahon, for instance, the first 48 hours of any investigation is very important because there's evidence collection -- there are things that you have to do. As you know, being attorneys, you know the continuity of evidence is very important, especially when you're getting ready to charge someone criminally.

So it takes time, and it takes resources. And I've been asking the Department for years for the resources, for more staff. This is not something that just started, okay? Let's just be honest about it; it's been going on for some time now. And it was through the investigative effort of SID that we're at this point.

I just wanted to open up with that statement.

SENATOR GREENSTEIN: Mr. Ellison, in the report they really are pretty hard -- the Department of Justice is pretty hard on SID. Would you agree?

MR. ELLISON: Yes.

SENATOR GREENSTEIN: They really are. Can you respond to some of the things that they're saying in here? They say you're not applying the proper standard of proof, that your investigations are inadequate -- which you would attribute to the lack of proper staffing, right?

MR. ELLISON: Well, not only just the lack of proper staffing, but just the lack of training after the training. The Prosecutor's Offices and police departments -- they get up-to-date training all the time on a specific (indiscernible). But we don't have that caveat in SID. We could be doing six or seven different investigations, even along with random staff hearings, workplace bias. So you try to get two people at one facility to do a multitude of investigations in a very short time without the training -- without the training it's difficult.

I think that the DOJ was actually a little hard. You can scrutinize anything; but it was the SID Division that actually brought everything to light.

SENATOR GREENSTEIN: It was the what? I'm sorry.

MR. ELLISON: It was the SID that brought all of this to light. We were the ones that spearheaded the investigations to get us where we are now.

SENATOR GREENSTEIN: Does anyone have questions? (no response)

Senator Gill, Cryan?

Why don't you start, Senator Gill.

SENATOR GILL: Oh, okay.

Sir, what you need, I guess you're saying, is training, more investigators, and more investigators who are specifically trained with respect to sexual assault or gathering information with respect to that.

MR. ELLISON: Absolutely.

SENATOR GILL: And that without that training-- So when the legal standard you were using -- or that was being used; not you -- that was being used that was not the correct standard, as they pointed out in the DOJ report-- Have you had training, as an investigator, on the standard to be applied in determining if a case should go forward or not?

MR. ELLISON: Without seeing the case and knowing the details of whatever particular case you're talking about, that would just be a guesstimation of it. But I'm pretty sure that some standard was applied, because they actually got a conviction and got a confession from individuals regarding the sexual assault at Edna Mahan.

SENATOR GILL: And how many investigators would make a complete complement for your unit so that everyone could do their job in the standard that I know they are striving to do, and do with limited resources?

MR. ELLISON: We asked for at least 120 investigators. We now have, I believe, it's 81 investigators. If we would do it up to 120, I think that we could get a lot accomplished. You have to understand that we're responsible for investigating probably 8,000 employees throughout the Department of Corrections, and almost 19,000 inmates throughout the 13 facilities; not to include the halfway houses. So it's just a lot for 80 people.

I've been trying to meet with the Commissioner for years. I've been begging for positions. Over 10 years ago we had over 100 investigators, and they cut it down to 80, but they've tripled the responsibility with the

PREA and the new standards that is required by law. But they haven't subsidized that with investigative staff. And I've been begging and pleading with anyone who will listen to get us the staff. And apparently the current leadership in SID -- they just refuse to do it. And then what happens is, when you complain about it, then there's retribution when you seek truth to power.

SENATOR GILL: And so this is the way I view the investigators -- that you are probably the most vital link to the issues of sexual assault and rape.

MR. ELLISON: Absolutely.

SENATOR GILL: You are at the threshold of gathering the information that then creates an investigatory trail that can not only lead to the perpetrator, but can also point to what other things need to be developed in the culture so that we can deal with this issue and resolve it.

So it's like if they're not investing--

MR. ELLISON: Correct.

SENATOR GILL: --in investigators, whatever comes after that has already been compromised because they are not giving you the support, the people, and the training that's necessary. So we can't have a success; no matter how many rules or procedures we put in place, you cannot have an effective outcome if when you begin the investigation you don't have the people, the money, or the training on the frontline.

So I consider you on the frontline of change and transformation in this struggle, in this fight, for women to be free of rape and sexual assault.

Thank you.

MR. ELLISON: Can you please help, because I've been begging for a couple years now. Please help.

SENATOR GILL: Well, you know, I don't know how to beg, (laughter) but I know how to do other things. So I'm with you on that.

Thank you. (laughter)

SENATOR GREENSTEIN: We'll definitely be working on trying to help with that.

Let me just ask you -- do you have any dealings with the Ombudsman's Office?

MR. ELLISON: Yes, we have dealings with probably everyone in the prison facility.

SENATOR GREENSTEIN: What does that office do as of right now?

MR. ELLISON: If they get a complaint, they will notify SID of that particular complaint, and then we will look into it from there.

SENATOR GREENSTEIN: How often have they done that, let's say over the last year or two?

MR. ELLISON: It depends; every facility is different. I don't have the--

SENATOR GREENSTEIN: With Edna, with Edna Mahan.

MR. ELLISON: With Edna Mahan? I'm sure quite often; I'm sure quite often that they make complaints.

But the issue here, Senator, is that there were only two investigators, and I'm sure that they had probably in the neighborhood of-- How many inmates did they say they have? I don't know what the population was. But with that, along with the other members who work at Edna Mahan, it's overwhelming; it is actually overwhelming. We cannot get the work done in a timely manner.

SENATOR GREENSTEIN: I guess the question I would have is, do you feel information is flowing properly? There was something in the report -- I just looked, and I can't find it -- but there was something about data not getting to you, or getting out from your office. Where is the communication gap there? And it may be because of a lack of staffing, but it just seems like things are not being communicated between all the different areas where they need to be.

MR. ELLISON: Well, we're SID; in other words, the Internal Affairs. The 90 percent of our investigations come from information that we receive from the frontline. So there's never been a communication gap between getting the information over to SID. I believe that the issue comes in when there's just a myriad of complaints and other tasks that we're being responsible for, and trying to take that information and get it done in a timely fashion.

SENATOR GREENSTEIN: Thanks.

Senator Cryan.

SENATOR CRYAN: Thank you; Adrian, thanks for your comments.

I do have some follow-up questions for you.

So only two investigators out of, at one point, 100, now closer to 80, were assigned to Edna. Is that correct?

MR. ELLISON: Two investigators? Yes, sir. And what they have is a principal investigator, which actually oversees the investigators.

SENATOR CRYAN: How many of those folks were there?

MR. ELLISON: Just one.

SENATOR CRYAN: So three people to -- for lack of a better way to put it -- handle Internal Affairs at Edna.

MR. ELLISON: Somewhat. Because sometimes they would get -- depending on if someone was on leave, or if we were trying to get someone promoted up there, you know, you normally would have just two people running that whole entire facility.

SENATOR CRYAN: So I've heard you talk about the facility, but do you have average caseloads? Do you have any idea -- can we understand this? The report talks about 70 incidents over several years, which I take to be three or more. Can you give us some idea of the actual caseloads that these investigators have?

MR. ELLISON: Well, it depends. Are we speaking specifically to Edna Mahan, or are we speaking--

SENATOR CRYAN: No, I'm interested in Edna Mahan; that's the topic of this discussion.

MR. ELLISON: Well, because Edna Mohan is incident-driven, there could be 20 this month; there could be 5 the next month. It all depends.

SENATOR CRYAN: I understand that. But you tend to manage over averages, even though you have some response time issues. So my question is, what's the average caseload, or how many incidents in a year are reported, or some sort of data tracking? And my follow-up to that is, do you bring in other people? If you get 20 in a month, where you have a 45-day window to respond, are others brought in?

MR. ELLISON: Okay, I don't have that data in front of me right now. However, when you're talking about a sexual assault case-- A sexual assault case is not something that can be wrapped up in 45 days.

SENATOR CRYAN: I understand that, and you have responses in a quick amount of time. So my point remains the same: What are the numbers?

MR. ELLISON: I don't have that information right now. I can probably--

SENATOR CRYAN: I think -- and if I can, through the Chair, I'd ask -- you're the first person we've heard here from the SID, and we're grateful for your work and your folks' work. But it would be nice -- because I'm going to follow up on some of the stuff you sent to the Committee about Chief Grade -- it would be nice to know what are the numbers. How many cases are there? How many folks are assigned? How does it work? We haven't seen anything like that.

My second follow-up to you is this. I heard you talk about training, and I appreciate Senator Gill's comments. But do we really need more training on the preponderance of evidence -- on what it is? Do the folks not know that now, or haven't known that?

MR. ELLISON: No, I believe that they do know the preponderance of evidence. However, when you're giving them, probably, about 12 or 13 different cases-- And I'm not making excuses for them. What I'm saying is that when you're talking about sexual assault, it is inevitable that we give them some specialized training in that particular area. We have brought this to the Administration's attention -- because of Edna Mahan and all of the things that were coming out of Edna Mahan -- that they need some training, they need more training -- refresher courses. You went to the academy in 2008, and it's 2018 and you haven't had a refresher course in 10 years -- then maybe you would miss out on some things as far as the new

procedures. And the only way that we get that information is through -- maybe the Prosecutor's Office will say, "Well, this is what we do now," versus getting a refresher course.

SENATOR CRYAN: Well, I want to ask about the Prosecutor's Office, but I want to follow up on this refresher idea.

Our folks, in my time there, did a lot of -- were required to do a whole bunch of online training and in-course training every year; annual training. Is there no annual requirement for training from SID, in terms of a refresher and so on? Is that accurate?

MR. ELLISON: Well, for sexual assault the answer is "no."

SENATOR CRYAN: Okay, how about-- So for the rest of it, in terms of policy and procedures? So it's unique to the fact that there's no specialized training for sexual assault. That does what exactly to an investigation? Does it make it slower, does it make it less responsive? Are these the same two people? How does that work?

MR. ELLISON: Could you repeat your question?

SENATOR CRYAN: Sure. The ongoing training, in terms of-- I get the fact that there's not specialized sexual assault training. But for the balance of training, are you saying that the inability to have sexual assault training has delayed investigations? If it has, how? And what impact has it had on reporting? Because then I'm going to ask you about the Prosecutor's Office and the Attorney General's position. What's that--

MR. ELLISON: No, not having other training should not have any impact on the investigations and the time that they're done. So the answer to that is "no."

SENATOR CRYAN: Okay, I'm just -- I get you on the fact that there's not enough, although I certainly would like to see the numbers. What I'm not getting is this idea of the responsiveness and the culture that's been extended for so long. I'll continue to say this in this hearing. Four Commissioners, five Administrators, and this nonsense crap still went on, time after time. And the only consistent thing there, as I understand it, is SID. And I'd like to know why it is that SID wasn't able to break this culture until a couple years ago. Is it -- you've made some pretty strong accusations here with Chief Grade and Deputy Chief Zook. Grade, as I understand it from Bill Sullivan, has been there a period of time. Is that the issue here?

MR. ELLISON: Are you talking about Chief Grade.

SENATOR CRYAN: Grade; I apologize. I don't know the man -- I assume a man, by the way.

MR. ELLISON: Well, that's probably one of the issues; that's probably one of the issues. We've made several complaints that he manages by fear. And sometimes when you bring things to the attention of Administration that they don't want to get out, then sometimes there's retribution for speaking out against that.

Now, there was a period of time in SID where we would conduct an investigation and then we would actually make the recommendation, based off of our findings, what it is that should be done and who needs to be removed from certain areas. But they have taken that away from us. So there is -- when we write a report, it's basically the facts -- what we found, what the allegation was, what our finding was. And the recommendation comes from the Administrator. They don't give us the ability to use our training and

experience to say, "Hey, you know, maybe you need to get this person -- remove this person out of here for whatever time."

SENATOR CRYAN: So what happens with your report?

So one of your investigators generates a report that says the findings are upheld, okay? -- that the allegation is true. Who reviews it, how does it work, and how does something actually get done as a result?

MR. ELLISON: Well, first of all, we don't list in the report that the accusation is true, right? They have taken that away from us. What we do is we give a report and we give a list of findings. We don't make any determination; we give that report to the Administrator, and then the Administrator then makes the decision, along with the Director of Employee Relations, and they determine what the sanction is.

SENATOR CRYAN: The Director of Employee Relations?

MR. ELLISON: Yes, (indiscernible).

SENATOR CRYAN: The Administrators for the past 15 years have received copies of reports, if I understand you correctly, that have found a finding of fact that -- and if I'm putting words in your mouth, please correct me -- that there have been numerous allegations of assaults, and findings of fact that may support that, and yet have done nothing. Is that a fair comment? Take away the last three; utilize the decade before -- is that correct?

MR. ELLISON: What was the last part of that question?

SENATOR CRYAN: Take away the last couple of years -- the decade before, is that correct -- my comment?

MR. ELLISON: We used to actually be able to put our opinion, and based off of our finding, into the report. Now that doesn't happen.

SENATOR CRYAN: Because my understanding is that these Administrators -- you guys were completely separate, and that these Administrators were kept out of the loop. What you're telling us is something actually quite the opposite. It's that correct?

MR. ELLISON: What I'm telling you is that when we conduct an investigation, we take that report, after it's approved through your supervisor, and the Administrator gets a copy of that report. And they determined the sanction of what happens.

SENATOR CRYAN: Okay. So what is the role of SID after the report itself, the finding of fact is actually generated? Is it gone, is it zero?

MR. ELLISON: That's it -- zero.

SENATOR CRYAN: Do you mean to tell me that for four Commissioners -- or whatever it is; four Administrators and five Commissioners, or vice versa -- that that policy was in place and this crap kept going on time, after time, after time?

MR. ELLISON: We used to make the recommendation. They've taken that power away from us. We generate a report, the Administrator and the Director of Employee Relations makes the determination of what happens to that employee. The SID has nothing to do with it. All we do is investigate the allegation and provide the results from that allegation in a report, period.

SENATOR CRYAN: Wow.

SENATOR WEINBERG: Senator Cryan, can I--

SENATOR CRYAN: It's all right, Loretta; go ahead.

SENATOR WEINBERG: Just to clarify -- when was that responsibility taken away from you?

MR. ELLISON: Probably when Commissioner -- the end of Hayman -- I want say George Hayman, and probably the beginning of Gary Lanigan.

SENATOR CRYAN: In 2010?

MR. ELLISON: Yes.

SENATOR GREENSTEIN: Before that, probably.

SENATOR CRYAN: Because the report refers to cases around 2005, and-- Man, that is just some comment to make.

MR. ELLISON: I wasn't in -- I didn't come into SID until 2008. So anything prior to that, I can't speak of.

SENATOR CRYAN: But it's been your experience since 2008 that this has been the process.

MR. ELLISON: Yes.

SENATOR CRYAN: All right. I just have one last thing, and I know I take too long; I get that all the time.

Can you explain to me what training you folks in SID have had for body cameras?

MR. ELLISON: Body cameras? None.

SENATOR CRYAN: Okay. Nothing in terms of retention, storage -- anything of the like -- accessibility, nothing.

MR. ELLISON: Nothing; not to me.

SENATOR CRYAN: Okay, thank you.

SENATOR GREENSTEIN: Thank you.

I actually -- I want to refer to-- Well, let me ask you this. The PREA reports that talk about substantiated, unsubstantiated -- they have

those three categories. How does that tie in with the reports that SID are doing? I mean, are they completely separate?

MR. ELLISON: The substantiated and unsubstantiated terminology is what they told us to put in the report after we have conducted an investigation.

SENATOR GREENSTEIN: That's the term you use?

MR. ELLISON: Yes, that's the term we use.

SENATOR GREENSTEIN: You check one of those boxes?

MR. ELLISON: No, no, we just put a -- in the last sentence, whether it was unsubstantiated, unfounded, or substantiated.

SENATOR GREENSTEIN: Because last year during the budget hearings, when the Commissioner testified, I actually questioned him on this, and I said I wasn't really satisfied with the answers. It seemed that was-- What are the three categories? Substantiated-- What are the three?

MR. ELLISON: Substantiated, unsubstantiated, and unfounded.

SENATOR GREENSTEIN: You know, *unfounded* means they made a finding that there was nothing there. But I thought that one of the categories sounded kind of indeterminate, and it seemed like most of the cases fit into that category and hardly anything was considered *unfounded*. So I said, "Do you ever go back and relook at these, because some of these are not-- You haven't determined what's going on. They are just hanging in midair." And he said, "No, no, we consider that it was investigated, that's the finding. We don't go back and look." And I said, "Well, to me it seems like somebody should go back and look."

I mean, you're using -- that's PREA terminology, right? As I understand it, it's required by Federal law to use those categories. And that's what you're told to use in your reports as well?

MR. ELLISON: Right.

SENATOR GREENSTEIN: Is that used by the PREA people when they investigate -- when they come around, or whatever -- when the auditor does a report every three years? Are they looking at some of your results?

MR. ELLISON: I don't know the answer to that question specifically. All I can tell you is that based off of the reports that we write, that those are the categories that we generally use at the end of the investigation.

SENATOR GREENSTEIN: I just want to read-- this is the last thing I'm going to say here -- I just want to read a paragraph that is on page 23 of the Department of Justice report. And it's saying that the Administration failed to review pertinent information concerning incidents of sexual abuse. And it says, "We found no evidence to demonstrate a reasonable response to sexual abuse incident process at Edna Mahan.

"While SID collected some information concerning alleged incidents of sexual abuse, critical details of several of these incidents have not been shared with facility leadership." And this is the thing I was mentioning before. It seems like it's kind of a lack of communication. It says, "Edna Mahan's Administration has not set up a team to review with its leadership alleged incidents of sexual abuse. To the contrary, Edna Mahan has set up a system that deprives the Administration of the details of incidents of sexual abuse, which allows systemic deficiencies to persist."

It just seems like they're saying that information doesn't get between SID and the Administrators.

MR. ELLISON: Well, considering I don't know what system that is that they're referring to; and if the Administrator says that they didn't know, it doesn't mean that we didn't tell them. I find it very hard to believe that something of that magnitude and nature, of a sexual assault, that the information would not be given to the Administrator. It's not like we're talking about the theft of some canteen. We're actually speaking about a criminal investigation. And I just find it hard to believe that we would withhold that type of information from an Administrator. That would be--

SENATOR GREENSTEIN: I hear you.

It says in here -- this is what they're alleging -- that the top official at Edna Mahan, the Administrator, does not have access to SID investigative reports in case files. The SID investigation reports state that SID will forward findings to the Administrator for appropriate action; that the Administrator is not provided details of the investigations in order to fashion appropriate actions."

So that is the allegation that they're making in their report. But you're saying that is not true.

MR. ELLISON: That is not true. If the Administrator didn't know details of an investigation, then how would they be able to discipline or remove someone from their job title or service?

SENATOR GREENSTEIN: The question is, how often do they do that?

MR. ELLISON: How often--

SENATOR GREENSTEIN: That somebody is disciplined.

MR. ELLISON: Oh, whenever there's an investigative report that is generated, where someone violated a rule or someone violated some -- or committed some criminal act. But when we give the report, what happens and what the discipline is that they receive, we have nothing to do with. We move on to the next investigation.

SENATOR GREENSTEIN: Other questions?

SENATOR CRYAN: I'm sorry; just real quick.

So whose obligation is it to refer what they believe has been a criminal act? Is it only the Administrator, or is it you guys? Who's responsible?

MR. ELLISON: No. When there are criminal violations within the institution, then we will generally refer it to the Prosecutor's Office through our chain of command. But when there is an administrative violation, then that's when the Administrator gets involved with OER, and then they make a determination. Once we refer for criminal prosecution, we gather the information and we come back, we formulate a report, then we pass that on to the Administrator. Then again, they make that determination. Now, we don't forward it to them while it's in its inception, because we don't want to compromise the integrity of the investigation before we get all the facts. But after we get all the facts, a report is generated and given to the appropriate persons.

SENATOR CRYAN: Do you guys follow Attorney General guidelines, or do you follow-- I'm sorry, I'm way off line. Do you guys follow AG guidelines, or do you have your own set of standards for investigations?

MR. ELLISON: Well, it all depends. I know that's a response that you're, like, "Okay; well, which ones do you follow?" Hey, listen, the AG

guidelines say that we're supposed to follow certain urine protocols. But you know the Commissioner doesn't -- he's separate from the Attorney General.

SENATOR GILL: Senator, I have just one question.

SENATOR GREENSTEIN: Yes, go ahead.

SENATOR GILL: Could you please tell me once the report is done-- No, I'll withdraw that. Who sets the procedure for SID? Do you set the procedure and rules and regulations for SID?

MR. ELLISON: Which rules and regulations are you talking about?

SENATOR GILL: Well, let's deal with -- back to the sexual assault in reporting.

MR. ELLISON: The Department sets the guidelines.

SENATOR GILL: That's what-- So that you don't set the guidelines--

MR. ELLISON: No.

SENATOR GILL: The investigators don't set the guidelines. The guidelines are set by the Administration, and you simply follow what the guidelines are.

MR. ELLISON: That is correct.

SENATOR GILL: Would that be correct?

MR. ELLISON: That is correct.

SENATOR GILL: Now, the guidelines that you follow say you send some reports to the Attorney General and some to the Administrator. Is that correct?

MR. ELLISON: That's not quite correct.

SENATOR GILL: Okay. Well, you said that there are some reports that go to the Prosecutor.

MR. ELLISON: What happens is, during an investigation, if you find that someone has done a criminal act--

SENATOR GILL: Okay.

MR. ELLISON: --what we'll do is, in conjunction with the Prosecutor's Office, we will do an investigation. Once the investigation is complete, a report is generated and then it's approved. After it's approved, it goes to the Chief Investigator, Duane Grade, and it is disseminated to the Administrator of that particular facility who determines discipline.

SENATOR GILL: So your criminal investigation is done in conjunction with the Prosecutor.

MR. ELLISON: On certain investigations, yes.

SENATOR GILL: Okay.

I have no further.

Thank you.

SENATOR GREENSTEIN: Okay, great.

And just for everybody's knowledge, it is now about 1:10 p.m., and we have to be done by 1:30, because another Committee is coming in -- because I'm actually in Trenton; I'm the only one who's here.

So anyway, we really appreciate it, Mr. Ellison. Thank you very much. It's been very enlightening.

Thank you for your help here.

Now, this is who I understand we still have. Bonnie Kerness, Lydia Thornton; do we have Rick Robinson?

MS. WHITBECK: He looks like he's on the phone line.

SENATOR GREENSTEIN: Okay.

So I'm going to just ask if you can, literally, just do five minutes. And then if anybody has any questions, they'll get them to you after. If you could just submit testimony and give your testimony in a few minutes, because we have to be out of this room at 1:30.

So go ahead, Bonnie.

BONNIE KERNES S: Okay, thank you for having me.

I may be the only one in the room who has been monitoring complaints and testimonies from inside New Jersey prisons for over 30 years. So it's with a lot of skepticism that I hear some of what's been said.

One of the things the report said about the Special Investigations Division -- it noted the complicity between officer administrators and SID. And that's something we've certainly heard about, you know, for many years.

I know while Senator Cryan is specifically focused on Edna Mahan, I have to be focused on all New Jersey prisons. And when we talk about that culture that led to the sexual abuse at Edna Mahan -- which I've been hearing about and complaining to prosecutors, administrators, Department of Corrections heads, for decades -- after monitoring that institution for decades, I couldn't be happier about the bill that has happened. I just want to note that we get reports every single day. So while COVID has kind of interrupted the bad sexual behavior at Edna Mahan, that DOJ report also exposed uncensored harassment, misconduct, coercion, retaliation, and other forms of assault; and we're still getting reports from all New Jersey prisons. And I would strongly encourage interruption of that culture of cruelty that so many people mentioned.

One thing -- I can't comprehend the tolerance for this kind of behavior from the officers' union. When I reflect on those officers who were indicted, tried, and imprisoned as a result of their abuse, I think of what their families and children are going through. And I think that that had to do with the chain of command. There is no effective chain of command.

SENATOR GREENSTEIN: Bonnie, can I ask you -- you submitted written testimony, right?

MS. KERNESS: I did, I did.

SENATOR GREENSTEIN: So everybody will have a chance-- And I also just want to say Bonnie is the Program Director of the American Friends Service Committee Prison Watch.

If I can ask -- just because we actually have to do the Bill; I forgot about that. So I actually don't have as much time as I thought. So if I could just cut you off at that point. Everyone has her testimony; if anyone has questions, I know she's available. You can get in touch with her and ask whatever questions.

MS. KERNESS: Can I just say one more sentence?

SENATOR GREENSTEIN: Yes.

MS. KERNESS: Specifically, questions having to do with the Office of the Ombudsman, who I deal with daily. Questions dealing with the need for an Office of Inmate Advocacy and the Public Advocate. So they--

SENATOR GREENSTEIN: Well, I'm going to be calling you about those, because a lot of those I feel like I don't have the right information.

MS. KERNESS: All right; thanks so much.

SENATOR GREENSTEIN: Thank you very, very much.

Rick Robinson, do you want -- can you take, like, two minutes?
I don't know if you submitted--

RICK ROBINSON: I can give you two minutes.

I have something to read from the New Jersey NAACP State Conference President Richard Smith.

“The New Jersey State Conference of the NAACP finds the acts of sexual violence committed by correction officers against female inmates absolutely reprehensible. While these allegations are heinous on their own, the abuse of power exercised by the correction officers serve as a reminder of institutional issues that we are fighting to this day.

“Our focus forward must be twofold: ensuring situations like this no longer occur by creating stricter punishment and increasing inmate-focused safety nets, as well as providing the proper treatment of those who have been abused.”

I want to thank you Chair, and I want to thank the Senate Law and Public Safety Committee for having this platform. My name is Rick Robinson; I serve as the Chairman for the New Jersey NAACP State Conference for Criminal Justice, as well as in Newark. I testified in February 2018, and I have four pages of notes. And I have to get on calls right now -- I have to get on a show right now to actually talk about the situation. But I will ask the question: Can we get a recording of this?

MS. WHITBECK: It will be transcribed.

SENATOR GREENSTEIN: Yes, yes it will. And also there will be a recording. So we can get you the information on that.

MR. ROBINSON: Okay, that's great.

And again, we thank you. But we will be forwarding our actual opinion to the National people, and on the State level.

So again, I want to thank you and your Committee. And I know this has been a long endeavor, but again, we thank you for the opportunity.

SENATOR GREENSTEIN: Thank you, Rick; thank you.

And finally, Lydia Thornton. I know you did excellent testimony the last time. Did you submit anything in writing?

LYDIA THORNTON: I didn't, but I can; I have it. I just didn't send it in.

SENATOR GREENSTEIN: Well, it would be great if you could submit it to us--

MS. THORNTON: Sure.

SENATOR GREENSTEIN: --and that way--

Can you do, like, two minutes?

MS. THORNTON: Yes, I can do two minutes.

SENATOR GREENSTEIN: Thank you.

MS. THORNTON: It's the very end, and everybody's done right now.

SENATOR GREENSTEIN: I'm sorry, yes; I'm sorry.

MS. THORNTON: It's okay, it's okay.

Two quick things: I want to say first to anybody who doesn't know me or hasn't heard me speak, that I served four-and-a-half years at Edna Mahan. I was released about five years ago.

To answer Mr. Ellison's question -- right now the population -- there's about 570 women, give or take.

And I wanted to say to Senator Gill -- you bring up the most important word in this whole conversation, and that's *human*. These are human beings. These are women, grandmothers, mothers, sisters, aunts, children. And the culture of that facility has allowed both the officers and, I believe, SID to lose sight of that. They see them as numbers, they see them as inmates. And that's where this cultural shift is.

Reading the Department of Justice report, I was so grateful to see them outline the fact that SID doesn't do much. No offense to your head over there Mr. Ellison, but your people have lunch with the people they're investigating on a daily basis. That doesn't bring an investigative look to the whole situation.

The last piece I will touch on is the Ombudsman's Office. There is a part of the Dignity Act, that's supposed to take effect in a couple of months, that deals with the Ombudsman's Office. I'm just going to say one word about them: They're powerless. I have called them in the past six months on various situations in other institutions, and all I get is, "Well, we let the Administrator know it was happening." Okay, and then what?

SENATOR GREENSTEIN: I agree with you. Something has to be done with that, for sure.

MS. THORNTON: And then what? Because they don't have any power at all to follow up.

Now, part of that Bill also creates a Committee, of 15 or 16 I believe, to sit and talk about what needs to be done. I think we need the Committee, because people like me are supposed to be on it -- previously incarcerated folks, who know what goes on -- but I also think there needs to be some powers given to the Ombudsman's Office. Maybe move it from

where it is to where it needs to be, to have actual authority to act on something when they don't get a response, or to act on something when the response makes no sense.

I know we're on a time line, so I will leave it at that. I'll submit my testimony.

Thank you all so much for doing this.

SENATOR GREENSTEIN: Thank you, each and every one of you, those who are still on, those who aren't on.

Is there anything else I missed here, because we're about to do this Bill. (no response)

I think we got everybody, and we'll get some written testimony from the last people that I forced to rush up a bit.

So the Bill is SJR-79; it's the only Bill we're doing today. It's Greenstein and Gill. It creates a Commission to study sexual assault, misconduct, and harassment by staff against inmates in State Correctional Facilities.

We fixed it up a little from what it was two years ago. We added in the idea that we had had the hearing, and we changed a few of the positions.

Wendy, could you, just briefly, describe it?

MS. WHITBECK: Sure.

We just updated the *whereas* clauses to reflect the DOJ report. And then we just added some of the statistics on indictments and convictions.

As you know, it was introduced last session, so there were some developments since.

SENATOR GREENSTEIN: Right. And I think it's clearly something that we need. I wish we had had it for the last two years, because it would provide the oversight that we clearly need here, and that would make, I think, all the difference.

So I'm hoping you all support it.

Do we have enough votes on here to--

MS. WHITBECK: Yes, we should. I just need the motion and a second.

SENATOR GREENSTEIN: Okay; anyone want to move it?

SENATOR GILL: I'll move it.

SENATOR GREENSTEIN: Can I have a second?

SENATOR BUCCO: Second.

SENATOR GREENSTEIN: Thank you.

MS. WHITBECK: On the motion to release Senate Joint Resolution 79, as amended, Senator O'Scanlon has indicated affirmative votes.

Senator Bucco.

SENATOR BUCCO: Yes.

MS. WHITBECK: Senator Sacco -- who, by the way, I have noted as voice present, as he wasn't there during roll call.

SENATOR GREENSTEIN: Senator Sacco, we're voting on this Bill.

MS. WHITBECK: We're voting on SJR-79, as amended.

SENATOR SACCO: Okay.

SENATOR GREENSTEIN: It creates a Commission, like an oversight Commission, to look at this.

SENATOR SACCO: Yes.

SENATOR GREENSTEIN: Thank you.

MS. WHITBECK: Senator Gill.

SENATOR GILL: Before I vote on this, I think we should not-- With respect to the Administration, we are here to help. This has to be resolved. We are not adversarial in this process for justice for these women, and so we need to not have it continue. And with the engagement of the Administration, with the legislative branch, and people who are here to work this through, that is what we want -- to have a relationship with this Administration.

I interviewed the Commissioner of Corrections, and he had some innovative ideas. But we have to get to work to do practical things. We know what has to be done, and we know fundamentally that you do not lose your value as a woman or person when you go to jail. Your body does not stop becoming your own when you go to jail. And those who take advantage of women incarcerated need to face the consequences and the leadership.

So I will say, as they say in Just Detention International, "No matter what crime someone may have committed, rape is not part of the penalty." Sexual abuse is a human rights crisis; rape and other forms of sexual abuse in prison are recognized internationally by the UN as a form of torture.

So let's get together, Administration, let's get together the Commissioner, and let's get together and do what Martin Luther King-- And I'm sure the Governor, as well as the Commissioner, would agree with Martin Luther King -- justice too long delayed is justice denied. And we cannot deny them further.

Thank you.

MS. WHITBECK: Senator Gill, you're a "yes" on the Bill, as amended?

SENATOR GILL: "Yes" on the vote.

MS. WHITBECK: Senator Cryan.

SENATOR CRYAN: Yes.

MS. WHITBECK: And Senator Greenstein.

SENATOR GREENSTEIN: Yes.

MS. WHITBECK: Senate Joint Resolution 79 is recorded, as amended.

SENATOR GREENSTEIN: And thank you all very much; it was an excellent hearing.

Thank you.

(MEETING CONCLUDED)