UNITED STATES DISTRICT COURT
FOR THE
SOUTHERN DISTRICT OF FLORIDA

ANTHONY LaMARCA, et al.,
Plaintiffs,

VS.

CHESTER LAMBDIN, et cetera.,
Defendant.

Case No.82-8196
Civ- PAINE

West Palm Beach, Florida

January 10, 1990

9:00 a.m.

APPEARANCES:

DAVID MICHAEL LIPMAN and WILLIAM ROBERT AMLONG, ESQS., on behalf of the Plaintiffs.

MICHAEL B. DAVIS and WALTER M. MEGINNISS, ESQS., on behalf of the Defendants.

- - - - -

The above-styled case came on for Trial before the Hon. James C. Paine, U.S. District Court, at the U.S. Federal Courthouse, West Palm Beach, Florida, on the 10th day of January, 1990.

VOLUME 3

INDEX

THE COURT: Good morning, gentlemen.

Are we ready with Dr. Caddy?

MR. AMLONG: Yes.

MR. DAVIS: We introduced an item into evidence yesterday, two letters, offered by the inmates. Those are the only copies we have. Could we make arrangements to have them copied?

THE COURT: Yes, those are defendants exhibits 38, two letters marked together as Defendant's 38, see if we could get copies for counsel here.

Let me have those exhibits 5, 6, and 8.

Call your witness, please.

MR. AMLONG: Dr. Caddy.

GLENN ROSS CADDY, PLAINTIFFS' WITNESS SWORN.

THE COURT: Please be seated. State your name.

THE WITNESS: Glenn Ross Caddy, C a d d y.

DIRECT EXAMINATION

BY MR. AMLONG:

Q Dr. Caddy, tell the court what you do for a living. What your profession is?

A I am a clinical psychologist.

MR. AMLONG: May I approach the witness, Your Honor?

BY MR. AMLONG:

Q Dr. Caddy, I show you a curriculum vitae by yourself,

would you tell me if that is prepared by you, and if it is up to date?

A It is relatively up to date. This particular one is about 9 months old, but it is close to mark.

THE COURT: I am sorry, I didn't hear you.

THE WITNESS: This is close to being up to date. It is 8 or 9 months old, I think, this particular one.

BY MR. AMLONG:

Q Are there any significant additions you would make to the CV?

A Really more just some articles that were in press, and now published. Nothing that really changes the complection of my overall experience, and training.

MR. AMLONG: Your Honor, I move into evidence Plaintiffs' No. 1.

MR. DAVIS: No objection.

THE COURT: Received without objection.

(Plaintiffs' Ex. 1 received into evidence.)

BY MR. AMLONG:

Q Dr. Caddy, have you previously testified as an expert in this case?

A Yes, I have.

MR. AMLONG: Your Honor, I believe the court is familiar with Dr. Caddy's credentials, and with his

previously being qualified as an expert. I propose to short circuit--

THE COURT: That is agreeable with me.

MR. AMLONG: Does the defense object to his being qualified as an expert?

MR. DAVIS: No.

THE COURT: You may proceed.

MR. AMLONG: Thank you.

BY MR. AMLONG:

Q Dr. Caddy, in your clinical practice, have you had the occasion to treat persons who have been the victims of recent rapes?

A Yes.

Q And have you found there to be a diagnosis that is common to those patients?

A Yes. The diagnosis that most commonly fits such individuals is an adjustment sorted with mixed emotional features. The nature of that diagnosis implies that you have an acute episode or crisis, and that people deal with that crisis in various different emotional ways, and often with a set of emotions that are really quite mixed. Anxiety, problems with sleep disturbance, tearfulness, crying, inability to cope, inability to concentrate. Some forms typically of short term depression.

In some instances, this process becomes prolonged,

and if the adjustment, post rape adjustment is poor, or if there is further abuse or violence that the person is subjected to, you get secondary consequences, and what starts off as an adjustment difficulty becomes a more severe form of post-traumatic stress disorder, but that second condition is rather unusual, and it is normally the adjustment difficulty diagnosis.

Q Doctor, tell the court, please, what symptomotology is common to rape victims?

A Well, I think it varies substantially, and a lot of the variance is connected to principal events. One of them is the pre-existent emotional state of the person who becomes the victim of the rape, and second is the very nature of the rape itself.

Firstly dealing with the issue of pre-existent personality, if you have a person who is extremely emotionally well put together, strong, robust, healthy, of normal, well integrated emotional functioning, then you tend to find that person is much more able to cope with the emotional consequences of rape, and, hence, the post adjustment period, if you like, is often relatively competent.

If, on the other hand, you have a lot of emotional deterioration, major problems of adjustment difficulties in coping generally as a pre-existent event, you are more

likely to have maladjustment.

But, in addition to that, on the outside, outside of the prison system, there are many instances when although rape is a crime of violence, or event of violence, it is not necessarily construed as life threatening. The general evidence is, for example, date rape is an unfortunate event. That doesn't constitute a life threatening event in an individual.

In a life threatening circumstances, such as many I testified about previously in this court, the dilemma that these people see themselves as extremely vulnerable to great threat. That is, they are raped on the conditions of required submissions, in most instances with the threat of great violence, or they are advised that if they don't comply, then they will be otherwise hurt at a later point.

Those sort of events sets the stage for more difficulties of adjustment. Not only do we have the physical acts in this instance, or these instances of overpowering, and then anal penetration, what we also have is threats to physical safety, and often, a long history prior to the physical rape of threats and seductive commentary, and the sort of events that set the stage for an overall fear response.

In those situations, you are more likely to have a far greater degree of maladjustment. When you have that

maladjustment, it will take the form of generalized anxiety phenomena. I can't speak to in a particular case, I can't predict in a particular case how that is going to go, but you are going to have difficulties with sleep difficulties, adjustment, generalized fear responses, overall problems in being able to cope and concentrate, worry about security questions, after the initial rape. The question of whether you can tell anybody, and if you are going to tell somebody, are they going to take you seriously. What is the sensitivity with which you are going to be dealt with. A whole lot of questions become relevant to setting the stage of anxiety, or depressive responses, and for some people, this really becomes a major existential crisis.

For some men who have been raped there is the sense that they have lost their manhood. There is the sense that they have been degraded, but not only degraded, but made almost woman like, and that is an event that seems to appear more in these rather poorly educated in particular men who have had an attitude of themselves as being sort of matcho with women, and having been then raped, they experience the sense of having a lot of their masculinity removed from them.

It is not a rational belief system, and while it is irrational, it, nevertheless, is a phenomena that appears rather routinely.

Those -- some of these are indicators that you get following these sorts of more violent rapes.

Q Would nightmares be consistent with the symptoms?

A They would. Not all patients would experience nightmares, but nightmares are inability to have free sleep without sleep disruption, difficulty going to sleep at night because of the worry about the possibility of being intruded upon during the night.

Many of the events tend to occur at night. All of those things would be consistent with adjustment.

Q With continued fear if you ever get out of a prison, and have sex with a woman, she would know that you have been raped, is that consistent?

A It is not a general response. It is an idiosyncratic response. It is a response that occasionally occurs. It is connected to the not rational view that one's own sexuality has been violated where others may be able to observe that you are less of a man, lessening of your male status would appear in the issue of belief that a woman may somehow know this.

Q Do these symptoms require intervention of a psychologist if they are going to be stopped?

A Not necessarily a psychologist, but certainly a person who has expertise in treatment of patients who have been sexually abused.

What happens on the outside is that typically people who have been -- who have alleged rape are provided with immediate medical attention, and then referred to a rape crisis center, and people who are especially trained in rape crisis counseling initiate what is known as crisis management, and depending on the adjustment they are making, following that crisis intervention, they would either be provided with services that may be of a psychiatric, or psychological nature, or mental health counsel especially qualified in this area may provide some services.

Q In the outside world, is it typical a rape victim goes out and seeks a rape crisis center, or the rape victim delivered by the authorities?

A No. Typically -- well, things have changed over the last 20 years, but today, the strategy is that it is a very proactive procedure so that a victim is brought into the police system, and into the medical system, and as soon as is practicable, that person is provided with direct contact with the mental health professional at a rape crisis center.

It is also the case, increasingly that certain personnel in some police jurisdictions have received specialized training to increase their sensitivity. This is especially the case in dealing with women, but the

sensitivity of the special needs of the woman who has been raped, so one of the things we have seen is increase in sophistication with how the police authorities, as well as the community at large, is dealing with a victim of a rape.

Q Is it considered sufficient in the outside world to merely have psychological counseling available for rape victim should that rape victim choose on his or her own to go seek it out?

A No--

MR. DAVIS: Excuse me, I think something that is considered sufficient in the outside world hardly speaks to the question of proper opinion.

THE COURT: We better stick to the problem at hand.

BY MR. AMLONG:

Q Doctor, would you consider it to be sufficient in prison to have a psychological department that would respond to a rape victim's request should that rape victim choose to seek out the psychologist?

A I think that within a prison system, that system has a proactive duty of treatment. If the--whether the person suffering from a medical emergency, or psychological crisis. I do not presume that the system must provide treatment. I think that the system must provide an evaluation that makes a determination if treatment is

necessary, and if treatment is necessary, what treatment then should be provided; but I think that that system of allowing the inmate to contact the treatment delivery, really requires a broad ranging understanding within a prison facility of standard operating procedures connected to this matter, and whether one be on the nursing staff, on the psychology staff, in the medical unit, or whether that person be one of the correctional officers, there needs to be a common understanding of the management of these sorts of events so they are dealt with sensitively.

Q Has it been your experience that rape victims feel violated, feel further invaded by this proactive approach?

A No. It is generally the case that rape victims respond extremely favorably to rape crisis management, and that is exactly what we would expect that they would do. Those that are most likely to be avoidant of such services are likely to not acknowledge the existence of the rape in the first place, and it would seem to me the only risk of a person rejecting such services is if they perceive the services to be not relevant to them, or of little value, then they are unlikely to come back.

Q Doctor, within a professional probability, would you expect increased rape crisis services to increase the level of reporting and prosecution of rapes?

A Yes, I would.

MR. DAVIS: Objection, there is no basis that this witness has any expertise in such an area.

MR. AMLONG: May I follow this up?

THE COURT: Yes, I think so. I will overrule the objection. I am not sure what impact that question and answer ought to have on this case. I will overrule the objection. Go ahead.

BY MR. AMLONG:

Q Doctor, have there been studies showing whether or not the availability of rape crisis treatment increases rape reporting?

A Well, not specifically that, but there are -- there is a general history in literature showing, firstly, an increase in rape reporting over the last 20 years. In that area, and I don't think there is any basis to presume somehow there have been more rapes, but in increase reporting, and increase sensitivity, and increased recognition that it is acceptable to report these events, and that something will be done to protect the individual who is the victim. We increase the probability that a victim will come forward.

That is true not only in the area of rape, but in other areas dealing with general mental health consideration. If we have systems in place to protect a person who chooses to seek out specialized services then

what we find is utilizations of services typically increases.

Q Now, doctor, in connection with your preparation for this testimony, have you interviewed several of the Glades Correctional inmates who have claimed to you to have been raped?

A Yes, telephonically, I have made contact with a small number of those people.

Q And did you read Mr. White's, Mark White's deposition?

A Yes, I did.

Q Now, in your opinion as a psychologist, were the symptoms that those persons described consistent with the symptoms of rape victims?

A Yes, they were.

Q And would those persons have benefitted through a rape crisis intervention system?

A Yes.

Q Can you tell us how, specifically?

A Well, each individual may have benefitted slightly differently, but the principal issue is that each one of these men, if they had available to them a sensitive access to protection, and to a belief that, in fact, their reporting had merit, that is to presume that they have been raped until shown otherwise, rather than to doubt the

possibility of rape until it were proved. What we would immediately accomplish is to bring those people into a more sensitive system.

If, in addition, they were provided with access to an evaluator who was competent to make determinations about the then existent mental health, we would be in a better position to know today what specific services they may have benefitted from.

I am not going to testify that I know specifically exactly what each one of these men should have had at that particular point because I would have needed to have evaluated them at a time gone by. I am not on the ground at this point knowing exactly what each one of them needed, but a system that was in place could easily provide that, and it seems to me at very little cost.

THE COURT: Why do you say very little cost? It sounds to me like it would be quite expensive.

THE WITNESS: There are people in these units, in these medical units that could be trained in crisis management, that should already be trained in crisis management of rape. There is the ease of instituting standard operating procedures for rape management. Those administrative procedures can be instituted at essentially no cost. There would be, perhaps, some cost connected to training personnel on sensitive crisis management of rape

victims.

THE COURT: You are assuming that trainable personnel are already in place.

THE WITNESS: Well, that is the case, Your Honor. Well, it seems to me that in a prison system, the authority comes from the top, to a fair degree, and in that system, if procedures are mandated such that when a person complains that they have been raped, if the presumption by administrative fear, they are prepared to have been raped unless demonstrated to the contrary, that is a different mentality than the presumption they are maneuvering to get out of everything or they haven't really been raped, or even if they have, it is no big deal.

Those conceptual understandings that could underly standard operating procedures, if instituted with some training at least at the higher levels, I think would have some impact at all levels in that system. And certainly, the people who exist within medical units should have the ability to manage these matters.

From what I can see of my review of the depositions of the medical specialists at Glades, one of the problems seems to be that it never gets reported to them. There is a breakdown in the communication process such that it never gets reported to them. And, so, it is never dealt with as if it is a mental health process crisis.

THE COURT: All right. Thank you, sir, go ahead.

BY MR. AMLONG:

Q The mental health unit screens incoming inmates, and as part of that reviews their scores in the Minnesota Multiphasic Personality Inventory, are you aware of that test?

A Yes, I am, and I am aware that is one of the procedures they do, yes.

Q Is it possible for the mental health unit, and classification by reviewing the MMPI to tell whether or not an inmate is going to interact violently with other inmates in the prison?

A The answer to that is not specifically solely by reviewing the MMPI; but if, in fact, those people are trained to look for three indicators on the MMPI, plus if the person can be demonstrated to have had a previous aggressive history, then three indicators on the MMPI, with evidence of a previous aggressive history is extremely predictive of future aggressive behavior. I cannot state that that aggression going to take the form of rape, but I am suggesting that violent behavior is going to be relatively well predicted.

Q Doctor, what are the three scales in the MMPI?

A First scale would be higher elevation in the

psychopathic deviate scale. That is a scale that not only measures tendency toward sociopathy, but at relatively high levels reflects a lack of concern or caring for other human beings. A very good predictor of violent behavior.

The next scale that they would look at is the schizophrenia scale, because while the schizophrenia scale, higher level measures schizophrenia behavior, at lower levels it measures generalized maladies in coping, poor judgment, limitations of psychological boundries, meaning that the judgment that would influence many of us not to act in certain ways often broken down in patients who have high indicators on schizophrenia scale, and the third index scale is the mania scale.

The mania scale measures underlying emotional intensity. People who are very high on the mania scale sometimes are manic in their manifestations of behavior. They may speak extremely quickly, and sometimes very manic depressive illness, slightly lower levels are predicting a forced intensity of behavior. These people have trouble controlling impulses. They are intense people. You put those three together with a previous history of physical violence, and just as they predict serial killers, when there is previous evidence of killing, so too, they also predict at lower levels dangerousness, and those people, in my view should be specially handled in a prison system,

It is not as if we don't have any of the data available. It is just that we don't handle them that way.

Q Doctor, previously, you were discussing how to handle persons claiming to be raped. From your experience as a psychologist, how likely do you find that someone is going to claim to have been raped in prison without having actually been raped?

A I don't believe that we have really good research studies defining that, but the probability of a man in prison claiming to be raped when he wasn't, I would consider to be extremely low. Rape is -- the reporting of rape for many men in that system is an emotionally degrading exercise. While many men in prison are willing to lie and manipulate, to claim rape is a very low probability manipulation by comparison with almost any other manipulation that one might choose to make.

Q Why is that, Doctor?

A Because it goes to the heart of something that many of these men would find very difficult to deal with--their extreme vulnerability, and sexual vulnerability to another person. Many of the men who would report having been raped would not define themselves as homosexual, and, therefore, to be sexually attacked by another man as well as physically attacked is going to be degrading to their sense of their manhood. That is not something that most men,

even men in prison, wish to bring to the identification of other people.

Especially in a prison system where there is so little confidentiality, that to reveal that is going to reveal to probably a lot of people that they have been the victim of another person.

And in some instances, of course, rape isn't a single event or occurrence, it is a multiple. And there you have the further degrading that this person didn't have the ability to do terribly much themselves to prevent this occurrence. So, overall, you get a further sense of the degrading quality of that act, and the reporting connected to it.

Q Doctor, to sum up, should Judge Paine choose to grant injunctive relief in this action, what recommendations would you make to the court for the provision of treatment to persons who allege that they have been homosexually raped at Glades Correctional institution?

A Well, I would specifically establish from the highest levels of the institution, and, in fact, throughout the State of Florida, a set of standard guidelines, administrative guidelines, for the handling of physically abused men, and in particular, sexually abused men.

I suggest that the sexual abuse is a special quality of the physical abuse because it is in many respects more

degrading than other forms of physical abuse. And those administrative guidelines should mandate the curteous and respectful handling of the inmate with the underlying presumption that the rape is more likely to have occurred than not to have occurred.

That a medical screening be provided. And that the approach not simply be one of collecting evidence of the rape, but also providing sensitive care to the physical needs of the person, and that contemporaneously with that, that the medical department provide a proactive strategy of immediate crisis intervention care by the most qualified specialist, mental health counselor, available.

That each facility provide at least some degree of training to both guards, supervisors, and the medical departments on the sensitive handling of rape, and that we -- and that we provide after an evaluation additional services as is necessary both to insure the safety and protection of the victim, and his or her, mainly his, ongoing care so that we minimize in the institution, we minimize his vulnerability to having further adjustment difficulties.

For example, created by having him put back in the same environment as the rapist, and that we further provide for a degree of counseling to these individuals on an individual basis rather than a group, because of the

sensitive nature of the issues involved, and that we prioritize those services as urgently needed, rather than adopting the view that, well, if he really needs us, we are sort of there, and he can come and talk to us, which seems to be the way things happen at the present time.

Q Doctor, how much additional education do you think that it would take to train someone who is an M.D., psychiatrist, or Ph.D., or psychologist in this crisis intervention?

A Well, we have a mixed bag in our correctional system. But if that person is generally competent-- See, the problem is, if they are quite generally competent, they shouldn't need any training. They know how to handle this. They should have had exposure. If they didn't have specific rape crisis, they should have had other crisis intervention, or they should. My sense of it is what they might need is a maximum of an hour, or hour and a half of training dealing specifically with rape issues, and then from there, they would use the normal skills that they should have available to them as experts in crisis management, simply applying those particular skills to the enigmas of the individual case.

But we also need to train those people to be proactive in seeking out the services, and create a link between the first line of contact, typically the guard, the

correctional officers, and the person who is going to be evaluating, determining, and providing services to these people.

THE COURT: I am not sure I understand the use of your term proactive. What do you mean by that?

THE WITNESS: That we set about to create a system that seeks out this individual. The concept of proactive mental health care is seen generally in a community mental health system where what we attempt to do is reduce the risks of further deterioration of a person's functioning by getting them as early in the development of the problem as is possible. Taking them at a crisis, and working with them to resolve the crisis so that it doesn't lead to other problems that become more significant.

We have some major problems in a prison system.

Firstly, we have a highly controlled environment where the victim and perpetrator often co-exist. We have a tremendous insensitivity to the victim with often preconceptions by guards, and people like that. I think those preconceptions can be managed by some training by sensitivity training, and to the extent they can't be, then they can also be influenced by administrative fear. That doesn't make the people perfect, but it should improve the system, and there should be an accountability for failure to follow those guidelines.

But the concept of proactive in the mental health field specifically is that the psychologist or psychiatrist or counselor doesn't sit in the medical department waiting for a prisoner to get around to coming to visit them, and reporting that they have been raped, but the minute the first contact of that allegation takes place, that person ought to be immediately shunted to the medical department, and the medical department ought to be able to handle that as a crisis, and the people who shunt to the medical department ought to be on notice that that is a requirement.

THE COURT: All right.

BY MR. AMLONG:

Q Doctor, how many hours of additional education would you think that it would take to train persons with Master's Degree level education to provide the crisis management that you are talking about here?

A Not more than two to three hours.

Q What about the actual correctional officers, and sergeants and lieutenants for the level that you would anticipate there interacting in the system, how much additional training do you think it would take for them?

A I think those people ought to be exposed to at least a couple hours of sensitivity training surrounding these issues, and this be done on a recurrent basis.

For example, several hours in a afternoon to be repeated, perhaps, on a following week so that we get all the giggles, and rubbish, and some of the biases being dealt with.

What we are really talking about is influencing people's attitudes so their behavior will be more readily able to comply to the administer of guidelines that I would recommend they be asked to follow. We are basically taking people who have become largely insensitive in part as a result of working in that system, and probably in part out of fear in trying to deal with it, and the overwhelming task of managing, conscientiously. They are all in that system, and giving them specific guidelines for this sort of problem. We are not talking about massive change of their belief systems about their role as correctional officers, but reasonably their role as special social workers, if you like, in pulling a person in a crisis out of that situation.

Q Doctor, you also told the judge that you thought --

A Could I--

Q Sure.

A I think another part of that training is that we have to have them understand that their first responsibility needs be to sensitively handle the person rather than to investigate whether the events took place as alleged. The

investigation can quite easily follow subsequently.

THE COURT: You think your reversal of what the present presumption is is very important?

THE WITNESS: I think what we currently do in the police mentality we set out to investigate whether something has happened. Now, if a man has had a bowel movement within a relatively brief period of time of being raped, the probability of finding semen may not be all that great. And so -- and the question becomes, well, what does this man have to be attacked with before there is tissue damage, and so we get, you know, and so we get into the entire question of focusing on the possible accuracy or inaccuracy, the lies, the accusation as opposed to the management of the person.

When -- There is plenty of time to investigate the matter after you initially handle the situation. But if you adopt the view that you investigate, and if you can't confirm beyond the shadow of the doubt the event, what you do is, you presume the person isn't telling you the truth, and then why would you consider making available mental health care? It wouldn't be an issue, because you are satisfied that person is lying, or you are not satisfied that it really happened.

If it didn't, you see, there is a mentality that says, well, if you were a real man, you would have done

something about it, or you will have to get him back, or whatever the argument is. There really is a insensitivity of the vulnerability of men to be raped by these guys, and it is probably in part their own embarrassment, and discomfort, and own lack of understanding how to deal with it.

And so, I am talking about really more sensitivity training to them, as well as instituting standard operating procedures.

BY MR. AMLONG:

Q Doctor, you talk about providing individual therapy to rape victims. In your experience as a clinical psychologist, how many hours of individual therapy would you estimate that would take, not to cure a rape victim's entire array of personal problems, but to simply move him back to the place where he was prior to the rape occurring, and to make him whole for that rape?

A It is very difficult, very difficult to answer that question, Mr. Amlong, because, as I suggested previously, the conditions of the rape, and pre-existent functioning of that individual just are absolutely crucial, as well as the management that he receives right at the -- soon after the rape, and at the time of the reporting, all of these events become crucial to his post rape adjustment.

Certainly, if this person is vulnerable to

subsequently be raped, or somehow otherwise pressured, the problem becomes much more protracted. I would think that we should conceptually budget an availability of at least 10 sessions for any rape victim of psychotherapy, recognizing that some of those people will not need 10 sessions, and I am talking about a session constituting an hour, and I think there will be others who will need significantly more than that, because their sense of their emotional integrity would have been so compromised.

Q Would prompt proactive treatment by the mental health department significantly reduce the number of hours that would be needed in followup psychotherapy?

A Without question.

MR. AMLONG: I have no further questions of Dr. Caddy at this time.

THE COURT: All right. Thank you. Cross-examination, please.

CROSS-EXAMINATION

BY MR. DAVIS:

Q Dr. Caddy, what is your experience with the prison environment generally?

A The prison--

Q Environment. Generally? How much experience have you had working within the context of the prison environment?

A I have never been a prison psychologist. My exposure to prisons have always been brief visits to prisons for the purpose of examining people who are in prison.

Q Have you ever made any study of the prison environment?

A No, I have not.

Q Has your training ever included studies of prison environment?

A Correctional systems, no, it has not.

Q Are you well versed in the procedures that go on in the prison system on a firsthand basis?

A No, I am not.

Q In the particular case that we have here, are you familiar with what the staff training procedures are for correctional officers in the State of Florida, and at Glades Correctional in particular?

A No, I am not.

Q You do not know what the course of materials and content consists of, do you?

A I was about to say I have no idea. It is not true I have no idea, but I certainly have no specific knowledge of precisely what training experience these people go through.

Q Do you have any knowledge as to whether it is common practice at Glades Correctional for the correctional officers to make referrals of inmates to the psychology,

and psychiatric staffs?

A I do not know whether it is standard practice or not.

Q Okay.

A The material that I've reviewed doesn't give me that as a source of referral.

Q I assume, then, you don't know under what circumstances the staff are trained and what circumstances they characteristically would make referrals to the psychiatric and psychological staff?

A My understanding from the depositions that I've read is that people, inmates, are provided with those services whether they come in, as a review, or if they are defined as having a specific serious mental illness. They are provided with limited treatment, and, thirdly, if a person is having a here and now problem as they describe it, then that person may come and talk to the medical departments, specifically the psychology service, about their problem.

Q You were not informed, I assume, then, of Dr. Medina's testimony, and Mr. Lane's testimony that they receive a number of referrals of inmates from the correctional officers?

A No. I -- It would not surprise me. That would be a reasonable source of contact, yes.

Q Okay. And in order to make such referrals, you would assume that the staff, are to that extent, sensitive to the

need of inmates for such services?

A I would think if they were to make those referrals they would be an indication of some sensitivity.

Q You indicated with respect to the procedures for handling a rape reporting victim that you feel that at Glades the method is to investigate the criminal aspects of the assault first, and then attend to the medical needs second?

A No, I don't think I said that. I said that although it may have come across that way, what I was trying to communicate was that we do not seem to have a funnel from either, clearly, if a person reports a rape to one of the guards, it seems that that guard then takes it-- the correctional officer takes it to his superior, and that in probably the vast number of instances, these people find their way to the medical department.

Interestingly, they don't seem to get to the psychologist or psychiatrist.

Q You don't know whether they are asked if they want any counseling?

A No. I don't know whether they are asked whether they want to. I simply know that none of them find their way to those services.

Q You know that they are not required to go to those services. You don't know if there is simply the option

made available to them?

A I have no idea whether the option is made available.

Q And you indicated that it was your perception that the staff, or at least the investigators act under the presumption that the rape did not occur, in their handling of the rape victim?

A I didn't say that. I side a policy should be to assume that it did, rather than it didn't, and I think there are instances where a claim of rape is treated as if it is a ruse, that is, if it is not a genuine matter, and that presumption, I think in some instances, leads to a series of actions that are not adequately sensitive to the needs of the individual.

Q Now, if that presumption comes after a rather lengthy investigation has taken place, and evidence has accumulated that would indicate that the rape had not occurred, that would certainly be appropriate presumption on the part of the investigator, would it not?

A Yes, but presumably that would occur substantially after the system had also managed the person into care. You see, a part of the evidence ought to be coming from the mental health department.

Q Do you have any idea -- First of all, your knowledge of the investigative procedures, and the matter in which the investigations take place are based on the actual

investigation reports prepared subsequently by the staff investigator, or by the police investigator, correct?

A Yes.

Q The Sheriff's Department?

A Yes.

Q You reviewed those reports in this case, is that correct?

A Yes.

Q And those reports, of course, are, as I am sure you were able to tell by reviewing them, were prepared sometime subsequent to the investigation, after the investigation is complete, or nearly complete. There may be an interim report, or subsequent report, but they are completed after the investigation has taken place?

A Correct.

Q So those reports will contain the opinions of the investigator arrived at on the basis of the investigation that he has undertaken, correct?

A Yes.

Q In those reports, the investigator will indicate whether he feels, in fact, there was a case of rape or not?

A Yes.

Q Those reports do not reflect what the investigator did, and the manner in which he conducted the investigation, and the interrogation, that's the frame of

mind in which he conducted the investigation, or interrogation?

A No, it does not.

Q The only evidence you got of the presumption that the officer has, or anyone involved in the investigation has, as to whether a rape occurred or not comes at the conclusion as it is contained in the report itself.

Now, you also indicated that you thought that certain amount of therapy for rape victims was called for, and I think you indicated a minimum of 10 one hour sessions as a standard base line, is that correct?

A Yes, I said I think that would be a reasonable average guideline to run with.

Q When an inmate is in counseling session for any type-- When any person comes to seek psychological services, part of -- one of the important factors in the delivery of psychological services is the relationship between the psychologist, or psychiatrist, or other mental health care specialist, and the patient, correct?

A Right.

Q And it is important in delivering those services if at all possible to maintain a continuity in the person and the therapist or mental health specialist, correct?

A Right.

Q Now, I assume you also are aware the majority of the

inmates who report sexual assaults are subsequently transferred out of GCI, an and in some instances within a matter of a few days, and some instances in a matter of a couple weeks?

A Right.

Q In those circumstances, it would not be feasible, would it, to provide long term mental health counseling to those inmates who would happen to be in the midst of the counseling be broken off and sent to another institution?

A I don't agree with that presumption at all. The evaluation of the patient will occur at the site where the rape took place. That evaluation-- I would consider any investigative report that did not include a psychological examination of an alleged rape victim to be incompetent investigative report.

Q You are not a police officer?

A No.

Q You are not suggesting that the opinion you are giving is --

A I--

MR. AMLONG: Your Honor, Mr. Davis is arguing.

THE COURT: Let him finish before you go onto the next question.

THE WITNESS: What I am saying is, the investigation doesn't in any instance at GCI ever include

mental status examination of the patient. It may include a medical examination which may show absolutely nothing, and then it starts to deal with the victim or alleged victim versus the word of the alleged perpetrator. We get right back into that game again. We are not looking at the mental state of the person which will give us tremendous insight into the likely events.

Now, a part of that examination of that person will be an evaluation that determines what his needs are. If one of his needs is to move him rapidly out of that facility, then the mental health unit ought to be making that as part of its recommendation at the time of the evaluation. They don't even get into it.

Now, let me finish, then, if there is a treatment need after the removal, you do that so efficiently, and quickly, you get that person out of that facility, you refer him to another facility. By the time he hits the other facility, the other facility should have been notified that this person is in need of urgent intervention, may not be urgent, but he needs to be picked up by the psychologist at that site, and that psychologist proceeds to start to render the care, you don't start something that you can't stop. You do it a lot better than that.

BY MR. DAVIS:

Q Not a single of those inmates was transferred was transferred except that he insistently demanded that he be transferred, correct?

A I don't know that. I don't know the underlying reasons for the transfer. I presume that is the case.

Q When an inmate is insistently demanding to be transferred, you will not suggest that he be held in that place longer than he wish to be there remaining, right?

A I think it depends why he is interested in being transferred. I am not trying to set board policy for the Department of Corrections for what criteria they ought to use. Just because somebody wants to be transferred I don't think is a good reason to transfer them. If a recommendation from the mental health department is a real concern about the mental adjustment-- One of the things that is fascinating, what we tend to do, we tend to remove the victim. We don't manage the perpetrator, the perpetrator stays there in some circumstances.

Q How do you know that?

A I believe that to be the case.

Q You believe that on the basis of what?

A Things that I've heard from victims over the course of some 20 or 25 interviews over the last few years.

What I am suggesting is, I think it is more likely that the victim will be moved than the perpetrator.

Q How many alleged victims have you interviewed who have alleged assaults since January 1st, 1986?
A Since then, about five.
Q Mr. Adams, Mr. Robertson, Mr. Savino, Mr. O'Neil, and Mr. Dennis?
A I believe that is the list, yes.
Q And, I believe in your interview of Mr. Robertson, you had him listed as Mr. Robinson?
A Yes.
Q Your interview was by telephone?
A Telephonic, yes.
Q 15, 20 minutes, maybe 30 minutes in one instance?
A Yes.
Q You surely don't mean to suggest that was an adequate basis for any type diagnosis?
A No, it certainly is not.
Q And did your notes reveal whether any of those individuals indicated that his attacker or alleged attacker was still at the institution?
A Most of these notes did not get into the specific details of that.
Q So you really don't know what the present, since 1986, procedures are at GCI on that point--
A What I have focused on is the larger issue.
MR. DAVIS: I think I am entitled to finish.

THE COURT: Yes, let him finish, and then give the witness time to complete his answer before you go to the next question. It is hard to understand when both of you are talking.

BY MR. DAVIS:

Q I said certainly in respect to the conditions at GCI, with transfer of the alleged assailant inmates since 1986, you are not aware of what that is, is that correct?

A That is correct, though I have been advised by one inmate that he was being transferred in the same van that his assailant was being transferred in.

Q So that both were being transferred on that occasion?

A Apparently.

Q Now, in respect to rape crisis centers, are you familiar with the prevalence of such centers in prisons generally in the United States?

A I do not believe that there are specifically rape crisis centers in prisons throughout the United States at all. I believe there are individual psychologists or psychiatrists, or mental health workers who do intervene in various prisons and provide assistance to individuals because I have spoken with prior inmates who reported the pleasure of the benefit that they derived from seeing such individuals, but prisons do not have rape crisis centers integral to them in the way that, say, community mental

health centers or community health centers often do.

Q As a matter of fact, most communities don't have community health centers, is that correct?

A Well, yes, that is true.

Q In respect to the inmates you have spoken with who indicated the pleasure of the occasion of interviews with mental health specialists, were they talking about interviews occurring immediately after sexual assaults?

A No, no. They were talking about therapy that they benefitted from as a result of being involved in programming with mental health experts.

Q So you don't have any knowledge as to how mental health care services are delivered in any prison system to inmates who have alleged that they were sexually assaulted, delivered contemporaneously or shortly thereafter to the report of the rape?

A No. I am not an expert in the delivery of the services broadly in the system.

Q And that would pertain to any prison system, not merely Florida Prison System?

A Correct.

Q Now, you indicated that you noted a phenomenon of increase in rape reporting over the last 20 years in society in general?

A Yes.

Q It has become a matter of popular conversation and discussion, people are willing to talk about that, such as on Geraldo Rivera?

A I think it is more open, and largely more open because the victim is less likely to be victimized by the system, as well as the assailant. There is a greater sense of the victim not being the perpetrator of her own rape.

Q And also because it has become acknowledged within society that this is a matter that is okay to discuss?

A Correct.

Q There is no social stigma, or little social stigma that is going to be attached to the individual who is willing to come on television, and discuss it nationwide?

Let me say little social stigma, because, obviously, there are people who would still regard that situation?

A There are many people who still do not report rape. And they do not do so out of a sense of not wishing to see themselves feel publicly degraded, but it is certainly the case that we are moving much more to an open communication about rape in our society, generally, yes.

Q And in some cases the willingness to discuss it bears relationship in the form of exhibitionism, does it not?

A Well, I wouldn't want to suggest that it never would function that way, but I think it is extremely rare that a person presents themselves as a victim of rape in order to

exhibit themselves. That-- I would not think that that would occur in anything other than a very pathological individual.

Q You are aware, of course, the large numbers who make themselves available to the mass media?

A I am aware that these Geraldos, and the like, succeed in getting victims of rape to be victims of their talk shows, but I don't know that those numbers are all that large, if you consider 230 million population.

Q Now, how many -- you have indicated you had occasion to treat rape victims, is that correct?

A Yes.

Q Were those all female rape victims, or male rape victims included?

A Every person I have ever treated who was raped was female.

Q So you never had occasion to treat a male rape victim yourself?

A No, I have never treated a male rape.

Q On how many occasions --

A Let me say, I have treated males who were as children were sodomized by their father.

Q Sexually abused?

A Sexually abused by their father.

Q Who are reporting the incidence as adults?

A Many years later, yes.
Q That involves a somewhat different behavioral pattern, does it not?
A Yes, the intimacy link there creates differences, yes.
Q And of the female rape victims that you treated, how many did you treat contemporaneously, or roughly contemporaneously with the report?
A I would estimate in my professional experience, I probably treated a total of somewhere around 20 to 25 people over the last 15 years where the primary issue was rape, and all of those, 75 percent, were treated as a referral from rape crisis centers, or similar facilities. Most of them have been contemporaneous with soon after the assault.
Q Now, you indicated that in respect to the inmate situation that you had occasion to review in reference to post 1985 conditions, that the symptoms which were related to you were consistent with those of a rape victim, is that correct?
A Yes.
Q They are also consistent with a number of other possible psychopathologies, are they not?
A Some of them are, but what is not consistent with others is the report of the penetrative behavior, and the

sense of -- there is essentially no other psychopathology that brings with it that experience of sexual degradation because none other involve sexually degrading act.

Q The ones who you have had any conversation with in order to obtain any information along that line are the five that you discussed previously, is that correct?

A Correct, yes.

Q Which included Mr. Savino?

A Yes.

Q And did you know anything about the background of the alleged incident with Mr. Savino?

A Let me go to my file. Would you clarify your question, please?

In the context of my review of this material, I wasn't sure about the background information you asked.

Q You are aware, I assume Mr. Savino reported himself on a particular date of having been the victim of a sexual assault in the horticulture building, is that correct?

A Let me check. My notes don't reveal where it happened, though, I believe I did discuss that with him on the telephone, but I have not reported it, and enough time has gone by so I don't remember where the incident occurred, but he indicated that all he wanted to do was to get out of there, wherever there was. Apparently, he was in a position where he could vacate this location.

Q Did you have the investigative report that you reviewed?
A Yes, I have seen an April 22nd report by Inspector Williams. That document says it was in the horticultural plant house.
Q In the horticultural building?
A Yes.
Q And you also noted, did you not, that Mr. Savino indicated that he did not know the identity of his assailant, is that correct?
A I'm sorry. I don't have an independent recollection now of enough details of that phone call to know the answer to that. I do know that he indicated to me that he knew at least one of the men who was involved, because my note suggested that he said the first dude was holding a knife and threatening him for several days before.
Q And he appeared to give, I assume from what you are telling me, he appeared to give you what sounded like a fairly reasonable account of a sexual assault, did he not?
A Yes.
Q Thank you.
A He also described features of a man who he said was black, 5 foot 10, weighed about his weight; so my sense of it is that it is -- reading between the lines of my notes, he did know both of these people, or were in a position to

identify both of these people, at least as he said it to me, if he were to choose to do that.

Q Now, you indicated that staff, by reviewing the Minnesota Multiphasic Personality Index, I believe it is, and by comparing the scores on three of the scales with previous aggressive history, one can arrive at a reasonable prediction of future aggressive history, is that correct?

A Yes.

Q Are you familiar with the profile of prisoners in State Prison System in respect to their past aggressive histories?

A I've never seen any specific study showing the percentage of prisoners who have been involved in previously violent behavior. I have interviewed, literally, probably several thousand people who have been in prison, and I have a sense of experience of some of those people being historically violent, and others not violent whatsoever.

Q Do you have the predicate for your determination as to what their past history of violence was from their history to you, or from external sources?

A No. I am suggesting in that MMPI screening that one of the data points should be their previous history of documented violence within a prison system.

Now, obviously, if somebody is just coming into the

system for the first time, then part of that could be documented by looking at the person's criminal record, or looking at the nature of the charge with which he was -- of which he was found guilty; but if there was a significant history of violence in this individual, with the indicators indicated that I am suggesting, then that would be the best available predictor of that person's potential, subsequent violent behavior while in prison.

Q Are you aware of studies done on the behavioral patterns of prisoners in institutional settings, such as prisons, as contrasted with the behavior patterns of those individuals outside of custodial situations?

A No, I am not. I am not aware of any such research. I am aware of the research looking at the effects of certain parameters on increasing violent behavior, and some of that work has been done in prisons, but not specifically the question that you asked.

Q All right. Are you aware of any influences that the environment may have on the conduct, or the -- an environment would have on the predictability of conduct based on your analysis of the MMPI scales, and the past history?

A Oh, yes, I am not suggesting that the indicators that I am proposing represent a one-to-one correlation, but rather that if you take a large sample of people, say a

thousand prisoners, and you use the profile that I am recommending, the statistics will be in my favor; that is, the odds will be very much in my favor, and yet in an individual case, in a single case, whether that person demonstrates subsequent violent behavior, maybe not so much related to -- it may be more related to a certain provocativeness that he experiences under certain circumstances, so, conditions of who that person is -- the fact, if you like of who that person is put in the cell with, his immediate surroundings, all are influential.

I am suggesting that all other things being equal, people with a propensity to violence, they will exhibit violence in almost any of these situations, and whether they are violent more rapidly within the first few days of being in a facility, or if it takes three months, may be more productive of the circumstances, rather than the inevitability of that violence.

Q Are you aware of any studies that have been done, sociological studies done upon the nature of those who commit violence in prisons?

A No.

Q The background, the sociological background of those individuals?

A No. I mean, there are good studies looking at the prediction of dangerousness, and violent behavior, but the

sociological studies that I think you are referring to really simply state ultimately what good common sense would dictate, and the quality of that research is not terribly impressive.

I certainly have not seen any particularly good research, looking from a sociological point of view that predicts dangerousness.

Q What research have you seen? You say you have seen some particularly good. What have you seen?

A I can't quote the investigators. This is sort of stuff you review it at one point, and then pass it on.

But the sort of work I am talking about are the sociological studies that look at the family dynamics, history of alcohol involved in the family, the age of first consumption of alcohol, the age of first consumption of drugs, the prediction.

What these studies really do is give us further confirmation that underlying a very disturbed behaviorally disturbed person is a history of real dysfunction in the family, and the prediction of dangerousness, for example, is not a direct product of dysfunction in the family. That requires other intervening sort of events, but, typically, those people who will be violent have come from very dysfunctional family systems, and their violence did not wait until their 20th birthday before it emerged.

We see increased risk rates of hyperactivity in children who will as adults become violent. Those children also, historically, have had alcohol, and drug involvements much earlier than cohorts that would not become violent. Those things tend to predict criminality, rather than specific violence, and some of those people will be criminal, and sub-set of those will be violent.

Q Now, were any of the inmates that you spoke with, the five inmates that you spoke with, to your knowledge, involved in psychological, or psychiatric counseling at Glades Correctional institution?

A No. I am not -- I will have to double check, I do not recall. Well, Mr. Savino, said that he did not see a psychologist. He said they basically locked me up, and saw what happened.

Q I am referring to any psychological counseling while at Glades, did any of them indicate that they had been involved in psychological or psychiatric counseling?

A Not that I can recall, and I certainly asked that question.

THE COURT: Who else did you see besides Savino, and Dennis, not see, or talked to on the phone?

THE WITNESS: Derrick Adams, I saw Shelly Robinson, and I think it is Robertson. I have him written down as Robinson. I saw -- I already said Savino.

THE COURT: This is Arnold Dwane Dennis, is that the Dennis?

THE WITNESS: And I saw, next person was O'Neil, and the next person was Arnold Dennis, the next person was Martin Sanders, or Saunders.

BY MR. DAVIS:

Q Mr. Saunders is not involved in GCI at this time?

A No. I understand he is not. But I had spoken to him during that time period.

Q None of those indicated to you whether they ever sought or obtained psychological, or psychiatric counseling while at Glades Institution for any purpose?

A My understanding is, it is very likely they did not. That was not communicated to me by them.

Q That was not communicated to you?

A Right.

Q Okay. Let me ask you to look at Defendant's Ex. 4, and tell me if you have ever seen the items contained therein?

A Let me check and see if I have got any of this in my file. I don't believe I have seen this. I don't believe I have seen this material.

Q These were not the items that you had at your deposition on December 8, 1989?

A I think I have some of them. I don't remember the

first one. There again -- Derrick Adams looks familiar.
Q Let me ask you if your notes reflect what you are reviewing are the investigative reports, are they not?
A Yes, they are.
Q How many of those investigative reports did you have available to you from counsel for your review in preparing your opinion?
A I had the investigative report available on Adams, and on Robertson, and on Savino, and O'Neil. I had some information.
Q You had an incident report on O'Neil?
A Yes, an incident report, and I don't believe I had, I may have had, I don't believe I had Arnold Dennis' information. If I did, I don't have any independent recollection of it, and I don't have my file here.
Q Do you recall whether you had the investigative reports on the other inmates that had made allegations of sexual assault since 1986, other than the ones that were specifically discussed in your deposition because those are the ones that you additionally interviewed by telephone?
A There was material that was given to me by the plaintiffs' attorneys, but I don't believe I -- I don't have an independent recollection of what it was, and I did not review it unless it dealt specifically with these people that I was interviewing.

Q All right. So the only material that you reviewed in order to prepare your opinion was the telephone interviews you had of those five inmates, the documentary items received from GCI, primarily in the form of investigative reports, or in one instance the investigative report, and attachments there to, and you also had interview sheets?

A Yes, and I also had the opportunity to review the depositions of several of the medical staff, medical unit staff of GCI.

Q All right. You did not, then, review, any of the GCI documentary material which referred to any inmates other than the inmates that you interviewed by telephone?

A No, that is correct, I did not.

Q Okay.

THE COURT: How much longer will you need for cross-examination?

MR. DAVIS: Just a few more minutes, Your Honor.

THE COURT: All right.

MR. DAVIS: I am at a point of reviewing to see if there is any I missed.

THE COURT: Okay.

MR. DAVIS: I have no further questions.

THE COURT: Let's take the morning recess, we will be in recess 10 minutes. You are excused.

(Thereupon, a short recess was taken.)

REDIRECT EXAMINATION

BY MR. AMLONG:

Q Dr. Caddy, on the subject of staff referrals to the mental health department, considering your interviews with these five inmates, the interviews that you did in the underlying case in 1985, and your review of the depositions of Dr. Medina and Mr. Lane, have you found any evidence that there has ever been any inmate referred to the mental health department for the aftermath of a rape?

A As best I can determine, there has never been a referral made, as a result of a rape, to the mental health division.

Q You acknowledged in discussing the investigations that you were not a police officer, however, are you employed by any law enforcement agency, periodically?

A Yes, I am.

Q And which law enforcement agency is that?

A Well, there are several. The principal one has been the Broward Sheriff's Office, and some of the local cities in Broward County. And my work there has been either to be a party to a screening of police candidates or corrections candidates or alternatively for employment, or alternatively I have been called in at various points where there has been internal affairs investigation of police,

and there are questions about their emotional stability and the like.

Q Are you also periodically employed by the Broward County State Attorney's Office?

A Yes.

Q Is there any special unit that employs you?

A Principally the Sex Crimes Unit.

Q And that is to assist in prosecutions?

A Making determination on appropriateness of the likely success of a prosecution, yes.

Q Doctor, you may want to review your notes of the interviews on this, but the telephone interview that you had with Mr. Savino, now, all of these inmates telephoned you during a prearranged window of time that they were able to get the phone?

A Correct.

MR. DAVIS: Objection, leading.

THE COURT: What is that?

MR. DAVIS: That is a leading question.

THE COURT: The objection to that -- that objection is overruled.

BY MR. AMLONG:

Q Do your notes reflect whether or not Mr. Savino's telephone interview was truncated?

A The notes specifically don't indicate that it was

truncated. It was forced to be reasonably brief, and as I recall, there were problems of where he was calling from in terms of what he felt comfortable talking about.

Q Now, did you, during the telephone interview, did you form any general impression about the stability and communicative skills of Mr. Robinson?

A Let me clarify with Savino, part of the problem was that he was in a circumstances where he said he really couldn't talk about what he wanted to talk about.

Mr. Robinson, as I recall, was one of my early notes was this man was very limited intellectually. It was clear over the telephone that he had very limited education, and seemed to have very limited basic intellectual ability.

Q Did he appear to be functioning normally when you talked to him?

A Well, functioning normally within the limits of his intellect, and also that he seemed moderately depressed over the telephone, and seemed to be having -- he was certainly one of the most distressed. He was one of the more distressed of the people I interviewed.

Q Did any common theme run through the interviews with these inmates concerning the kind of treatment they perceived they received when they reported they had been raped?

A Yes. The general sense that I got is that that the

whole matter wasn't taken with a seriousness that the -- that the victims would have wished, and that in some instances, they were basically believed--they believed that they were not taken seriously, and either they should have done something to solve their own problem, and be a real man, quote, unquote, or that they should have or they couldn't expect to be treated sensitively.

For example, in the case of Robinson, he claimed although a guard put him in protective custody, or protective confinement, he also said this guard slapped him when he did so, and basically suggested that he believed he was lying, even though he put him in protective custody.

Q Did you ask them whether they felt the guards believed them?

A I asked them -- no, I didn't specifically ask them that question. I asked them, did they believe that they were treated sensitively.

Q And what was the response from all of them?

A No.

MR. DAVIS: Objection, hearsay.

THE COURT: The response from all of them, did you say?

MR. AMLONG: Yes.

THE COURT: Well, now, just a minute, let me rule on that.

What is the purpose of asking this question? Is it for the truth?

MR. AMLONG: No, your Honor, it is not. It is simply for the foundation for Dr. Caddy's opinion.

THE COURT: I will overrule the objection, and allow it to be utilized for that purpose only, not for the truth of the response, but simply as a basis for whatever opinions this expert witness may have.

MR. AMLONG: Your Honor, I have no further questions at this time.

THE COURT: Okay. Thank you, Dr. Caddy.

(Thereupon, the witness was excused.)

MR. AMLONG: Your Honor, I believe at this point we have all of the evidence in except the tape.

MR. LIPMAN: And we offered the videotape into evidence, and counsel wanted the opportunity to review it.

MR. DAVIS: By the end of the proceedings-- Well, I don't know any reason why we have an objection. I happen to be one person that doesn't own a videotape machine, and it is difficult for me to get a videotape with the trial going on.

THE COURT: You haven't done that?

MR. DAVIS: I haven't been able to do that.

MR. LIPMAN: As long as we could do it at a later time.

THE COURT: Let's allow it in evidence at this time. If you do get a chance to review it, please, Mr. Davis, and you find there is something in there that you deem objectionable, if you let us know right away, I think it is probably before we may have had a chance to rule on this thing anyway, we could act on this, and make a ruling on it so it would be in the record for you.

I think probably you agree there is some only small likelihood that there would be an objection anyway. If there is, it could be an important one, we have to recognize that.

Let's let the record note with that qualification, the plaintiffs rest.

MR. LIPMAN: Given that qualification, Your Honor, the plaintiffs rest.

THE COURT: All right. Are you ready to go, Mr. Davis?

MR. DAVIS: We are, Your Honor. We have a witness ready to put on.

THE COURT: All right. Let's put him on.

FRANK C. NAPPI, JR., DEFENSE WITNESS SWORN

THE COURT: Please be seated. State your name.

THE WITNESS: Frank C. Nappi, Jr..

THE COURT: Spell your last name.

THE WITNESS: N a p p i.

THE COURT: All right. You may proceed.

DIRECT EXAMINATION

BY MR. DAVIS:

Q Mr. Nappi, would you tell us what your occupation is?

A I am a CO2 at Glades Correctional.

Q What is CO2?

A That is a sergeant.

Q How long have you been a correctional officer in the Florida State Prison System?

A This May, 17 years.

Q And where have you been a correctional officer during those 17 years?

A Glades Correction.

Q You have been there the entire 17 years?

A Yes.

Q And what is the job that you have had at Glades over those 17 years?

A Well, I started off as a correctional officer, working the dorms, and when I made sergeant, they call it police sergeant, walking around the compound, and me and another sergeant. I have been orientation sergeant, plus police sergeant, and I work on the DR team, disciplinary report team.

Q Now, when did you make sergeant?

A I would say, I don't recall, it is about 7 years ago.

Q Sometime in the early '80's?
A Right.
Q So, from that point on, you were one of the police sergeants?
A Yes.
Q And you indicated there was another sergeant who was also a police sergeant with you, who was that?
A Sergeant Bradley worked with me, and now I have Sergeant McCullough, and I have had a couple sergeants inbetween that have worked.
Q And what is the duty of the police sergeants on the compound?
A Sergeant Bradley A, B, and C, and I have A, D. We search areas, search inmates, and walk around the compound, and make sure everything is running right, and that is what we normally do for eight hours.
Q In addition to searching dormitories, you search other areas?
A Yes, dorms, day areas, kitchen, wherever we thought something was wrong, we look and search around that area.
Q Is the search function one of the primary functions for the police sergeants on the compound?
A Yes.
Q And what is it that you are searching for?
A Mostly weapons, marijuana, drugs. Whatever we could

find as contraband.

Q All right. Within the general category of contraband, you are looking for any of those items that are prescribed?

A Yes.

Q And, could you tell us, if you will , and let the judge have some idea of your experience as a police sergeant first in respect to the introduction of drugs, and then in respect to the con -- drugs and weapons, and then in respect to concealment of drugs and weapons, including in drugs, of course, buck, the experience that you have had over the years in that?

MR. LIPMAN: Your Honor, are we speaking of post January 1986 events, because based upon the Court's initial ruling, when we started the proceedings on Monday, I believe that the witness' experiences relating to the temporal period prior to January '86 would be irrelevant to these proceedings.

MR. DAVIS: We can bring it from 1986.

THE COURT: All right. Please amend your question in such a way as to meet the objection.

BY MR. DAVIS:

Q Tell the judge about the types of situations that you have found in this time frame relating to the introduction of contraband by the prisoners into GCI?

A Well, since I have been there, since I have been working there, we found quite a few weapons, homemade weapons that inmates make.

Like I said, a lot of them are made, where they have 24 hours to think where to put them, how to hide them, and whatever they want to do with them. We go in, and trying to look for these things, there are so many places to put them, it is almost impossible to find them all. We do look for weapons, and drugs when we can. Bringing them into the compound is almost impossible to stop, because they leave them outside. The inmates go to the job areas, and there the stuff is waiting for them. They put them in a truck, in the air filter in the truck, any place else that is almost impossible to find unless you know exactly where it is.

Q Let's take and view a little more intensely the whole question of introduction into the compound of contraband?

A If you have--

Q What are the most common methods, or the general ways in which contraband is brought into the compound in your experience?

A We have had visitors bring a lot of contraband in, a lot of the visitors, we can pat them down, but we can't strip them. Naturally, they can bring anything they want in. What they do, put it in the visiting park, bury it,

put it in the garbage can, whatever. We search the inmates when they come through the visiting parks, the other way, bringing them in tractors, you have 40 people coming in from a job. It is impossible to strip search 40 people. We try to strip search a squad one day, and another squad another day.

Q What, besides the work squads, and the visitors, are there other methods of getting the contraband into the compound?

A Well, they can throw them over the fence. I have had macheties thrown over on the rec field fence. And there is a lot of ways. I am trying to think of them.

Q Now, in respect to the introduction of contraband through the vehicles, for instance, are there vehicles that as a normal course go in and out of the compound?

A Yes, we had the maintenance squad that brings in plumbing, electric squad comes in and out, the dumb truck which picks up the garbage comes in and out, we have quite a few vehicles that come in and out, that work outside, where inmates out there, put anything they want in trucks, and there is no way they are going to be taking air filters off not every time they come through.

Q Now, just to get a flavor of it, what different methods and places of concealment in a vehicle have you encountered contraband?

A Well, the best one I have seen is the air filter, they take the air filter out, and put marijuana, and whatever in, and then they take the paneling of the door, where they have the time, unscrew the paneling, and put the stuff in there, and the screws back in. When the truck comes through, naturally, you don't know that panel has been taken off. That is another way they do it.

Q Are there DOT trucks, Department of Transporation trucks?

A DOT trucks, they don't come on the compound.

Q Are there other places that you found drugs in other forms of contraband in the vehicles?

A Well, that is about what I -- the most common place you are going to find them is behind the seats, under the floor boards, wherever there is a place on that truck, that is not where you could see looking at it.

Q Okay, now, the crews that are out, these work crews, what functions are they serving outside the compound?

A We have farm squads, maintenance crews, warehouses. We have five warehouses, they are normally working all over outside.

Q Are there vehicles that are not prison vehicles that come into the compound, also?

A We have personal vehicles that come in, yes.

Q Are there service vehicles from private companies

that come in to provide service?

A Yes, we have people that mostly come from the kitchen bringing food, and stuff into the back of the kitchen, they deliver the supplies.

Q A produce delivery?

A Right, send in the truck with all the food, and stuff.

Q All right. In respect to visitors bringing it in, could you give the judge some flavor of the techniques and the situations that you've encountered in which visitors have brought contraband into the compound?

A Well, a lot of visitors, like the women, especially, they put it in their bras, and everywhere. Naturally, you will not see it when they walk through. If we have somebody that we suspect that is bringing it in, we ask if they would be search.

Q Search? A specific type?

A Yes, bring them in the back room, and tell them to take off the clothes, with a woman officer. They do not have to do that. All they have to say is they do not want to be searched, and they leave. What we do is take them off the visiting list if they do not want to be searched.

Q What search techniques are used with the visitors generally?

A Generally, looking in the pocket books, the men are

patted down, and that is normally about all we can do.
Q Is there any device that the guests have to walk through?
A We have a device for metal detector when they walk through, if it goes off, they have to empty their pockets. Exactly like we have downstairs.
Q Are there hand held metal detectors used?
A Right. We do that, too. When they come in, we use a hand detector on the visitor.
Q And on what occasions do you request that visitors submit to strip searches?
A Well, if we have an idea we have somebody that seems to be getting drugs in, or informants telling us that this person in the family is bringing drugs, that is when we tell somebody we want to strip them, and search them.
Q And have you ever encountered situations where visitors attempted to bring in substantial amounts of objects that were contraband?
A Yes, we had people come in, real thin, the next time, they are heavy, and they have food, sandwiches, and that we notice, and they have had food, and every item they are not supposed to have.
Q Have you ever during this period encounter visitors that have hidden pockets in their clothing?
A I haven't, because I don't work there, but they have

got them. I know that.

Q Okay. In respect to the introduction of contraband through the visitor park, what, besides the search of the visitors coming into the park, what techniques or tactics are used in order to try to prevent that as a source of contraband into the prison compound?

A Well, like I said, the visitors bring it in, we strip search every inmate that comes out of the visiting park after they visit.

Now, like I said, what they will do is bury it out there. You have over 100, 200 visitors. You can't see everything that is going on. They will bury it, when you are not looking, and throw it over the fence.

Q How large is the visitor park?

A Street-wise, from that wall to that wall.

Q How wide?

A Width, I am not good at measuring. I would say from that wall to the wall over there. Not really big. It is crowded with visitors there, with children running around, and everything else.

Q Are there correctional officers on duty?

A Yes, we have correctional officers walking the visiting park back and forth, all over, and officers stationed outside the visiting parks, when they do throw it, we go right after it.

Q Have there been situations encountered where visitors have refused searches?

A Yes, like I said, when they refuse to be searched, we tell them they cannot come in, and take them off the list.

Q Are there situations where visitors would not let you search, and then come back and agreed to be searched?

A We won't let that happen.

Q Why not?

A What they do is go to the car, and put away whatever they had.

Q In addition to the -- You indicated that there is a strip search of all inmates coming back?

A Yes.

Q Is there any way that an inmate coming back into the compound from the visitor park can bring contraband in if he is being strip searched?

A Well, they could put it in -- I don't know what the word, rearend, like I say, we cannot do a cavity search without a doctor, and all that. It is hard, unless we notice something in there, we can't do that.

Q Is that pursuant to regulations that doctor be present for any body cavity search?

A Yes.

Q Do you do anything to try to prevent inmates from securing any contraband that may have been hidden in the

park during the visiting period?

A Well, after visiting hours, we go through the garbage cans, look around where there is dirt dug up, and we will look in those areas, and look in a lot of areas we figure the drugs might be, or whatever they are bringing in.

Q In your experience in regard to the contraband, are the weapons contraband that you have discovered items that appear to have been introduced into the compound, or are they items made on the compound?

A 99 percent are made on the compound.

Q When you are talking about contraband being introduced from the outside, that is primarily drugs?

A Drugs, yes.

Q And in addition to the efforts made to protect the institution from contraband introduced through the visitor park, you have also indicated certain types of procedures relating to work squads, and you talked about searches of trucks?

A Yes.

Q What standard search procedure is used on trucks as they come into the compound?

A When a truck comes into the compound, the driver gets out of the truck, we open the hood, and we have a mirror to look into the truck. We go in the glove compartment, under the seat, all around the truck itself.

Q Are those what you would -- what you determine to be the ordinary hiding place for items?
A No. If we think a truck has something, they are bringing something in, we would almost tear that truck apart.
Q And how would you have suspicions that a particular truck might be bringing something in?
A If we get an informant that would tell us that the electric truck is bringing something in, or we know an inmate out there working and has been into drugs a lot, if we think he is bringing it in, we do it then.
Q Does that occur very often?
A Them searches are done not that often, maybe two, three times a month.
Q Where you completely take the truck apart?
A Yes, we take it apart, and do whatever we can to look at it.
Q On all trucks coming in, the standard procedure is what you--what you indicated earlier?
A Yes, sight, what you looking at, under the hood, and everything else.
Q What about the work squad members themselves. What is done to intercept any contraband being introduced through the work squad?
A All inmates when they come in from the work squad is

patted down. When you pat down the inmate, he could have them in his shoes. Normally we don't take his shoes off unless we have a strip search. We hit them, bring them in a room, and strip search every inmate that comes in. Otherwise, every day they come in, they have to pass search every day.

Q Have you ever encountered inmates coming into the compound who have hidden compartments on their possession?

A On their shoes, mostly, what they do, they got [a/an] false heel. They will work on the heel, and hollow it out, and nail it back in. If you look at the shoe, you don't know there is no bottom of the heal, and they take the souls of the shoes out.

Q Have you encountered that situation?

A Yes.

Q Is there some method used to attempt to prevent the introduction of contraband into the compound in respect to the perimeter of the institution?

A What do you mean by perimeter?

Q The fence?

A We have roving patrols all the time. They are looking out for people. They are not to be near fences, and cars near certain areas.

Q Now, the fence is a metal fence?

A That is right.

Q Is there a single fence or a double fence?
A There is a double fence in some areas.
Q And there's some space between fences?
A There is what we call a paraguard; that is, in case the inmate walks on that paraguard, it will ring the buzzer. We know somebody is there that paraguard that shouldn't be.
Q Is that like a corridor?
A Yes, for escape purpose, and everybody out there, we know somebody is in there.
Q There is that method of keeping the inmates getting too close from the outer perimeter fence?
A Like I say, in the rec field, you have one single fence. In the compound, we have the double fence all around. The paraguard there around. The paraguard there.
Q What constitutes the roving patrols?
A We have fog, and a lot of stuff, and these people keep riding around the perimeter for escapes, and people riding vehicles up and down where they are not supposed to be. They do ride all day and night.
Q Are those the patrols?
A Right. Running around the compound.
Q And are they in a motorized vehicle?
A Right. They are in a pick-up truck.
Q In addition to contraband introduced from the

outside, you've indicated already, I think you said, 99 percent of weapons --

A Manufactured inside the compound.

Q Is there a term for the typical inmate weapon?

A They are called a shank, quite a few names. Shank is mostly what they use.

Q All right. How did the inmates come to make these weapons?

A A lot of them will do it on the concrete. They will get ahold of the grinder in the hobby craft. If they can, but what they do, they usually use the concrete to sharpen the blade up, and put a point on the screwdriver and do that.

Q Is there anything else they use?

A A rake for raking leaves, they will make that a weapon. We have some of those. They take a pen, and make a weapon out of a pen. Razor blades they are issued to shave with, they put it between a toothbrush, and make a weapon out of that.

MR. DAVIS: Your Honor, we have here a box with items in it which I would ask the witness if he has seen before.

These are examples of shanks?

THE COURT: All right. Do you have any objection to his use for demonstrative purpose?

MR. LIPMAN: For demonstrative purpose, no.

THE COURT: All right. Let's utilize them only that way.

BY MR. DAVIS:

Q All right. Would you indicate and describe to the judge, does one of those items have your name on it?

A Yes, it does. Right here, I probably confiscated in '78, which is a long time. I probably used this as evidence, and put my name, and date on it when I found it, and whoever the inmate was that had it. They make these, this probably came from a lawnmower blade.

Q Could you hold it up? Are these typical of the types of shanks that are retrieved?

A Yes, sir, this is a handle from the mess hall. They make a weapon out of that.

Q That's a spoon handle or ladle?

A Looks like a ladle handle. They have ways, they have ingenuity to make anything out of anything. Here is one, a pick.

THE COURT: They made what looks like a pick out of what?

THE WITNESS: This looks like a rod that could have been part of a fence.

THE COURT: All right. What is that handle material there?

THE WITNESS: This is tape. They use any kind of tape. They have a spoon they sharpen around the edges. This is the regular spoon.

BY MR. DAVIS:

Q The bowl of that spoon has been flatten?

A Right. Fork, they take the middle of the fork, and take the prong out, and leave two prongs up. Here is part of a fence again, sharpen that edge, and this will hurt somebody bad. Here is a razor, with a toothbrush, with a razor.

Q That is a toothbrush where they melted the razor in it?

A Yes. Here is a rake tong.

Q This is a tong from a rake?

A You could tell this is taken from a lawn rake.

Q Placed into a wooden handle, and wrapped with tape?

A They have 24 hours to think of how to make weapons, or whatever they want. They do good work. This is one, this, it is a broom handle. The man must have been quite awhile, he took the Bic razor blade, and sharpened this into a weapon. This is from confinement area.

THE COURT: All right. He used a Bic razor, and sharpened this all the time he had it?

BY MR. DAVIS:

Q What is this one?

A This one looks -- oh, I know what this is, this is your clip for a clipboard. They sharpen the end of the clipboard, and use that as a weapon.

THE COURT: How often do you shake down the cells, that is search the cells?

THE WITNESS: In confinement area, it is shake down every day.

THE COURT: That man that sharpened the broom handle--

THE WITNESS: This took quite awhile. They have places that you don't believe. They put them in the fans. They put it in the toilet. As long as you don't flush the toilet, it is there. If you flush it, it is there. I have them put it in the toilet, dope, and everything else, with big hankerchiefs.

BY MR. DAVIS:

Q Is there any pattern that inmates appear to follow in respect to the hiding or secreting of these weapons?

A No. If there was a pattern, we would know where they were. They normally hide them anywhere, any place, any time. They don't have a pattern where they are going to put them.

Q Do they normally keep them on their person?

A Not knowingly, unless they are going after somebody. Normally they are hidden, until at night time, they might

bring them back to the dorm.

Q And where do they hide them during the day time?

A In the ground, buried, they have rafters in the dorm, places in the dorm, there is no way, you don't figure how an inmate can get up there, but they get up there.

Like I say, all kinds of places, and the beds themselves, they have them taped under the drawers, and the bed, and that is normally when we check for them, when they know we will do that, they put them anywhere else, in the shower areas, in the sinks. I have seen them taped under the sinks, on the rafters.

Q Have you received weapons from these areas?

A Yes.

Q Have you ever found any hidden compartments?

A Well, one time, a long time ago, we used to have headboards, now, an inmate gave me a word that an inmate had knives in the headboard. Three times I went to the headboard, and three times I could not find it.

I told the inmate how do they open it? They made themselves a secret compartment. You had to push a button, and then the drawer would open, and there were two knives in it.

Q Approximately how many weapons in your search activities do you uncover in the course of a month?

A In a month, you are talking about me personally, or

other officers?

Q The whole group of you?

A We might come up with 5, 10, 15.

Q Do you write an incident report every time you find a weapon?

A Yes.

Q If you find the weapon on the compound buried someplace, do you write an incident report for that?

A No, I don't. I just take the weapon, and give it to the captain, and get rid of it.

Q If you find the weapon on a person, do you write an incident report?

A If we find a weapon on the person, the first thing we do is put them in the captain's office, and put them in confinement, and use the weapon as evidence on the disciplinary report.

Q Are there occasions when you do search incident reports?

A Yes, sir, when we do a big search, we have to write down -- you have maybe 20 officers searching the whole dorm. We want to know which bed they were in, and which they weren't. A lot of inmates will state we stole this, and stole that from them.

Q Okay. In respect to buck, what is buck?

A That is homemade alcohol.

Q What is buck made from?

A It is made, more or less, they have to have the juice, and hot water. They could make it from apples, orange juice, oranges, grape juice, grapes, whatever you think of. They can make it like making homemade brew.

We have had inmates there that were actually chewing on under arm deodarant. When I was first started there, they were drinking Right Guard in Coke. Until I found out there were so many Right Guard cans, and Coke cans.

Q How do they do that?

A Right Guard, Gillette said they can't do it. All you have to do is put a whole in the bottom with a nail, all that powder and air would come out. We had the best smelling dorms you could find. You take that alcohol in the bottom, and pour it into the coke. I had an inmate show the superintendent. Gillette said they couldn't do it, and superintendent said it couldn't be done. I made the inmate go in, and show them how to do it.

Q Right Guard aerosol cans?

A No aerosol deodarant is on that compound.

Q You showed us a metal spoon. Are metal eating utensils used?

A No, sir, all plastic now.

Q Where are inmates able to manufacture the wine or buck on the compound?

A They could manufacture it anywhere where there is no officers around. On the rec field, we try to look for them, and they could manufacture it in the compound. In the mess hall, in the dorms, they get baking soda from the mess hall, or wherever they steal it, and baking soda will kill the smell. There is buck in front of me that I cannot smell because of baking soda.

Q Does buck emit an odor?

A Yes, without the baking soda, you go right to it.

Q Where have you found buck being kept by inmates?

A Well, years ago we did have trailers out there for library--

MR. LIPMAN: Your Honor, if the inquiry could be limited to the post '86.

THE COURT: That is what we are interested in.

THE WITNESS: I don't recall if the trailers were there or not. They will dig a hole. They will bury it in the ground. They will put it in the foot lockers, with this baking soda, and you cannot tell it is there unless that smell with the baking soda wears off. They have a lot of places, 24 hours a day to think of it, and that is what they do, how they could beat the system of hiding that buck.

BY MR. DAVIS:

Q Have you found it in toilets?

A Yes, in the bathroom area, there is a whole this big. When I go up there with a ladder, I put my body in sideways, whatever, to try to reach inside to grab the buck in there. How the inmates get it that far back, I don't know. They put it in the vents, and they have no ladder to get up there, but they do it.

Q Did they ever put it in the commode, water closets?

A Not in the commodes. In garbage cans with the garbage on top of it. I kept smelling it, and walking with him. He had it in the garbage can, and he is emptying the garbage. They will bring it in with a little bit of garbage on top.

Q Is that how an inmate is able to walk across the compound carrying buck?

A Yes, in a can, or whatever. I have caught them with food, and everything else. They walk with the cart with two cans on it, or a bunch of cans that are empty, and one of those cans is full of buck.

Q What techniques do you use to discover or uncover contraband that is on the compound?

A Normally, it is sight, and being there long enough, you know an inmate will, in my opinion, give himself away. Walking into a dorm, an inmate coming out, and he sees me, and make a U-turn, something is wrong. I walk in dorms. I see three, four inmates together, all of a sudden they are

moving, something is in that area, and something is wrong, and that is how I normally do it, by being there, and watching them.

Q You watch the behavior of inmates?

A Yes.

Q How they carry themselves?

A Yes.

Q Do you ever utilize informants?

A A lot of times, without informants, we would have a hard time.

Q Do you have your own informants on the compound?

A I have some, mostly informants have to trust you. They normally don't trust me. I don't say nothing to nobody, I don't care who asks me.

Q Are there informants who advise other officers about the existence of contraband on the compound?

A Yes, my partner has his, and other officers has there's, and that is how they find a lot of this stuff, weapons, and buck.

Q In addition to the patrolling of the -- Are your duties as police officers, yourself and Sergeant McCullough?

A Yes.

Q Are your duties on the outside?

A Yes, we have two sergeants, and the dorm officers

that run the dorms.

Q From what you told us, I gather you also have some involvement in doing searches in the dorms?

A Yes, a lot of time, like I say, I might have orientation class. After orientation we take a walk through the dorm, and see what we could see, and we have two other sergeants, also, that take care of the dorms.

Q What about other techniques that are used to uncover contraband on the compound, are there ever dorm wide shakedowns?

A Yes, we have them, I would say, once a month we might go into one dorm or two dorms. What we like to do is go in at night when they are not expecting us, inmates, they look for everything. They know when you are coming, and when you are not coming.

What we do is, wait until they go in the dorm, and go to bed, and hit them around the time they are in the bed. If they have any, it is going to be on their beds, or throw it in the middle of the floor.

Q When a shakedown occurs, how many correctional officers are necessary?

A One dorm, you might need 15 to 25 officers going in that dorm.

Q You alluded to accusations that inmates will make against officers in the course of a search having allegedly

taken their property?

A Yes, sir, I went to an inmate, I searched his drawer maybe three times. He was involved in dope, and I got sued for three million dollars.

Q When you undertake these searches, do you do it in accompaniament with another one?

A I go into a dorm, I tell the dorm officer to come with me. This way I have no argument who put it there, did I put it there, and I have been accused of that a lot of time, I set it up, I left it there. That is why I bring another officer with me.

Q Okay. When a shakedown of an entire dorm is done, what procedure is followed?

A Well, normally, if we do it in the day time, what we do is walk into a dorm, and have the inmates come out, and pat search, and search them as they go out. Once they are out, we lock the doors, and go to every door, every locker, turn the sheet, the beds up, and look into the mattresses. They put holes in the mattress, and put knives, and weapons, plus marijuana in the mattress, whatever they have, we have to look for cuts in the mattresses, they put all kinds of stuff, and we look for new sewn.

Q They sew up the cut after that?

A Oh, yes.

Q In your opinion, is it feasible to have a shakedown

of the entire institution?

A Not really, I don't see what it would do.

Q What manpower would be required to shake down the entire institution?

A You probably bring in another institution with their officers. We have 1200 inmates, and 9 dorms, or 8 dorms.

Q So when you shake down a dormitory, you remove all the inmates from the dormitory?

A If it is during the day time.

Q Does that control require some control of the inmates while they are out of the dorm?

A We need officers out there, too.

Q Now, you also indicated that in addition to your police duties, you serve on the DR team, disciplinary report team?

A Yes.

Q How many personnel serve on a DR team?

A There is three of us, chief classification officer, security officer, and one of the inmates' own classification officer.

Q I assume you serve as the security officer?

A Yes.

Q How do you view the seriousness of the presence of contraband on the compound?

A When it comes to a disciplinary proceeding?

Well, the disciplinary team, if somebody comes in, with alcohol, or making the buck, they get severe punishment. Somebody comes in, and maybe had something to drink, we take his gain time, 30 days, and if they come in a second time, we put them in confinement, and sixty days. We take his 30 plus 20, plus 80 he would have got for, what the State gives them. So they lose quite a bit of time.

Q If you take 30 days of gain time-- Explain what gain time is?

A Gain time is what they earn, and what the State gives them. It is like an inmate, well, I know, everybody knows, he gets a five year sentence, he is out in a year and a half, two years with this gain time. If he is caught doing things, with DR's, he might spend that whole five years.

Q There is time taken off the sentence?

A Yes.

Q Is there different types?

A Incentive, gain time they earn, and I am trying to think, because I don't get into gain time. That is classification study there.

Q When an inmate receives a 30 day loss of gain time sentence, does that mean he has lost 30 days of accrued gain time that he earned?

A 30 days from what he has accrued.

Q That is taken away from him?

A That is taken right then and there.

Q In addition to that, does some other penalty follow?

A As soon as you get a DR, whether we take gain time or put them on probation, they lose the 20 days they earned, or if they earn the 20 days, and they lose whatever the state gives them, 80 days a month.

Q Not only do they lose the accrued time, but they lose the gain time they could have gotten?

A They lose a lot of time.

Q DR offense could result in a loss of 130 days plus additional time in prison?

A Yes.

Q Do you find the loss of gain time is an effective deterrent generally with the prisoners?

A Yes, I do. If I am getting out, if I am an inmate, I know I am getting out in five years, and I get a DR, and take off 130 days, that is hurting me. I am going to be longer, and worry about catching another one. It does deter.

That is the only thing we have going for us out there.

Q Have you ever encountered inmates who indicated that they were less desirous of loss of gain time than confinement?

A They rather go to confinement. If they go to

confinement, they will still lose the gain time, if they ask if we could work it off, or do anything like that. They don't want to lose that.

Q Have you been involved in criminal prosecutions for inmates for possession of contraband on the compound?

A I don't understand what you mean.

Q Have you ever cited an inmate for possession of contraband on the compound and requested of the prosecution office, State Attorney's Office that they prosecute?

A You mean to take it outside? I wouldn't waste my time, to be honest with you.

Q Why is that?

A I have taken cases bringing booze, and the judge made a joke out of it, and thought it was funny. We bring people, judge Adams, at the time, when he was there, we used to bring people with marijuana. He would give them jail time served. We do better with DR court, and I don't understand one thing, North Florida, if they catch an inmate with a weapon, he gets five years consecutive. Our place, we bring him outside, time served. That is jail time.

Q Take him to outside court?

A Outside court. It is not worth it.

Q And you also indicated that you are orientation officer?

A Yes.
Q What do you do as orientation officer?
A When new inmates arrive, within 7 days we have to orientate the inmate when they arrive. I have role call every day. Wednesday morning, Wednesday morning I take many over to chapel. I bring in education. I bring in every place they have to know about into the chapel to have them orientate the inmates, and I orientate about contraband, too much money, visiting park, which is in a handbook that we give them when they get there.
Q The institution gives them a handbook?
A I give them a handbook, as soon as they arrive through orientation.
THE COURT: Mr. Davis, find a convenient time to stop.
MR. DAVIS: A couple more questions.
BY MR. DAVIS:
Q Among the services, do you also introduce them to psychological services?
A Yes, psychological brings over a counsel over there, he tells them, talks to them, and then tells them how to get in to see the psychologist, and forms, and all that.
Q Do you ever counsel any inmates that you see about any problems, or potential problems that you think they might encounter?

A In the last three months, we have more sick 3's that come in there, a lot of them do have problems. If I see they have a problem, or I think they have a problem, I will bring them over to the psychiatrist.

THE COURT: What is a sick 3?

THE WITNESS: Well, he is in bad shape, mentally. That is what it is. Lately, I don't know what it is, but that is what we have been getting. There are mental problems, and I see one, you have a sick 3 that could make it on the compound without a problem. You have some that you could tell by looking at them, and talking to them they are not going to make it. I take them to Dr. Medina. I tell Dr. Medina, I have somebody I want you to see. Dr. Medina and I ride together, and he knows me. He will take the inmate in, and talk to him.

BY MR. DAVIS:

Q Do you know of other officers who refer people to the psychologist, or Dr. Medina?

A Yes, they do.

Q Do you ever make an effort to suggest to any of the incoming inmates that you think may encounter problems at the institution?

A Yes, if I see a young blond inmate, I will ask them, and talk to him, and say if you have any problem, come and see me, and I will try to help. I have been there, and

that is the way I am, I will try to help.

Q You are talking about some type of sexual pressure on them?

A Yes.

Q Have inmates ever come to you and indicated that they felt they were being sexually pressured?

A Yes.

Q And what do you do in those circumstances?

A Normally, if an inmate comes to me and says sergeant, I have a problem with the dorm, so many blacks, who they are, or what they are. I ask them, do you want to tell me who it is? Normally, 99 percent, they are not going to tell you.

I give them a choice. I say two ways we could do it, one, you and the inmate, we will have a talk in the room ourselves, just the three of us, and see if we could get it settled. If the inmate don't want to do that, I give another choice, you want to move, and go to PC? I could put you in another dorm, or go to PC. That is all I can do.

MR. DAVIS: No further questions, Your Honor.

THE COURT: All right. You have questions on cross-examination?

MR. LIPMAN: I do, Your Honor.

THE COURT: How long do you think you will be

with him.

MR. LIPMAN: 20 minutes.

THE COURT: So he won't have to come back tomorrow, let's go ahead and do cross-examination now. We will recess as soon as that is over with.

CROSS-EXAMINATION

BY MR. LIPMAN:

Q Let me kind of pick up where you ended sergeant--

A Nappi.

Q Nappi?

A Nappi.

Q You've discussed with inmates their concern with regard to sexual pressures?

A No, I didn't say that. I said if I see one that I think might have a problem, I will talk to them. If one comes up with me and has a problem, I will talk to him.

Q Has any inmate since January, '86 come to you and express to you their concerns with regard that sexual pressures have been placed on them?

A I have had inmates come up to me, yes.

Q Has that happened on a regular basis?

A No, sir.

Q How often does that happen over the last four years?

A Last four years, maybe 10, 15 inmates come up to me. A lot of them that doesn't mean that is what happened, a

lot of them want to be moved to another dorm, and they will tell me that.

Q Of the 10 or 15 inmates that came up to you, do you know of those inmates, how many do you believe actually did have sexual pressure?

A Probably about 10 of them.

Q And what did you do for those 10?

A Like I say, if the inmate comes up to me and tells me he is having a problems with another inmate in the dorm, I will tell them, you want me to talk to you or another inmate in the room, the three of us, and see what is going on. The inmate says no and I say you want me to move you to another dorm. If he says fine, I will ask him how are you doing over there, whatever. If not, I get him over to the lieutenant, and put him in PC for his own protection.

Q Of the 10 inmates that you felt had ligitimate concerns, and sexual pressures, how many placed in PC?

A Probably one.

Q Were the others transferred to other dorms?

A Yes, if they wanted to.

Q And sergeant, would you have knowledge as to whether any of the other of those 10 inmates were transferred out of GCI?

A No. I don't have the knowledge of that. If they have more problems, they go to PC, probably, and get

transferred.

Q Now, the inmates that came to you, would they come to you because they were located in a specific dormitory?

A No. Because they trust me.

Q And I am not quite clear, do you have supervision over inmates throughout the compound?

A I am all over the compound. Like I say, you have to get an inmate to trust you, and they trust me being there so long, I am all over that compound, north compound, south compound, all over the place.

Q So the inmates who have come to you either know you, or know you have been around a long time, and form a trust?

A Yes.

Q The inmates that are new to the system wouldn't know you, is that right?

A They do, they know me from other institutions.

Q How do they know you?

A Mouth-to-mouth. The inmates tell everybody in the next institution, me and Sergeant Barra had our names all over the State of Florida.

Q What about those inmates that are transferred to GCI as the first institution?

A A new inmate, no. He wouldn't know. But I have had them in this jail know about me.

Q Would it be fair to say the new inmates coming into

the system would be those that might, who are new to the world of a prison, those are the inmates that might receive the greatest amount of sexual pressure when they are first brought into the institution?

A I don't think so.

Q Why?

A That is up to the inmate.

Q That is up to the inmate?

A Right. No inmate has to take anything. They know how to handle themselves, if they want to.

THE COURT: They know how to handle what?

THE WITNESS: I say an inmate can handle himself. If he wants to handle himself, he knows how to take care of himself.

Q Have you in the last four years, do you have any knowledge as to any inmate that has been raped?

A I don't have any knowledge of it.

Q At GCI?

A No, sir.

Q Do you have any knowledge as to any inmate where an attempt of physical or sexual assault was made?

A Myself, no, I don't know.

Q Not --

A Like I said, myself, I never had knowledge of it.

Q In the capacity as a sergeant who has jurisdiction

throughout the compound, have you become aware through other officers of any inmate that has been raped in the past four years?

A No. If I did, I would want to know about it, and I would know about it. I never heard anybody tell me that.

Q Now, if I understand correctly, part of your duties involve participation with the inmates, and their initial orientation?

A Yes.

Q In the past four years, have you informed the inmates of potential sexual pressures that may be placed on them?

A No, sir.

Q You never indicated to any of the inmates?

A My answer is, if you have any problem, see me, and I will try to handle them, help them.

Q Are you aware of the issues that were raised in this lawsuit through the last proceedings in the fall of 1985?

A You talking about what I am here for now?

Q Yes.

A To be honest?

Q Yes.

A No. I read the paper about it.

Q And aside from your participation today, are you the most senior officer in terms of continuity of service at GCI?

A There is one or two more longer than I have.
Q So other than the one or two?
A I have been there--
Q The most service?
A Yes.
Q And you have no idea what the proceedings in this lawsuit involved in the fall?
A Only what I have read. You are talking about this is years ago. Right, I heard about it. But until everybody come and talk to me now, I didn't know that much about it.
Q What was your understanding as to the proceedings following through January, 1986?
A What do you mean? I don't understand what you are talking about.
Q Aside from your participation today, what is your understanding about the nature of this case?
A This trial?
Q Yes, the trial that occurred several years ago?
A Oh, that trial, right. That was they were suing the superintendent and the State.
Q Do you know over what concerns?
A They claimed they were raped. I don't know.
Q Do you know how that was resolved?
A That they won the case.
Q Have you ever seen the decision?

A No, sir. It has nothing to do with me.
Q Would it have any effect on anything you do?
A Whether they win or lose?
Q Well, any of the findings that were made?
A In the last one? You mean in the last time?
Q Yes.
A No. I don't see why it would have anything to do with me. I am only a sergeant out there.
Q Did anybody higher up, any of your supervisors discuss the nature of the issues that were resolved in that case?
A Not that I know. No sense talking to me about it. I have nothing to do with it.
Q Aren't you the -- as the third most senior officer, as I understand it, the officer whose responsibility it is to orient new inmates?
A I am misunderstood. You saying the higher-ups talk to me about it?
Q Yes.
A No. I don't have nothing to do with it. Orientation is a different story that we are talking about now. I am confused, really.
Q All right. I will try to take it in steps, then. Did any of your supervisors tell you after the proceedings in the fall of 1985, January 1986, that things ought to be

changed at all? Orientation process ought to be altered?
A No, sir, they didn't.
Q Nothing at all?
A No.
Q Concerns of inmates being raped and assaulted were found by the court system, and that your orientation ought to address that?
A Like I say, with the orientation, I usually ask if anybody has any problem, come to see me, and the captain, any problems, any problem.
Q You indicated to me that you asked in a general --
A I don't talk about rape when we have orientation.
Q You do not talk about rape?
A No.
Q Do you talk about sexual assaults, and pressures?
A No. I would talk to an inmate that I might feel would have a problem, or one that comes to me that would have a problem, but I don't talk to them about it.
Q Does anybody talk about sexual pressures -- let me finish.
A All right.
Q To your knowledge, in the orientation process, when an inmate is first transferred to GCI, does anybody speak to that inmate about sexual pressures, or sexual assaults, or rapes, or problems that may occur?

A Not to my knowledge, I don't recall.
Q All right. In the 17 years that you have been at GCI prior to January, 1986, were you ever aware of any inmate that was raped?
A No, I wasn't, to be honest with you.
Q You had talked a bit about gain time. Is it your understanding when an inmate checks into PC, protective confinement, because of a concern they have, that they are not eligible for gain time?
A Well, when they are in confinement, they don't get gain time.
Q You had also indicated, tell me if I am wrong, generally you found it a waste of time to attempt to send cases out to the criminal system for violations that were -- violations of law that were occurring within the prison?
A Yes, that is my opinion.
Q That's what I am interested in. When is the last time that you referred a case to, would that be the State Attorney in Belle Glade, Palm Beach County?
A I don't recall when I did, but I presume they have had some go out in maybe a year or so.
Q And when was the last time that you referred one?
A Quite awhile.
Q Are you able to fix a time?
A No, sir, I couldn't.

Q I gather that means that some officers as you said, a year ago, sent or referred cases?

A Yes.

Q Out, but you haven't?

A It isn't that I haven't. It is all according to what they want to do. When I catch somebody with a bunch of marijuana on his person, it is up to them, captain, superintendent whether they want to send it out. All I say it is a waste, in my opinion.

I wrote an article about the judges. I would like them to work in the prison system, and tell us it is funny when they work in there.

THE COURT: What is that?

THE WITNESS: I said I would like to see the judges work in the prison system to see that it isn't funny that booze comes into the compound, and makes a joke of it. They don't realize, when they are drinking that booze, and it is our lives in danger.

BY MR. LIPMAN:

Q If you were to make a suggestion to Your Honor, would the suggestion be to create a process where the prosecutors, and judicial system take more serious the activities that constitute a crime among the prisoners at Glades?

A My opinion is, when we take someone to outside court,

the man has a weapon, I think he should be duly punished for that weapon.

Q One final area. I gather from your testimony, I think you indicated this at the beginning that it is just over the years you found it is impossible to insure that weapons and contraband can be stopped, either to be coming into the prison through the compound area, or made within the compound?

A All we can do is control it, sir.

Q And would it be fair to say that if you went to Glades today, you would find contraband?

A Yes.

Q Absolutely?

A Yes.

Q You would find drugs?

A You are going to find something in every prison.

Q You will find weapons?

A In every prison.

THE COURT: I didn't hear your last answer.

THE WITNESS: In every prison.

THE COURT: All right.

BY MR. LIPMAN:

Q Aside from every prison, we are here on Glades today?

A Right.

Q No doubt about it, you would found weapons?

A Yes, sir.

Q And the box of weapons that you showed us that are listed as the types of weapons?

A The ones that are homemade weapons.

Q The same thing with marijuana, and cocaine?

A What do you mean?

Q The same thing, if you looked hard enough at Glades today, this very minute?

A Somebody has marijuana, yes.

Q You would be able to find it?

A I didn't say that. I said somebody might have it. I didn't say I could find it.

Q Do you think it exists based on your 17 years experience. You have seen it all in your 17 years, I would assume, you think it exists on the compound today?

A Yes.

Q At Glades?

A Yes.

Q How about cocaine?

A There is some cocaine, yes.

Q And buck?

A Yes.

Q What additional methods would you suggest using to cut down the amount of this kind of contraband at Glades today? What else would you do, if you could?

A Well, it is pretty hard. The only thing I suggest is get a dog.
Q Get a dog?
A That is my opinion.
Q Tell me about getting a dog?
A That dog would be walking around that compound.
Q And the dog could be trained?
A Yes, one that would find marijuana, drugs.
Q All right. Have you had a dog?
A Yes.
Q Have you used dogs in the last four years?
A I don't remember four years, no. We have used it.
Q Since January, '86?
A Dates, I do not remember.
Q All right. That is one suggestion, any other suggestions of what you might do to attempt to cut down the control of contraband?
A That, I don't know. It is hard.
Q How about having more people, more staff working under your direction?
A That isn't going to stop it.
Q Beg your pardon?
A That is not going to stop it.
Q We are talking about attempting to control it?
A We are controlling it now. That is what we are

doing.

Q A larger number of staff?

A The more people you have got, the better you could do, true.

Q How about additional metal detectors?

A Metal detectors inside are not worth two cents. All the bunks are metal. It would turn the metal detector on.

Q Any ideas that come to your mind other than the use of dogs, and increasing staff?

A Just, you got to keep looking, that is all I can say. You got to keep your eyes open, and watch what is going on.

MR. LIPMAN: I have no other questions.

THE COURT: Any redirect?

MR. DAVIS: A couple questions, Your Honor

THE COURT: All right.

REDIRECT EXAMINATION

BY MR. DAVIS:

Q Sergeant Nappi, so there is no confusion over the situation, you indicated you are one of the most senior correction officers?

A I am.

Q However, you are not, in the line of command, one of the administrative officers?

A No, I am just a sergeant.

Q You are a sergeant. Above you lieutenants, captains,

major, and colonel?

A Right.

Q And insofar as additional staff for your function, which is the police function of a compound is concerned, does that job depend so much on manpower or on relationship of the person performing it?

A The person performing it.

Q And in respect to gain time in protective confinement, are you personally familiar with what the rules are on that?

A No, sir, that is more or less classification. All I do is work with them when they have the DR's.

Q And your jurisdiction on the compound is as the police officer patrolling to discover contraband?

A Yes, sir.

MR. DAVIS: No further questions.

MR. LIPMAN: No further questions.

THE COURT: All right. You may step down, thank you.

(Witness excused.)

THE COURT: Gentlemen, we will be in recess until tomorrow morning at 9.

MR. DAVIS: Your Honor, with respect to the weapons, it is your preference not to have them in evidence?

THE COURT: That is right.

MR. DAVIS: Could we substitute a photograph?

THE COURT: Yes, I think that is all right if you would like to do that.

MR. DAVIS: If we could have an agreement, make a photograph of the items, lay them out, photograph them?

MR. LIPMAN: Yes.

THE COURT: Okay, that will make it easier to handle them.

We will be in recess until 9 tomorrow.

(Thereupon, a recess was taken at 12:30 p.m.)