

1 presence.

2 Mr. Fields.

3 MR. JAMIE FIELDS: Yes. I would like
4 to thank you for the opportunity to appear today on
5 behalf of the Detroit Police Department and Chief of
6 Police Ella Bully-Cummings. The Detroit Police
7 Department is heartened that the Prison Rape
8 Elimination Act shows a high level government
9 recognition of the problem of prison rape. We applaud
10 the development of national uniform standards and
11 guidelines addressing the prevention, reduction and
12 punishment of rape or sexual assault occurring to
13 persons within a correctional setting. Although the
14 Act limits the Attorney General's discretion in
15 issuing standards by requiring that the final rule not
16 "impose substantial additional costs" on prison
17 systems, we are hopeful that any additional standards
18 or guidelines would be accompanied by corresponding
19 funding and/or resources required.

20 It appears that the main focus of the
21 Act is the collection of data. That, in and of
22 itself, is a laudable and worthwhile goal because the
23 lack of quantifiable data and research as to the depth
24 and the scope of the problem in police lock-ups leads
25 to difficulty for local jurisdictions in designing

1 effective and responsive prevention efforts.

2 However, as you are aware, it is a goal
3 that is fraught with difficulty because of the
4 unavailable observations of -- of underreporting
5 inherent in prison assaults. While the scope and
6 nature of the problem is debatable, largely because of
7 this historical underreporting of rape and sexual
8 assaults, the seriousness of the issue is not
9 debatable.

10 When photos of United States military
11 personnel sexually abusing and humiliating Iraqi
12 prisoners were made public, most American citizens
13 were sickened. In testimony before Congress,
14 then-Secretary of State, Donald -- Secretary of
15 Defense, Donald Rumsfeld, described what happened at
16 Abu Ghraib as "fundamentally unAmerican." However,
17 from the research that has been conducted, prison rape
18 and sexual assault occurs in American prisons at an
19 alarming rate. This is a national issue that begs for
20 uniform standards and guidelines. Prison rape and
21 sexual assault not only cause an untold amount of
22 physical and emotional damage to victims, 95 percent
23 of whom will one day be released back into society,
24 but also has lasting scars on the American conscience.

25 In its 1994 decisions in Farmer versus

1 Brennan, the United States Supreme Court held that by
2 allowing a prisoner to sexually assault another
3 prisoner, it violated the Eighth Amendment of the
4 United States Constitution against cruel and unusual
5 punishment. The Supreme Court unanimously held that
6 officials "have a responsibility to safeguard
7 prisoners from violence perpetrated by other
8 prisoners." The Court adopted a subjective deliberate
9 indifference standards to determine whether officials'
10 response to the risk of rape violates the Amendment.

11 Rape and sexual assault are serious
12 crimes under the laws of the State of Michigan. There
13 is no exception when such crime occurs inside
14 detention facilities, whether committed by a prisoner
15 or committed by an employee. The Detroit Police
16 Department has a zero tolerance policy for any abuse
17 or mistreatment of detainees. This has been
18 communicated to our members via training and by
19 vigorously investigating and disciplining members who
20 violate our policies. This has also been communicated
21 to the public with extensive publicity to let the
22 community know how to file citizen complaints and that
23 the Department is serious about investigating and
24 disciplining wrongdoers.

25 The American Correctional Association's

1 policy states that facilities should foster an
2 environment where reporting of sexual assaultive
3 behavior is encouraged, and reports may be made
4 without fear of reprisal.

5 The Detroit Police Department citizen
6 complaint policy mirrors that statement, by informing
7 all members that the public image of the Detroit
8 Police Department is determined by a professional
9 response to allegations of misconduct against its
10 employees. All complaints against the Detroit Police
11 Departments and/or employees are accepted and
12 investigated fairly and impartially to determine the
13 validity of allegations and impose disciplinary
14 actions that may be justified. The policy further
15 states that no member of the Department shall refuse
16 to take a citizen complaint or discourage, interfere,
17 delay, or obstruct a person from making a citizen
18 complaint.

19 In addition, the Detroit Police
20 Department's written policies and practices provides
21 mechanisms for a citizen making complaints against
22 member of the Department confidentially or anonymously
23 by telephone, fax, e-mail or letter, or in person at
24 any facility.

25 However, as any law enforcement agency

1 recognizes, you cannot merely enact compliance through
2 policy development. Policies must be trained on and
3 implemented and vigorously enforced. An allegation of
4 criminal activity or excessive force by an employee
5 requires immediate response by investigators, who send
6 forensic support and evidence techs, and assistance as
7 required by specialized command.

8 In the case of a sexual assault by a --
9 one of our employees, or an allegation of sexual
10 assault, Internal Affairs and Sex Crimes would respond
11 to the scene. Over the years we have had a small
12 number of allegations of employee sexual misconduct.
13 Those allegations have been thoroughly investigated
14 and prosecuted to the fullest extent of the law.
15 These investigations have resulted in criminal
16 convictions and/or terminations of employment. We
17 agree completely with the testimony of other witnesses
18 that the term "consent" has no place in the discussion
19 of sexual relations between a police or detention
20 officer and a person detained in custody.

21 One area that we would like the
22 Commission to consider is the role of labor
23 arbitrators. The Commission would be mistaken if it
24 believed that the Chief of Police of any department is
25 the final decision maker on discipline. Pursuant to

1 the public employee labor relations laws in many
2 states and many collective bargaining agreements, that
3 role is performed by unelected and largely
4 unaccountable arbitrators. While arbitrators play an
5 essential role in maintaining harmonious labor
6 relations, they are sometimes insufficiently attuned
7 to the ramifications of their decision to put
8 employees back to work who have been terminated for
9 sustained misconduct. If the Commission could address
10 this issue, it would be a positive step. Labor
11 arbitrators need to know the scope of the problem and
12 why dismissal is the appropriate penalty in cases of
13 this nature. They need to be sensitized to the fact
14 that a prisoner may be deterred from reporting sexual
15 assault because he or she does not think the word of a
16 prisoner will be believed by a police officer.

17 The Detroit Police Department currently
18 operates five prearrestment holding facilities with
19 each holding facility comprised of approximately 20
20 cells in five different police districts. There are a
21 total of six police district stations in the city of
22 Detroit. Our goal is to process all arrestees out of
23 our custody in the shortest time possible. Our
24 procedures set 48 hours as a key time period, in
25 conformity with the guidelines as set forth by the

1 U.S. Supreme Court in County of Riverside versus
2 McLaughlin, which created a presumption that
3 warrantless detention for more than 48 hours without
4 judicial review of the grounds for detention violates
5 the Fourth Amendment to the United States
6 Constitution.

7 In 2001, in a virtually unprecedented
8 move, the then mayor of the City of Detroit, Dennis
9 Archer, invited the Department of Justice in to the
10 city of Detroit to look at our practices and
11 procedures. Subsequently, the city of Detroit and the
12 United States Department of Justice voluntarily
13 entered into two consent judgments: Use Of Force and
14 Witness Detention and the Conditions of Confinement
15 consent judgment.

16 In November 2001, the city of Detroit
17 elected the Honorable Kwame Kilpatrick as mayor of the
18 City of Detroit. Both Mayor Kilpatrick and Chief of
19 Police Bully-Cummings embraced the letter and the
20 spirit of the Consent Judgment and made compliance the
21 highest priority.

22 The Conditions of Confinement Consent
23 Judgment has resulted in unprecedented attention to
24 our conditions of confinement. Since the inception of
25 the Consent Judgment, the Detroit Police Department

1 has increased its holding cell area staffing to
2 include a cellblock supervisor, implemented continuous
3 video observation, which is also recorded and is held
4 for 90 days, in all holding cells and holding cell
5 areas, required comprehensive medical and mental
6 health screening within two hours of initial intake,
7 increased lighting to ensure that there is 20-foot
8 candle illumination in every cell and there are no
9 blinds spots, and revised our detention management
10 policies, and adopted an objective written
11 classification system.

12 The Detroit Police Department's
13 objective classification system separates, not only
14 like many departments do, by sex, age, and nature of
15 offense, felony or misdemeanor. In addition, most of
16 our detainees are placed in single cell, specifically,
17 even misdemeanors that are violent are placed in a
18 single cell, co-defendants or arrested crime partners
19 are segregated by sight and sound from each other,
20 misdemeanor detainees who return from the hospital and
21 are recovering from physical injury are put in a
22 single, anybody with infectious disease who refuses to
23 answer any or all questions on our detainee intake
24 forms are placed in a single-occupancy cell and
25 segregated from other detainees, material witnesses

1 who are in custody based on court order are placed in
2 single-occupancy cells, and transgendered or
3 vulnerable detainees who either appear, based on an
4 officer's observation, or indicate that they are at
5 risk from predatory or assaultive behavior, based on a
6 detainee security questionnaire that is done at the
7 time of the initial intake, are placed in single cells
8 and separated from other detainees, high profile
9 detainees, either because of their offense or the
10 nature of the crime are placed in single cells, and
11 anybody who is charged with any type of sex offense,
12 even if it's a misdemeanor sex offense, are placed in
13 a single-occupancy cell.

14 The Detroit Police Department has
15 developed a prisoner training lesson plan, based on
16 best corrective research, provides annual training and
17 update to all officers and cellblock supervisors,
18 which is a 32-hour training block.

19 The Detroit Police Department has gone
20 beyond the objective classification system offered by
21 the majority of holding facilities in the country.
22 Despite efforts to adopt an objective system in U.S.
23 prisons and state jails, many state Departments of
24 Corrections do not collect the data needed to assess
25 an inmate's risk of harming others. Nearly 40 percent

1 of Correctional Departments do not collect information
2 on whether a weapon was used in the prisoner's offense
3 and 12 of the nation's 52 Departments of Corrections
4 do not collect information on an inmate's history of
5 violence.

6 The Commission is correct in perceiving
7 that there are differences in correctional facilities
8 operating at the state and local level.

9 In developing standards, these
10 differences cannot be over emphasized. To develop
11 meaningful standards and prevention efforts, it is
12 first necessary to briefly examine the pathology of
13 rape and sexual assault in a correctional setting.
14 Research has indicated that prison rape is "a stark
15 demonstration of power. The pursuit of power via
16 sexual violence and the enslavement of weaker
17 prisoners is an integral feature of imprisonment
18 throughout the United States in both jails and
19 prisons. In this way, it mirrors heterosexual rape in
20 the wider community."

21 Those who were targeted for sexual
22 assault were incarcerated on average 143 days before
23 the first sexual encounter, and the physical plant and
24 equipment issue may be associated with increased rates
25 of victimization. By contrast, the holding cells in

1 the Detroit Police Department operates and a jail, the
2 differences are enormous. The majority of our
3 detainees are held for less than 48 hours, and the
4 dynamics associated with the jail or prison subculture
5 are nonexistent. In addition, Detroit Police
6 Department holding facilities do not provide detainees
7 with showers, opportunities for recreation, or the
8 eating of meals outside of their cells, or many of the
9 interactive programs that are usually provided in a
10 prison or jail. This is significant in terms of
11 limiting the opportunities for sexual misconduct. In
12 addition, the smaller size of our facilities and
13 higher staff ratios also reduces the opportunities for
14 sexual misconduct.

15 However, let me stress that prisoner
16 rape and sexual assault can occur in any correctional
17 setting regardless of the size of the facility or the
18 number and quality of its policies. As the
19 investigation into the Abu Ghraib scandal indicated,
20 the leaders and the soldiers were aware of the
21 requirements and expectations to treat detainees
22 humanely, and it was their duty to report incidents of
23 abuse. The study found that underlying cause was
24 two-fold: An individual failure to adhere to the
25 basic standards of discipline, training and Army

1 values, and leadership failure to provide oversight
2 and enforce standards.

3 Therefore, while we welcome uniform
4 standards based on "best practices," we understand
5 that such standards are only foundations and it's up
6 to the departments to go about the -- it's just like a
7 personal protection order. They're only a piece of
8 paper and it's up to the leadership in the police
9 department to make sure that officers are reporting
10 misconduct.

11 We have very strong policies on
12 reporting misconduct of employees by other employees,
13 and we do constant training on that and other areas to
14 make sure that it's driven from the top down, because
15 it's got to be driven from the Chief of Police
16 straight down.

17 Thank you very much.

18 CHAIRMAN WALTON: Thank you, Chief.

19 MS. ANDREA RITCHIE: Good morning. I
20 would like to begin by just sharing a few of the many
21 incidents of sexual abuse I am aware of in police and
22 court lock-ups before discussing the issue in broader
23 teams.

24 On November 24th, 2002, Denise
25 Almodovar, Sarah Adams, Candace Ramirez, Becki Taylor,