

1 testimony and experience it in her own words. We're  
2 very glad that she was able to do the videotape  
3 testimony last week and that her -- her pregnancy did  
4 not interfere with her being able to do that. And,  
5 again, we thank you very much for being willing to  
6 hear her testimony in rather an unorthodox fashion in  
7 a videotape format. Thank you very much.

8 (The following is testimony given by videotape.)

9 MS. HEJNAR: Hi. Good morning. My  
10 name is Erica Hejnar, and under the penalty of  
11 perjury, I swear that the statement I am about to make  
12 is true and correct to the best of my knowledge,  
13 information and belief.

14 I would like to thank you for allowing  
15 me to share my story with you via prerecorded video.  
16 Although I would have liked to testify before the  
17 National Prison Rape Elimination Commission in person,  
18 I'm eight months pregnant and it would not have been  
19 feasible for me to travel to Austin.

20 It is extremely difficult to recount  
21 the experience with the -- with the sexual abuse I had  
22 at the 26th District of Philadelphia, Pennsylvania  
23 Police Department, in 2003. But I hope that what I  
24 share with you will motivate the Commission to do  
25 everything in its power to ensure that others are not

1 subjected to similar situations of sexual violence  
2 while in detention being detained.

3                   During the evening of September 3rd,  
4 2003, I went out with a friend to the store to pick up  
5 diapers for my daughter, and as we were walking back  
6 to the shelter where we were staying, we got caught in  
7 the midst of a police drug raid. My friend and I were  
8 surrounded by a group of police officers who threw us  
9 against the wall and immediately began verbally  
10 assaulting us. A female officer was called to search  
11 us for drugs. This initial pat search on the street  
12 was very thorough and I emptied all of my contents of  
13 my purse to show the police officer that I was not  
14 holding anything, and I also took my pockets out to  
15 show them, and I jiggled my bra in a way to show that  
16 I was not hiding anything.

17                   And so after they found no contraband,  
18 they took me and my friend and they said they were  
19 going to take us to the police station for another  
20 thorough search. And I pleaded with the officers and  
21 repeatedly told them that we had not purchased any  
22 drugs and that we didn't have anything to do with the  
23 drug dealers involved in the sting. But we were still  
24 handcuffed and thrown into the back of the police --  
25 the police car and taken to 26th Police District.

1                   My friend was familiar with police  
2 procedure as she had a prior criminal record and she  
3 was very anxious about the way we were being treated.  
4 While we were in the back of the car, she turned to me  
5 and whispered that this is not right, that something  
6 is definitely wrong. And she knew that they had no  
7 right to arrest us or take us to the station.

8                   When we arrived at the station, a  
9 second female police officer did -- she took us into  
10 the room and searched us again. During the search the  
11 officer patted our underwear, felt under our breasts,  
12 and made us squat and cough. The search was extremely  
13 invasive and left me feeling frightened and  
14 uncomfortable. I later found out that the search was  
15 never authorized and that we should have been released  
16 after the initial search on the street showed that we  
17 were not in possession of drugs.

18                   After this second search, the officer  
19 placed us into the cell and locked it behind her. And  
20 as she left the outer room, it struck me how strange  
21 it was that the police never asked for our names,  
22 identification, or any -- any -- anything. And she --  
23 they didn't check fingerprints and they didn't allow  
24 us to contact anybody, so nobody even knew where we  
25 were and what had happened. Although we had been

1 searched, we were not formally processed or told why  
2 we were being held. The officers wouldn't listen to  
3 our pleas and kept treating us as if they had a legal  
4 justification for detaining us.

5                   When the female officer left, a male  
6 officer entered the room and sat on the bench outside  
7 of my cell. And I noticed that when he walked in, he  
8 was wearing his police officer pants, you know, the  
9 uniform, but he had a white T-shirt on and he didn't  
10 have his badge or any identification on. And when he  
11 walked in, it just struck us that it's not -- we  
12 didn't -- we felt that it wasn't right, you know, how  
13 he didn't have any identification on him. And I took  
14 it as another warning sign that something was not  
15 right.

16                   And after sitting on the bench, he  
17 started talking to me and my friend and asking us  
18 questions. And he asked us what our names were and  
19 where we lived. However, at no point did he ask to  
20 see our identification cards or any proof of our  
21 identity. It felt as if he was acting inappropriately  
22 and that his questioning had nothing to do with the  
23 perceived crime. I was beginning to get very nervous  
24 and afraid about what would happen next. I was  
25 certain that this was not normal procedure and that

1 this officer was completely out of line. That I was  
2 frightened and protesting further would only make the  
3 situation worse.

4                   The officer next asked my friend and I  
5 if I were girlfriends -- or if we were girlfriends or  
6 not. And I don't feel very comfortable saying this,  
7 but he had said, if we wouldn't like to eat each  
8 other's pussies. I was shocked and I could not  
9 believe that this was really happening, because our  
10 cell was inside a larger closed room and there was no  
11 other officers in sight that we could call out to or  
12 could hear us. Trying to keep it -- keep the  
13 situation from escalating, I responded that we were  
14 just friends and that we never had sex with each  
15 other. I prayed that he would stop asking us these  
16 questions, but he continued to look at us and our  
17 bodies in a very suggestive manner. I felt as though  
18 his eyes were piercing right through our clothes.

19                   The officer propped up his feet and  
20 continued tormenting us. He asked us again if we were  
21 girlfriends and demanding that we kiss each other. As  
22 he told us, he jangled his keys in front of us,  
23 mocking us, and reinforcing the fact that he had all  
24 the power in the situation. In total fear that we  
25 would not be allowed to leave, we did not comply with

1 his demands. My friend and I kissed. Unfortunately,  
2 the officer would not stop. He told us that he wanted  
3 to see each other's -- he wanted to see us touch each  
4 other's breasts. My friend put her hand on my breast  
5 in compliance. Then the officer proceeded to ask her  
6 again if she liked eating my pussy. I was so  
7 horrified that I started crying uncontrollably. I  
8 demanded to know why he was doing this, but he  
9 continued to insist that we touch each other, and if  
10 we wanted to go home that we would do what he said.

11                   He threatened us that if we said  
12 anything or made any noise, he would find something to  
13 charge us with so that we couldn't leave. He then  
14 told us to lick each other's pussies. I got so upset  
15 that I told him we were definitely not going to do  
16 that. But he pressed on, telling us that no one would  
17 see us and that he would not let us go until we did as  
18 he said. My friend and I were both sobbing and  
19 started yelling in hopes that someone would hear us  
20 and help us. We wanted to be let out of the cell and  
21 get away from this monster as soon as possible. We  
22 were distraught, angry, frightened, and crying  
23 hysterically. Despite our outrage, there was no way  
24 out. And if we didn't do what he said, he would --  
25 he -- we wouldn't be allowed to go home that night.

1                   When he said that he would find  
2 something to charge us with if we didn't comply with  
3 all his demands, I believed him. It was without  
4 question the most humiliating and degrading moment of  
5 my life, and I could not believe that this so-called  
6 officer of the law had the power to violate us in this  
7 way. I was beginning to feel like this officer would  
8 be able to get away with absolutely anything he chose  
9 to do.

10                   While this was happening, I noticed  
11 that another police -- a male police officer had come  
12 back and he stuck his head into the cell, and me and  
13 my friend were praying that he would, you know, see  
14 what was going on and stop it, but he just gave the  
15 police officer a thumbs up and a smile and walked out  
16 of the room.

17                   My friend and I both began to fall  
18 apart at this point. Perhaps because we were so  
19 visibly upset and the fear that somebody else might  
20 actually hear us, the officer finally decided to let  
21 us go. He ordered us to fix our clothes, wipe our  
22 faces, and get the hell out. When we went out into  
23 the main area of the station where the other officers  
24 were, we were still so upset that it's hard to believe  
25 that none of them pulled us aside and asked what was

1 going on or tried to find out what happened back in  
2 the cell. I wanted to scream out so that everybody in  
3 the building would know, but I was so afraid that if  
4 we said anything, we would be thrown right back in  
5 jail.

6                   While our release was being processed,  
7 I asked for a document stating that we had been held  
8 at the station, because the shelter I was staying at  
9 had a curfew and if I didn't show them proof, they  
10 would have thrown us out in the street. And after  
11 hearing our request, the officer who had violated,  
12 when he said that he would find something to charge us  
13 with if we didn't comply with all of the demands, he  
14 wouldn't give us any proof that we were there. He  
15 wouldn't even acknowledge that we were there, and he  
16 told us to get the hell out of there before he --  
17 before he locked us back up. And after what had  
18 happened, if we made a scene with our property being  
19 gone, like I said, he would put us back into the cell.

20                   As soon as I got to the shelter where I  
21 was staying with my husband and kids, I told the  
22 administrators what had happened and that I wanted to  
23 make a report. Before I left the police office, the  
24 station, there was 20 dollars missing out of my  
25 girlfriend's purse in tokens, and he denied taking it.

1 As we went back into the station, he told us to get  
2 the hell out of there or that he would put us back  
3 into the cell and he -- he, you know, took us outside  
4 and, you know, told us that we had to leave right then  
5 and there. So we didn't have any money to get home or  
6 any way to get home.

7                   And -- but I got back to the shelter  
8 and they did encourage me to call 911. And I told the  
9 emergency operator exactly what happened and within  
10 minutes, a police car came. And he picked me -- the  
11 police officer picked me up so I could give a formal  
12 statement. I was taken to a different police station  
13 and questioned by the captain in private. I gave them  
14 my report and he faxed the written statement to the  
15 Office of Internal Affairs that same night. My friend  
16 decided not to join me in reporting what the officer  
17 had done to us because she has a criminal record and  
18 was already very distrustful of law enforcement.

19                   I have no criminal record. I have  
20 never been arrested and would never had believed that  
21 something like this could have happened. I felt like  
22 the officer had to be held accountable and the public  
23 needed to know what some law enforcement officials  
24 were capable of. I was relieved that the captain who  
25 interviewed me seemed to take my report seriously and

1 I assumed that he would make sure the officer who had  
2 did these horrible things to us would be prosecuted.

3                   And, unfortunately, months went by and  
4 nothing happened. It seemed like every time I was in  
5 touch with the officials from the Philadelphia Police  
6 Department Internal Affairs Unit Police Department,  
7 there had been some setback in the investigation. For  
8 example, responsibility for my complaint changed hands  
9 several times, and as investigators were reassigned or  
10 retired, I became convinced that nothing would ever  
11 happen to that police officer. I knew that he was  
12 still working in the same position, and I feared that  
13 he was continuing to sexually abuse other innocent  
14 women on the streets and at the police station.

15                   I myself have been able to -- unable to  
16 trust the Philadelphia Police Department ever since  
17 this incident. Shortly afterwards, I spent several  
18 days in a psychiatric hospital because I felt  
19 extremely paranoid and became convinced that the  
20 officer was stalking me. I walked around with a towel  
21 wrapped around my head because I did not want him to  
22 recognize me. My family was so concerned that they  
23 recommended that I stay in a hospital until some of my  
24 anxiety over the incident subsided.

25                   In January 2006, the lawyer whom I had

1 hired to represent me in a civil lawsuit against the  
2 Police Department of Philadelphia decided that it  
3 would be best for me to settle with them out of court.  
4 I did not agree with the lawyer's decision because I  
5 was not interested in monetary gain, but in seeing  
6 justice served. Unfortunately, the lawyer did not  
7 want to take on a case against the police department,  
8 and so he went ahead with the settlement. My portion  
9 of the settlement, after attorney's fees and expenses,  
10 was 5500, which is hardly restitution for the  
11 injustice I suffered.

12                   In any case, my understanding was that  
13 the Internal Affairs investigation had been closed by  
14 then, and I had given up all hopes until the reporters  
15 from the Philadelphia Enquirer asked if they could  
16 write an article on my case. I agreed, and the  
17 reporters who wrote the story did more investigation  
18 of my complaint than the Office of Internal Affairs  
19 had done, forcing them to go back and that department  
20 take -- to take a closer look at my case. The  
21 difficult part of having an article about my case  
22 published was I was worried that it would be dangerous  
23 for me. In fact, I still feel paranoid and tense when  
24 I see a police officer, and I've become increasingly  
25 nervous as reporters investigated my case.

1                   After the article was published in  
2 2006, of August, two police officers approached me on  
3 the street and told me that they had recognized me,  
4 the girl that had made the allegations against the  
5 officer. This was very frightening to me. I felt  
6 very wary that I would face possible retaliation from  
7 other police officers.

8                   Despite my fear of retaliation, I am so  
9 glad that I took the risk to speak out about what  
10 happened to me and my friend. On March 12th, 2007,  
11 the Office of Internal Affairs published a report  
12 sustaining all of my allegations and finding five  
13 different police officers, most importantly, the one  
14 who sexually violated me and my friend, guilty of  
15 misconduct for their actions that night. The abusive  
16 officer will probably be terminated. Four others were  
17 found guilty of trying to cover up the incident and  
18 will probably face suspension. I am saddened, of  
19 course, that the officer who subjected us to such  
20 abuse will not be prosecuted. The District Attorney's  
21 Office has found that despite the findings by Internal  
22 Affairs, there is insignificant evidence to charge him  
23 with a crime.

24                   My spirit has been lightened and I'm  
25 also so relieved that I've finally been vindicated and

1 that the officers have finally been held accountable.  
2 However, I am disappointed that it took more than  
3 three years for Internal Affairs at the Philadelphia  
4 Police Department to not do their jobs in this case.  
5 If it hadn't been for those caring reporters at the  
6 Philadelphia Enquirer, I might have never been  
7 believed and the officer would not have been held  
8 responsible.

9                   So often the public and the criminal  
10 justice system do not believe complaints of sexual  
11 abuse made by people behind bars. I never should have  
12 been picked up by the police that night. My friend  
13 and I were at the police station only to satisfy the  
14 sick desires of the abusive officer. I told the truth  
15 about what he did to us, yet because it was  
16 incorrectly assumed that I may have been engaging in  
17 criminal activity, officials within the department and  
18 the public doubted my word against his. I would,  
19 therefore, like to encourage the Commission to take  
20 steps to ensure that all of the complaints of sexual  
21 abuse against detainees and anyone else caught up in  
22 the criminal justice system are treated seriously.  
23 Such complaints must be promptly and fully  
24 investigated and perpetrators of such violence must be  
25 prosecuted. Despite my innocence, I was held at a

1 police lock-up in a situation where no one else knew  
2 where I was or what was happening to me. The police  
3 had all the power and I had none, and no one within  
4 the police department was apparently willing to  
5 challenge what this rogue officer did to us.

6 I thank you again for providing me the  
7 opportunity to speak to you today. And I'm sorry that  
8 I was unable to be there for the -- for the interview.  
9 But I just wanted to say thank you, and thank you to  
10 Stop Prison Rape for being there for me and helping me  
11 through this, and the Philadelphia Enquirer.

12 CHAIRMAN WALTON: Okay. We have about  
13 three minutes. I don't know if any of the  
14 Commissioners have any questions of Ms. Hall-Martinez  
15 regarding the videotape.

16 COMMISSIONER FELLNER: Kathy, one of  
17 the -- I mean, the whole thing that happened to her is  
18 quite powerful and, I suspect, unfortunately, not all  
19 unusual. But one of the things that was quite  
20 interesting is how, if but for the press, it sounds  
21 like nothing would have happened in this case. And I  
22 wonder if you would like to say something, tell us  
23 about your sense of whether that is a role that the  
24 press often has played and whether, as we think about  
25 standards, if there should be -- should we have