

1 Commission for creating this unique forum to discuss
2 sexual assault by law enforcement officers and for
3 shining a much-needed national spotlight on the issue,
4 and I would urge you to follow up on this critical
5 step by making strong recommendations for further
6 study and national standards aimed at bringing about
7 systemic solutions so that this particular form of
8 sexual abuse will no longer be shrouded in silence.

9 I thank you for your patience and your
10 time today and I refer you to the recommendations that
11 I'll be making in my written submission.

12 CHAIRMAN WALTON: Thank you very much
13 for your testimony.

14 Chief, one of the limitations, as you
15 indicate, that was imposed by the legislation is
16 fiscally based. Do you think that we can really
17 implement meaningful change without additional
18 dollars?

19 MR. JAMIE FIELDS: Truthfully, the
20 standards are good, and we always need standards, but
21 like the CALEA and IACP talked about, their standards
22 and model policies, their standards and model policies
23 are just so basic that if -- you know, at the ground
24 level, and we need to go much above that. So a lot of
25 standards can be implemented without money, but the

1 enforcement of the standards, I don't see how you
2 could do it without regulating some enforcement.
3 Because a standard is just a piece of paper.

4 COMMISSIONER KANEB: Chief, Detroit
5 obviously has paid a lot of attention to the
6 prevention of sexual abuse of inmates in your lock-ups
7 and jails. Could you tell me what utility cameras
8 have in your whole program?

9 MR. JAMIE FIELDS: Two things. And one
10 thing is, the hard thing for cameras for realize --
11 you know, for the officers to realize is that there is
12 a hesitancy with officers with cameras, whether
13 they're in car or cells. But a lot of it has to do
14 with our training and education, because we've had
15 numerous incidences where like in -- 97 percent of the
16 cases or allegations of misconduct, the cameras
17 actually exonerate the officer. And that's important.
18 Three percent, however, they don't exonerate the
19 officer, so it's twofold. One part of it is that if
20 the officers know that they're constantly under
21 camera, it might be a chilling effect on some -- on
22 activity. In fact, one of our districts has a wide
23 screen TV where you can see the holding cell area in
24 the public lobby, you know, on camera, so it has a
25 chilling effect.

1 The other things is, in investigations
2 we hold our videotapes, they're all recorded and
3 they're held for 90 days, so if an allegation does
4 surface because maybe somebody doesn't want to make an
5 allegation right there, but they can make it
6 anonymously or any other way, we can always pull the
7 videotape and -- as part of our investigation.

8 COMMISSIONER KANEB: So the answer is
9 that you're making significant or extensive use of
10 cameras?

11 MR. JAMIE FIELDS: Yes.

12 COMMISSIONER KANEB: And so all of your
13 holding cells are camera equipped? Is that what
14 you're saying?

15 MR. JAMIE FIELDS: Every holding cell
16 area, the booking area, and each cell is camera
17 equipped.

18 COMMISSIONER KANEB: Now, is somebody
19 assigned to what watch what's going on or at least pay
20 some attention, rather than just relying on an
21 allegation and then going to back to tape?

22 MR. JAMIE FIELDS: Absolutely. We --
23 you know, obviously, cameras are only part of the
24 observation, because people on the front desk, they
25 have other duties or whatever, so therefore, we have

1 people in the cellblock, we do -- we have 30-minute
2 rounds for all our detainees, we have 15-minute rounds
3 for anybody who has indicated, based on our intake
4 screening questionnaire, that they might be at a
5 higher risk, or we have direct supervision if somebody
6 is perhaps waiting to go to the hospital where we need
7 to transport somebody maybe of a -- a mental illness.

8 COMMISSIONER KANEB: Just the last --
9 to circle back to your observation at the beginning of
10 your answer to me, you said, well, probably in 97
11 percent of the cases, the officer, if there was a
12 complaint against an officer, is exonerated. But
13 there is maybe three percent where they are not
14 exonerated. So that leads to what? I mean, to -- to
15 people not watching --

16 MR. JAMIE FIELDS: Oh, no. No. The
17 cameras are required to be watched, but what I'm
18 trying to do is say that the cameras are just an added
19 prevention. Nothing replaces somebody actually
20 physical being back in the cellblocks. And our
21 cellblocks are so small enough where the officers --
22 we have three people assigned to each cellblock, which
23 is smaller than this room. And it has individual
24 cells that they can hear things and they can observe
25 things.

1 COMMISSIONER KANEB: I would also,
2 lastly, observe that although much of the discussion
3 this morning and testimony this morning has been
4 directed at officers abusing inmates, the Commission
5 has had enough mileage under it at this point where,
6 you know, we do understand that it is -- the
7 unfortunately intentional officer, exceptional in the
8 negative sense, that does this. And, you know, our
9 reports will, I think, talk about this. But we're of
10 the opinion that the primary effort has to be in the
11 case of -- of, let us say, deterrence, through various
12 means, inmate-on-inmate activity. Whether it's in
13 a -- in a prison, people in for a long time, or in a
14 lock-up. And we do understand there are problems, but
15 we're going to propose some solutions. Thank you.

16 COMMISSIONER AIKEN: No questions.

17 COMMISSIONER SMITH: I guess I would
18 actually disagree a little bit with John there, in
19 that I think that there is an equal problem in terms
20 of both inmate on inmate and staff on inmate. And in
21 terms of -- I think that it's very hard to know what
22 the prevalence is really truthfully on either one of
23 them. And I guess one of the things that I would be
24 interested in from both of you is to have you talk a
25 little bit about how we can get that data from the

1 whole lock-up community, both on inmate on inmate and
2 staff on inmate. And I guess I would like to throw in
3 there a little bit, because I heard you talk about it
4 a little bit, civilian complaint oversight mechanisms
5 and whether that might also be a useful place to get
6 information about prevalence.

7 MR. JAMIE FIELDS: We're required to
8 do -- we do audits. We do 18 audits on our holding
9 cells a year, semi-annually. And one of our audits is
10 allegations of misconduct in the holding cells. And
11 to do that audit, we not only look at complaints that
12 came in through the police department, but we have the
13 Office of the Chief Investigator, which is a
14 semi-independent board that people might feel freer to
15 make a complaint with.

16 In addition, we put complaint brochures
17 in libraries, in public buildings. So there is all
18 sorts of forms they can make it, and we use that as
19 a -- as a reporting means. But I can't overemphasize
20 the importance of statistics, because the Bureau of
21 Justice statistics, we don't see any statistics on
22 police lock-ups, and the problem, anecdotally -- I can
23 tell you, in the last 20 years, probably because of
24 the singles cells we do in our department and how we
25 set up, I don't know, even anecdotally, of an

1 inmate-on-inmate rape, but I do know of probably two
2 or three sexual assaults prior to our cameras and
3 prior to things we have instituted. And to the -- at
4 least from my perspective, those are very troubling,
5 because that means we've caught them the first time.
6 And we don't know how many times that officer is
7 responsible for things that went unreported. So
8 that's very alarming to us, so we could like to -- you
9 know, more statistics so we can get -- quantify the
10 problem. We would be appreciative.

11 COMMISSIONER SMITH: I guess the
12 question is -- and I think I'm going to show my
13 ignorance here. Has -- have you received a survey yet
14 from the Bureau of Justice statistics in terms of
15 getting that information on lock-ups?

16 MR. JAMIE FIELDS: No. In fact, the
17 study that I saw, the only study -- and I might be
18 ignorant on knowing all the statistics, but the study
19 I saw from Bureau of Justice statistics that looked at
20 prisons and jails --

21 COMMISSIONER SMITH: Right.

22 MR. JAMIE FIELDS: -- had a notation
23 that said, this does not include police lock-ups. So
24 I'm not sure if they didn't do police lock-ups or we
25 weren't included for some other reason. I don't know.

1 COMMISSIONER SMITH: I know there is
2 some intention to do that, I'm just not sure about the
3 timing of that.

4 And Ms. Ritchie.

5 MS. ANDREA RITCHIE: I think,
6 obviously, the first step is putting national
7 attention to the issue as the Commission has done
8 today. I think, for many women, the notion of
9 reporting this anywhere is difficult because you can't
10 report it to the police, they're -- you know, and then
11 if you try and call the women's community, they really
12 are -- you know, the sexual assault hotlines aren't
13 really trying to hear that you're raped by a cop
14 because their only answer is, call the cops.

15 So I think that for a lot of women
16 there is just really a sense that there is nowhere to
17 go because there is no space in the national discourse
18 of police misconduct or custodial sexual abuse, to
19 talk about this issue. So I think creating that space
20 is a huge thing, and having the Commission put out
21 strong recommendations, or commission further study of
22 it would go a long way to making women feel like their
23 voices would be heard.

24 I think it's also fairly clear from the
25 cases I'm aware of that existing complaint mechanisms

1 are just not effective, in light of women's fear of
2 retaliation, of not being believed, the stigma
3 associated with sexual assault generally, and
4 particularly at the hands of a law enforcement
5 officer. And I think it's particularly true in the
6 context of police and court lock-ups, because as we've
7 talked about earlier today, people are held for a
8 relatively short time, they're often not even clear
9 whose custody they're in. My client had no idea
10 whether she was in the custody of the NYPD or the New
11 York City Department of Corrections when this happened
12 to her, because you're moved around so much from
13 arrest to arraignment. And you're often, as in the
14 case of the Marshals, not informed of any complaint
15 mechanisms when you're in short-term custody.

16 And when you're about to be charged
17 with a criminal offense, your fear of retaliation by
18 the charging officer is particularly acute. And
19 you're certainly not about to go to the prosecutor,
20 who is currently treating you as a suspect in a crime
21 and who is probably more interested in prosecuting
22 that crime against you than the officer who arrested
23 you.

24 And there is little access to
25 independent services. Very few people -- there is no

1 access by media or community-based organizations to
2 police lock-ups. I mean, lawyers have trouble getting
3 in to see their clients in police lock-ups, so it's
4 very difficult to have openness and -- and scrutiny,
5 external scrutiny.

6 And from the cases I reviewed, it seems
7 like there really needs to be proactive measures to
8 root out instances of sexual misconduct. Women often
9 don't report sexual misconduct unless they're
10 specifically asked about it. They think the only kind
11 of police misconduct to report, whether it's to a CCRB
12 or an IAB, or anywhere else, is physical abuse.
13 That's police misconduct. Sexual abuse is something
14 shameful that happened to you in the lock-up. And so
15 I think that perhaps exit interviews -- I know the
16 Hollywood police precinct in Los Angeles, because of
17 so many allegations of abuse by transgender women,
18 started asking women on their way out, did you
19 experience any abusive conduct while you were in the
20 detention. Now, of course, that's difficult if you're
21 being asked by the same officer or the officer's buddy
22 who just did it to you, but perhaps something from an
23 independent agency, maybe a letter to anyone who was
24 held in a police lock-up, afterwards asking about any
25 kind of abuse, sexual abuse, and specifically naming

1 sexual abuse. Because when we did the Amnesty report
2 and we talked to CCRB folks, we said, do you ask
3 people about sexual abuse? Is there anything on your
4 questionnaires about sexual abuse? Are you equipped
5 to provide crisis counseling to people who come in and
6 talk to you about sexual abuse? And that's just not
7 on the CCRB's radar.

8 COMMISSIONER SMITH: Well, pretrial
9 services --

10 MS. ANDREA RITCHIE: Precisely.
11 Absolutely. No one is asking --

12 COMMISSIONER FELLNER: Do you want to
13 say what CCRB is? I'm sorry --

14 MS. ANDREA RITCHIE: I'm sorry. The
15 Civilian Complaint Review Board, because you raised
16 that, Professor Smith. But also, internal
17 investigation or the Office of Inspector General in
18 Los Angeles, no one is asking about it. So -- and no
19 one is tracking it, and so it's -- there is no room
20 for it to come up.

21 COMMISSIONER SMITH: Ms. Ritchie, let
22 me just ask you a question. So in these complaints
23 that you have talked about, who were those complaints
24 reported to? Because that will give us some sense
25 about sort of particular spaces that feel more safe

1 for people to report.

2 MS. ANDREA RITCHIE: Most of the cases
3 I'm aware of were reported to me individually, because
4 people know I do this work, or because I speak on it
5 often, or I'm often in community organizing spaces
6 around police misconduct against women of color, or
7 reported to Amnesty. I've also read reports prepared
8 by Human Rights Watch and other organizations where
9 they were reported to those individuals.

10 COMMISSIONER SMITH: What about their
11 lawyers? Like public defenders or something like
12 that?

13 MS. ANDREA RITCHIE: You know, it's
14 interesting. Often public defenders or police
15 misconduct attorneys don't know what to do with those
16 cases. Erica, you know, pointed out earlier that, you
17 know, not only are people reluctant to take police
18 misconduct cases, but often reluctant to take them
19 where sexual misconduct and abuse is alleged, because
20 these cases aren't litigated very often and
21 attorneys -- it's not -- you can't pull out your
22 boilerplate excessive force or your boilerplate First
23 Amendment violation complaint and put in there. It
24 requires some thought, and because the issue doesn't
25 have very much national attention, people know juries

1 are unlikely to believe it. People believe that it's
2 the exceptional rogue cop, not the systemic problem
3 when, in fact, it is.

4 So -- I just wanted to make two more
5 suggestions. One is allowing for anonymous
6 complaints, as Chief Fields suggested. It's very
7 important in this instance. Or perhaps offering
8 amnesty to women who may be subject to criminal
9 charges if they disclose the context in which the
10 abuse took place. You know, I was on the corner of
11 Ninth Avenue and 48th Street, on my usual, you know,
12 work when the officer came up, took me to the police
13 precinct, raped me, and said, you're just a dirty ho,
14 that's why I'm doing this to you. It's hard to report
15 without being worried about criminal charges being
16 brought against you or worrying that your kids are
17 going to be taken away. So finding some way of
18 protecting women in those cases.

19 And the last thing that has really been
20 effective is stings. In Los Angeles, the Internal
21 Affairs Department caught an officer who was -- sex
22 workers came in and complained that he was raping sex
23 workers on the street, and they did a sting and caught
24 him, so that the credibility issues obviated in that
25 way.

1 In another case in Seattle, in Kings
2 County jail, a woman was forced to have oral sex and
3 they -- in that case, the cameras were on and the
4 officers were just using them to take turns to watch
5 this. So I'm just -- not always effective. But in
6 any event, they caught -- because they sent her back
7 in wearing a wire. So I think that it's important
8 to -- to find investigative tools, investigative
9 stings and so on that can also corroborate.

10 COMMISSIONER FELLNER: Andrea, let me
11 ask -- I want to go to the question of rogue versus
12 systemic. I mean, I think there is no question that
13 it's a major problem that has not gotten the attention
14 it deserves. I think you have illuminated quite well
15 many of the problems that exist and how to come -- to
16 bring it forward. And we need more thought as to how
17 do you both ensure that people aren't being falsely
18 accused and yet valid accusations do come forward
19 without retaliation, and all of that. I mean, there
20 is a lot there. But I suspect that Mr. Fields would
21 disagree, based on his own experience, as to whether
22 it's systemic. And I wonder if you think, in terms of
23 our work, given that there is a lack of data, does it
24 really matter whether it's one or two rogue cops in
25 every large or medium-sized facility, versus ten, 20

1 or 30? Should our standards differ in any way or the
2 things we recommend differ, even if we can't answer
3 the question whether it's sort of multiple isolated
4 instances or fairly pervasive?

5 MS. ANDREA RITCHIE: I think the only
6 difference is that when people -- often when people
7 start with the perception that it's a rogue officer or
8 isolated incident, then they rely on criminal
9 prosecutions as the answer to that. If it's just an
10 isolated incident, then, well, of course we'll catch
11 them and of course we'll prosecute them. If you see
12 it as potentially a more systemic problem, then you're
13 more interested in taking proactive measures, such as
14 policies and training and increased supervision, and
15 videos cameras. And there is more of a recognition
16 that there is plenty of opportunity for this to happen
17 and it happens in many instances.

18 So I think that's the key that the
19 Commission -- I would really hope would do. And I
20 think those policies of training modules and national
21 standards go a long way to stopping, even if it's just
22 one or two cops.

23 COMMISSIONER FELLNER: Well, I hope we
24 can follow up with you also on the question of what
25 additional research could be helpful and could be

1 helpful to our work.

2 But I know we're running out of time,
3 and I wanted to ask you, you raised in your written
4 testimony the question of arbitration. And we have
5 heard in some of our hearings, in general, about some
6 of the problems -- the rules designed to protect
7 employees can frustrate efforts to either hold them
8 accountable or to prevent, or to respond if there is
9 smoke but you can't prove fire. Can you take action
10 when there is only smoke. If you have five
11 allegations against a particular officer, but you
12 can't corroborate it, but it's still five random
13 allegations, do you have any specific suggestions for
14 us as to what should be done to change those
15 agreements or to better educate arbitrators so that
16 this problem of sort of handcuffing the ability of
17 leaders to improve their department's performance
18 doesn't get further -- you know, through the
19 arbitration process?

20 MR. JAMIE FIELDS: We have instituted
21 the early warning system, which is very helpful on
22 another subject that was brought up, and we find
23 that's a very valuable tool.

24 As far as the arbitrators, the problem
25 is, if there is an excessive force charge against an

1 officer, and we go to arbitration, the arbitrator will
2 sometimes bring somebody back based on some other
3 reason than the underlying excessive force complaint.
4 They may only say, well, okay, you used excessive
5 force, but however -- you know, we're going to bring
6 them back anyway. And what does the department do
7 with them? Do we put them back on the field so he can
8 create more problems or -- and I've seen situations
9 where supervisors who are the greatest early warning
10 system at all and should be catching this, have had an
11 officer who has been using excessive force in the
12 field and they've got a lot of complaints. So what do
13 they do? They put them in the cellblock, thinking
14 that they can keep a closer eye on them. And it
15 creates a whole different problem. He's not going to
16 stop being brutal because he's in the cellblock. So I
17 think some type of strong language that maybe the
18 department or the city, holding the arbitrators to at
19 least -- you know, in our arbitration, say, this is a
20 problem and all you're doing is creating recycling
21 people. And it's -- it's a tough situation.

22 COMMISSIONER FELLNER: Can you just --
23 I'm sorry. I didn't understand. So they agree with
24 the excessive use of force, but then some other reason
25 they say -- can you give me an example of what those

1 reasons are?

2 MR. JAMIE FIELDS: For example -- and
3 arbitrations are -- sometimes the decisions are very
4 unusual based on the whole process of arbitration.
5 Arbitration basically tries to split the baby. You
6 know, they want to keep working as an arbitrator, you
7 know, and so they try to give the union certain things
8 and the city certain things. So you'll get language
9 that says that, yes, you know we agree that he
10 probably did this offense, whatever he is charged,
11 however, because based on whatever -- whether it's,
12 you know, he has got continuous on the job and no
13 other history, we're going to bring him back. But
14 they're not disputing the underlying event. And there
15 have been a couple that were very severe, where it's
16 been very obvious that the officer -- we had one
17 situation where the arbitrator -- an officer was
18 threatening somebody, and -- his ex-girlfriend, and
19 the arbitrator brought him back and said he just
20 couldn't have his gun. Now, what do we do with a
21 police officer that we bring back that can't have a
22 gun? He is too dangerous to have a gun, so -- but we
23 can bring him back. So we went to the circuit court
24 and got that overturned, that arbitration overturned.
25 But that just shows you some of the consequences that

1 can happen.

2 COMMISSIONER FELLNER: But should
3 certain matters just be excluded from arbitration? I
4 mean, should -- if you were standing back and
5 inventing the system all over again in a way that
6 would give full respect to employees' legitimate
7 rights, but enable bad cops to be taken out of where
8 they can cause harm, what should it look like?

9 MR. JAMIE FIELDS: It -- obviously,
10 from the union's perspective and from the officers'
11 perspective, they don't lose their Constitutional
12 rights or any rights because they're an officer. So
13 we want to -- I want to make that clear. But by the
14 same token that, because of the number of steps most
15 police departments have to go through to dismiss
16 somebody, and in many cases, like in our department
17 they'll be on desk duty. Some departments, they're
18 not on desk duty, they're still out there. Because of
19 the many steps that I think that some things should be
20 excluded from arbitration if I was king.

21 COMMISSIONER FELLNER: Thank you.

22 COMMISSIONER NOLAN: Mr. Fields, if a
23 rape and an assault were to occur, let's say, inmate
24 on inmate, would you treat that as a crime scene?

25 MR. JAMIE FIELDS: Oh, absolutely. But

1 the difficult part is -- is like Ms. Ritchie said, is
2 trying to -- if people don't come forward, all we can
3 do is make anonymous complaints available. We have
4 our -- like, for example, for our detainee intake
5 form, I was concerned because we're not a jail, we're
6 a holding facility. So I was concerned when we were
7 developing our form, can I ask them questions, such
8 as, you know, do you identify with being homosexual,
9 or those kind of questions. So I contacted the head
10 of our gay/lesbian organization in Michigan and I
11 asked him. And he said, no problem as long as you're
12 asking for a specific reason, and he helped with --
13 draft some language to ask on our form. But if people
14 don't trust us enough to come forward, then it's a
15 problem. But by the same token, that's why we want
16 statistics because -- there is an old expression. To
17 the carpenter, everything looks like a nail. And we
18 don't want to create -- because certain people feel
19 more comfortable coming forward to people that they
20 see in the news or in the media and reporting it, we
21 don't want to put all our resources in developing a
22 problem where the problem might not be as great as we
23 believe it is, but that doesn't mean that we aren't
24 going to do any standards no matter how high they are,
25 because we're committed to treating everyone humanely.

1 So if it's one officer, one rogue
2 officer, we want our standards up here.

3 COMMISSIONER NOLAN: And do you have a
4 protocol, for instance, if someone has been raped,
5 medical treatment?

6 MR. JAMIE FIELDS: Yes. We treat it
7 just like a citizen on the street was raped. We do
8 the same thing. Any allegation -- and what we do is,
9 in serious cases, whether it's a police shooting or
10 some serious cases, because we're investigating
11 ourselves and it's sometimes problematic, our Internal
12 Affairs and our specialized units, such a Sex Crimes
13 will appear at the scene, and we do -- we'll take a
14 warrant on the officer, because we leave it up to the
15 prosecutor to decide. We don't want to decide whether
16 or not we should press charges against the officer.
17 We will do our investigation and we will submit it to
18 the prosecutor's office.

19 COMMISSIONER NOLAN: Yeah. I guess I
20 was thinking the opposite, just to make sure that the
21 victim has appropriate services immediately, gets
22 medical treatment and psychological help --

23 MR. JAMIE FIELDS: Part of the police
24 department, we have a rape counseling center that's --
25 or part of the City of Detroit, Rape Counseling Center

1 at the hospital, and they would be referred there.

2 CHAIRMAN WALTON: Do we have your
3 written policies?

4 MR. JAMIE FIELDS: No, but I can
5 provide them.

6 CHAIRMAN WALTON: We'd appreciate that.

7 COMMISSIONER FELLNER: That would be
8 great.

9 COMMISSIONER SMITH: Judge, one last
10 thing. There was something that was a little off on
11 your testimony. You know, some of the --

12 COMMISSIONER FELLNER: It was just the
13 reproduction, not the content.

14 COMMISSIONER SMITH: Something was
15 missing --

16 CHAIRMAN WALTON: Okay. So if you can
17 get us a fresh copy of that, we would appreciate it.

18 COMMISSIONER SMITH: And Ms. Ritchie,
19 you will be submitting written testimony to us?

20 MS. ANDREA RITCHIE: I will.

21 COMMISSIONER SMITH: Thank you.

22 CHAIRMAN WALTON: Okay. We will recess
23 and reconvene at 1:45.

24 (LUNCH RECESS)

25 CHAIRMAN WALTON: We're going to get