

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,

1 and Lindsay Valsamaki were picked up for alleged
2 public intoxication by Officers Dwaun Guidry and
3 Rolando Trevino of the Balcones Heights, Texas Police
4 Department. They were taken to the Balcones Heights
5 police station, booked, and placed in a holding cell.
6 The officers then removed the five women from the
7 holding cell and brought them into the patrol work
8 room, a room there is no video camera, and ordered
9 them to dance to music from a radio. They then
10 sexually assaulted the five women, forcibly kissing
11 them, forcing their hands down the women's pants and
12 touching their genitals, and exposing their penises
13 and masturbating in front of the women. One of the
14 women later testified that she felt unable to resist
15 or run away because "he had his gun and I was singled
16 out. I was by myself. I didn't know what door led
17 out. I couldn't go anywhere."

18 A month after the incident, one of the
19 officers involved raped a woman he believed to be a
20 domestic violence survivor in his control car.

21 In 2006, Officer Gemini Jones was
22 accused of raping 23 year-old woman in a Baltimore
23 police station, demanding sex in exchange for leniency
24 on a drug charge. Although Jones was ultimately
25 acquitted of the crime, the victim maintains that the

1 rape took place, and Jones was subsequently accused of
2 raping another woman during the execution of a search
3 warrant in her home later that year.

4 Another Baltimore officer has also
5 since been accused of having sex with a 16 year-old he
6 interviewed in the station house in July 2006.

7 The Philadelphia Inquirer investigation
8 into complaints of sexual assaults by law enforcement
9 officers prompted by the experience of Erica Hejnar,
10 who you heard from earlier this morning, found nearly
11 400 reports of police sexual misconduct across the
12 U.S. in the last five years, and also found that at
13 least eight other individuals had complained of sexual
14 assault in police lock-ups in Philadelphia over the
15 past decade.

16 In one case, a woman charged with
17 shoplifting complained that an officer entered her
18 cell, rubbed his penis between her breasts and
19 ejaculated. However, all of the Philadelphia
20 complaints were later found to be unsubstantiated.

21 Finally, last spring, a transgender
22 woman reported to the Sylvia Rivera Law Project, which
23 has previously submitted considerable testimony to
24 this Commission, that a Bronx, New York court officer
25 coerced her into performing oral sex on him in a

1 court lock-up.

2 Last fall, another transgender woman
3 reported that upon refusing to strip in front of a
4 male court lock-up receiving officer, that the officer
5 proceeded to slap her on the buttocks and tell her
6 that "it didn't feel like no woman's ass," and that
7 was reported to the New York City Prisoner's Rights
8 Project.

9 Women's experiences of rape and sexual
10 assault and abuse in police custody are largely
11 invisible in both current discourse surrounding police
12 misconduct and abuse, which focuses primarily on
13 experiences of racial profiling and physical abuse,
14 and centers the experiences of men of color, to the
15 exclusion of those of women of color, as well as
16 encourage discussions of custodial sexual assault,
17 which have focused exclusively on post-conviction
18 detention facilities.

19 As a result, women who experience
20 sexual violence at the hand of law enforcement
21 officers are often isolated and unacknowledged,
22 leaving their voices largely unheard and their
23 experiences unaddressed. I therefore want to start by
24 expressing by heartfelt thanks to the Commission for
25 placing this issue on the agenda, and hope that this

1 hearing and, ultimately, the Commission's
2 recommendations will bring much needed national
3 attention and action on this issue.

4 As an initial matter, I want to call
5 the Commission's attention to the fact that, as was
6 the case for custodial sexual abuse at the time of
7 PREA's enactment and as recently recognized by the BJS
8 in the context of jails, there is currently a complete
9 lack of record keeping or data collection and analysis
10 with respect to sexual abuse by police in court
11 custody, rendering women's experiences of such abuse,
12 to borrow a phrase from Commissioner Smith, anecdotal
13 at best and invisible at worst.

14 No official data is currently available
15 regarding the national incidence of rapes and sexual
16 assaults committed by law enforcement officers in the
17 U.S.

18 Data currently gathered by federal and
19 state governments regarding racial profiling and use
20 of excessive force does not include information on the
21 number of allegations, complaints or incidents of
22 rape, sexual assault, or coerced sexual conduct by
23 police officers. Similarly, statistics compiled by
24 the Federal government on rape and sexual assault in
25 general do not provide information about rapes

1 committed by police officers and other law enforcement
2 agents. In the absence of such information, law
3 enforcement authorities often claim that sexual
4 misconduct by their officers is rare, and when it
5 takes place it's dealt with swiftly and decisively.

6 Yet reports from across the U.S.
7 suggest that such misconduct and abuse is far more
8 prevalent than acknowledged by law enforcement and
9 often goes unreported and unpunished. What little
10 research is available tends to suggest that sexual
11 violence by law enforcement officers is a silent yet
12 systemic problem.

13 For instance, two studies of law
14 enforcement license revocations in Missouri and
15 Florida found that sexual misconduct was the basis for
16 revocations in almost 25 percent of cases. One survey
17 of law enforcement officials in the St. Louis,
18 Missouri metropolitan area found that officers report
19 sexual misconduct to be common, yet concluded that
20 criminal justice officials have done little to control
21 the problem.

22 Indeed, as we heard earlier from
23 Mr. Brown, no mandatory or even aspirational national
24 standard exist with respect to sexual misconduct in
25 police lock-ups.

1 In the absence of systemic data
2 collection, much of the publicly-available information
3 about rape and sexual assault of women by law
4 enforcement agents concerns cases in which criminal
5 charges were, in fact, brought against the abusers,
6 creating the false impression that what cases exist
7 are effectively handled through the criminal justice
8 system. Yet these cases appear to represent merely
9 the tip of the iceberg. Incidents of police sexual
10 misconduct are, in fact, rarely reported, much less
11 prosecuted.

12 For instance, Amnesty International
13 recently document numerous cases of -- cases of rape
14 and sexual assault and abuse of lesbian, gay, bisexual
15 and transgender people by law enforcement officers in
16 cities across the U.S., yet many of the survivors, who
17 courageously came forward to report these human rights
18 violations to Amnesty International, had never
19 reported the incidents to the authorities, out of
20 shame, out of fear that they wouldn't be believed,
21 that they would be exposed -- that their sex
22 orientation or gender identity would be exposed, that
23 they would suffer retaliation by police officers, that
24 they would be deported because they were undocumented,
25 or because they were involved in sex work or use of

1 controlled substances and they feared that they would
2 be charged with a crime if they lodged a complaint
3 against the police. Others told us that when they
4 attempted to report sexual abuse by law enforcement
5 officers, they were literally laughed off the phone or
6 out of the precinct house.

7 The lack of reporting of rapes and
8 sexual assaults by law enforcement officers is by no
9 means surprising in light of the fact that it's
10 estimated that overall, only a little of -- over a
11 third of rapes and sexual assaults are reported to
12 authorities. One can only imagine this rate is far
13 lower amount women who are raped and sexually
14 assaulted by the very law enforcement agents who are
15 charged with protecting them from violence.

16 As Penny Harrington, the former
17 Portland Chief of Police and founder of the National
18 Center for Women in Policing has pointed out, "the
19 women are terrified. Who are they going to call?
20 It's the police who is abusing them."

21 Moreover, threats of retribution and
22 retaliation against women who report sexual assault by
23 police officers are commonplace, while prosecutions of
24 law enforcement officers for criminal acts are rare,
25 creating strong disincentives to report.

1 To provide just one graphic example.
2 Roger Magana, a Eugene, Oregon police officer who was
3 convicted in 2004 of sexually abusing more than a
4 dozen women over a period of eight years, put his
5 service weapon up against one of his victim's genitals
6 and threatened to blow her insides out if she told
7 anyone. Needless to say, she didn't come forward
8 until he was already in custody.

9 Additionally, law enforcement officers
10 tend to target women who are criminalized,
11 marginalized, or otherwise vulnerable for sexual
12 abuse, thereby reducing the likelihood that their
13 conduct will be reported. And when women do come
14 forward to report sexual abuse by law enforcement
15 officers, they are often ignored.

16 For instance, police files indicate
17 that at least half a dozen officers and supervisors
18 heard complaints over the years from women who said
19 that they had been raped or sexually assaulted by
20 Mr. -- by Officer Magana and one of his fellow
21 officers, but that their complaints were dismissed as
22 the grumblings of junkies and prostitutes.

23 But what we have been able to gather,
24 based on anecdotal evidence is that rape, sexual
25 assault and abuse and sexual harassment of women and

1 girls at the hands of law enforcement officers takes
2 place with alarming frequency, both inside police and
3 court detention facilities as well as in patrol cars,
4 on the streets, in our homes and in our communities.
5 And the incidents we are aware of counsel strongly in
6 favor of both additional study and concerted action at
7 the national level to address what appears to be a
8 systemic problem.

9 Many of the patterns with respect to
10 motivating factors, circumstances, perpetrators and
11 vulnerable populations identified by witnesses at the
12 Commission's August 2005 hearing in San Francisco, in
13 the prison context, apply with equal force to sexual
14 assault in police and court custody. The gender
15 policing inside prisons described -- for instance, the
16 testimony of Doctor Scott Long as well as that of
17 witnesses from the National Center for Lesbian Rights,
18 the Transgender Law Center, and the Sylvia Rivera law
19 project, also take place in police and court lock-ups
20 with law enforcement officers acting as frontline
21 enforcers of gender or appropriate appearance and
22 behavior, as well as systemic power relations based on
23 race and class, using sexual abuse, along with
24 physical and verbal abuse as a weapon.

25 Women of color, lesbians, sex workers,

1 women who used controlled substances, or women who are
2 perceived to be any of the above, and transgender
3 women, as well as other women who defy racialized
4 societal gender norms are highly sexualized by the
5 police and highly vulnerable to sexual abuse by law
6 enforcement agents. As is the case in other contexts,
7 access to the bodies of women of color is presumed,
8 based on historically constructed controlling images.

9 Transgender women are also highly
10 sexualized by police and often, subject to demands,
11 they perform sexual acts on officers in police or
12 court lock-ups, as well as to verbal abuse, suggesting
13 that they are fair game for other inmates.

14 Lesbians have reported being forced to
15 describe or engage in sexual acts with other women
16 while in police custody, and threatened with rape by
17 male detainees or law enforcement officers to cure or
18 punish their sexual orientation.

19 Sex workers report being forced to
20 strip or engage in other sexual conduct while in
21 police detention, and offers of leniency by police
22 officers in exchange for sexual favors are reportedly
23 endemic across the country.

24 In addition to the power of the badge
25 and the weapon, the existence of mandatory minimum

1 drug sentences, vaguely worded and discretionary
2 quality of life regulations and the threat of
3 involvement of child welfare systems provide
4 considerable fodder to officers seeking to coerce
5 sexual conduct from criminalized women. And while the
6 focus of my research is on sexual assault of women by
7 law enforcement agents, I do want to mention, of
8 course, that men and particularly men of color are --
9 and men who are or are perceived to be gay, also
10 experience sexual assault in police stations and court
11 lock-ups.

12 Unfortunately, the Abner Luimas case,
13 which is probably the most well-publicized case of
14 sexual abuse in a police precinct is not the
15 exceptional isolated incident we would like to
16 believe. To cite just a few others: In 2002, Freddie
17 Mason, a black gay man, was sodomized with a
18 broomstick which was broken and covered in cleaning
19 fluid, while being called -- and I quote the police
20 officer here -- a faggot ass nigger, in a police
21 station in Chicago. And over the past two years -- or
22 sorry. Over the past year, two young black men have
23 complained of being sodomized with sharp objects by
24 officers in Minneapolis. And, of course, in infamous
25 Chicago police torture cases, many of the over hundred

1 African-American men tortured in the Area 2 and 3
2 police precincts were sodomized with cattle prods and,
3 to date not a single prosecution has been brought in
4 those cases.

5 In addition to incidents of what is
6 commonly understood as sexual abuse, I want to call
7 the Commission's attention to sexually abusive
8 searches conducted in police and court lock-ups. When
9 such searches are conducted without lawful
10 justification or in a sexually abusive or
11 discriminatory manner, they are both subjectively
12 experienced as and objectively constitute sexual
13 assaults, and they clearly meet both PREA's definition
14 of rape and also the elements of state criminal sexual
15 assault laws and, as such, amount to a form of
16 systemic, state-sanctioned sexual assault.
17 Nevertheless, they take place as a matter of
18 state-sanctioned practice and policy in court lock-ups
19 and police lock-ups across the country.

20 Women in police and court lock-ups are
21 subjected to what has been called over searching, by
22 other witnesses before the Commission, as well as
23 abuses associated with the cross-gender searches
24 raised in the context of custodial sexual abuse.

25 Additionally, strip searches conducted

1 in police precincts, in view of other detainees and
2 officers, often by officers of a different gender than
3 the person being searched have been reported in many
4 jurisdictions.

5 Strip searches and visual body cavity
6 searches are often sites of sexual abuse, as
7 Commissioner Kaneb alluded to earlier. For instance,
8 the American Friends Service Committee reports that
9 Native women detained in a main jail were routinely
10 subjected to visual body cavity searches as a matter
11 of policy -- of course, whereas similarly situated
12 white women were not. And that such searches, which
13 the Seventh Circuit has described as demeaning,
14 dehumanizing, undignified, humiliating, terrifying,
15 unpleasant, embarrassing, repulsive, and signifying
16 degradation and submission, requiring women to bend
17 over and expose their genital areas to the officer
18 were routinely accompanied by sexualized and racist
19 verbal abuse.

20 Transgender women and gender
21 nonconforming individuals, in particular, report
22 frequent, intrusive, and invasive searches, including
23 strip searches, performed under circumstances that do
24 not warrant a search under the law, such as for the
25 sole purpose of ascertaining their genital status.

1 I'm going to provide you with just two illustrative
2 examples of such searches.

3 Marisa, a white transgender lesbian
4 gave the following testimony to Amnesty International
5 regarding an incident which took place in 2001, in
6 Montgomery, Alabama, in which she said, "two jailers
7 and a State trooper made me strip in front of them
8 while they looked on. I was made to dance around in
9 front of them, shouting, 'I've got a penis. I've got
10 a penis.' Then they made me hold my penis in front of
11 them and show them I could masturbate. I was then
12 cavity searched. The anal search was excruciatingly
13 painful, much more than any physician-directed rectal
14 exam I ever had. I was then told to shower while one
15 guy watched. The police officers and jailers
16 constantly referred to me as 'that dick.' Apart from
17 the fact that I was repeatedly forced that say that I
18 was a man, I was called 'faggot,' 'sir,' and 'fucking
19 pussy.'"

20 Kate Lindsey Kuhn, a white transgender
21 client of mine, was arrested during the Republican
22 National Convention, held in New York City in the
23 summer of 2004. Although she was initially
24 transported and detained in a court lock-up with
25 women, at some point during her detention, despite the

1 fact that she posed no threat whatsoever to the safety
2 of anyone she was detained with, she was forcibly
3 removed from her cell by three officers. The officers
4 then proceeded to forcibly hold her down and grope her
5 breasts, shoved their hands down her pants and touched
6 her genitals as she cried and begged them to stop,
7 told them that she a rape survivor, and was placed in
8 terror that the search presaged a placement with male
9 detainees and the attendant risk of further sexual
10 abuse. Although the officers told her that the search
11 was necessary in order to determine appropriate
12 placement in the sex segregated court lock-up, after
13 briefly being placed in a cell alone, she was
14 subsequently once again housed with women, thereby
15 seriously undermining any argument that the search was
16 necessary to meet institutional safety needs.

17 Such violent, abusive, and often
18 repeated searches of transgender and gender
19 nonconforming women, as well as of transgender men,
20 for the purpose of determining genital status or to
21 satisfy officers' curiosity, are routinely conducted
22 across the country. Many police officials have as
23 much as admitted that what can be delicately described
24 as a manual genital check, which is an assaultive
25 touching of the chest area and genitals, is the

1 accepted practice when taking a transgender person
2 into custody and is often accompanied by ridicule,
3 sexualized verbal abuse and physical violence.

4 I have focused my remarks today on
5 sexual assault by law enforcement agents and police in
6 court lock-ups, but I want to acknowledge that sexual
7 assaults by other detainees also take place in these
8 environments. As discussed in greater detail by other
9 witnesses who have previously appeared before the
10 Commission, transgender women placed with men are
11 particularly vulnerable to such abuse, and lesbians
12 have reported being threatened with placement in male
13 holding cells.

14 Law enforcement officers are often
15 complicit in such assaults, either directly placing
16 women in situations where there is a known risk of
17 sexual violence, or by engaging in sexualized verbal
18 abuse, which signals to other detainees that they can
19 act with impunity.

20 Before closing, I would like to take a
21 minute to call the Commission's attention to sexual
22 assaults which take place in locations which, while
23 not commonly understood to be detention facilities,
24 could arguably, technically fall within the PREA's
25 definition of a prison, as a government administered

1 confinement facility. A significant number of cases
2 I've come across in my research involved sexual
3 harassment, assault, and rape in police squad cars and
4 police vans, often driven to isolated locations, but
5 still controlled by a government agent. Additionally,
6 as Commissioner Fellner pointed out, the considerable
7 amount of sexual abuse by law enforcement officers
8 takes place on the streets and in our homes clearly
9 constitutes sexual assault in government custody, even
10 if it doesn't take place in a government controlled
11 facility.

12 Not only are such incidents worthy of
13 further study, attention and prevention in their own
14 right, but they can be predictive of officers' conduct
15 towards detainees in police controlled detention
16 facilities, as evidenced in the case of Baltimore
17 police officer Gemini Jones, who was accused of raping
18 women both in the station house and while executing a
19 warrant in a private home; and Officer Guidry, who
20 sexually assaulted women both in a police detention
21 facility and in his patrol car. Often incidents of
22 sexual abuse in police lock-ups are preceded by sexual
23 harassment and sexualized verbal abuse in the
24 community. And this should come as not surprise,
25 because officers who engage in sexual abuse while on

1 patrol are unlikely to go from being Mr. Hyde to Dr.
2 Jekyll the minute they walk in the precinct house.

3 It's also important to note that in
4 many jurisdictions, as previous witnesses have pointed
5 out, sheriffs both police the streets and staff the
6 jails. So therefore, we strongly urge the Commission
7 to include in its final report a recommendation that
8 Congress enact effective legislation to address sexual
9 assault and abuse by law enforcement officers beyond
10 the confines of locations strictly falling within the
11 definition of a prison under PREA.

12 I do just to say something quickly
13 about prosecutions. A review of available evidence
14 indicates that state prosecutions of law enforcement
15 officers and federal prosecutions of law enforcement
16 officers are not the panacea to this problem. They
17 are often not brought and in -- when they do take
18 place, they are often for misdemeanor crimes. And
19 this holds true in jurisdictions across the country
20 where sexual abuse and misconduct is often charged as
21 official misconduct or conduct unbecoming an officer
22 rather than under state sexual assault laws. And
23 often when charges are brought, officers like Gemini
24 Jones are often acquitted because of the private
25 nature of such abuse. Unlike incidents of excessive

1 force, when there are more likely to be witnesses and
2 if the victim is lucky, a video camera, often in the
3 case of sexual abuse, it's a woman's word against an
4 officer's. And such cases turn on credibility
5 determinations pitting the victim, who may also be
6 charged with a crime, against the police officer who
7 is trained in providing expert testimony. As one
8 commentator has noted, the characteristics that make
9 victims vulnerable to police abuse are the same
10 characteristics that make them less credible to
11 juries. For instance, victims may have been engaging
12 in criminal activity when the police brutality
13 occurred, and from the jury's perspective, may be from
14 the wrong race, class, sex, or sexual orientation. In
15 addition, the victim may have been drunk, on drugs,
16 have a history of alcoholism or drug addiction or may
17 be mentally ill.

18 As a result, these are problems which
19 cannot be solved or prevented through prosecutions
20 alone, and I would therefore urge the Commission to
21 make strong recommendations relating to effective
22 prevention of sexual assault by law enforcement
23 officers, and to also commission desperately needed
24 study of sexual violence by law enforcement officers
25 in police and court-administered facilities as part of

1 its research mandate, and to recommend immediate
2 implementation of national data collection systems
3 tracking allegations and complaint of misconduct in
4 cells, as well as investigations, discipline, and
5 prosecutions. Such research and data collection would
6 go a long way, not only to developing an understanding
7 of the true breadth and depth of the problem of sexual
8 violence by law enforcement officers, but also to
9 detecting patterns and practices within particular
10 departments, which could then be referred to DOJ's
11 Pattern and Practice Division, and to informing early
12 warning systems, which could assist in detecting
13 repeater rapists, as well as repeater beaters.

14 I would also specifically ask the
15 Commission to recommend adoption of written policies
16 and development of educational materials and model
17 trainings specific to sexual harassment, assault and
18 abuse, and rape of members of the public by on-duty
19 law enforcement officers. As hard as it may be to
20 believe, many jurisdictions have no written policy
21 explicitly addressing or prohibiting sexual harassment
22 or abuse of members of the public by law enforcement
23 officers, or no training specifically on the subject.

24 For instance, the NYPD, one of the
25 nation's largest police departments, does not provide

1 any specific training on than sexual harassment or
2 abuse of individuals in police custody, and it relies
3 instead on its generic courtesy, professionalism, and
4 respect training and officers' common sense. And it's
5 clear, from the few cases that I've shared with you
6 today, that much more is needed.

7 And, finally, I would specifically urge
8 the Commission to recommend adoption of national
9 standards concerning searches and placement of
10 transgender individuals in sex-segregated facilities
11 that are consistent with the testimony already before
12 this Commission from groups such as the Sylvia Rivera
13 Law Project, the Transgender Law Center, and the
14 national center for Lesbian Rights, as well as the
15 recommendations made by Amnesty International in the
16 "Stonewalled" report.

17 It must be made clear to police
18 departments across the country that sexual assaults of
19 transgender and gender nonconforming individuals under
20 the guise of searches for the sole purpose of
21 determining genital status are not permitted under the
22 Constitution of the United States, as under the
23 standards so clearly articulated by Mr. Ruecker
24 earlier.

25 Once again, I want to thank the

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