completed, the appropriate personnel face disciplinary action and the district is instructed to take steps to ensure it does not happen again. The Office of General Counsel coordinates with the -- investigate -- Internal Investigations Office in order to make sure the information is transferred in case a lawsuit ensues.

The Marshals Service is very thorough in its policies and procedures to ensure that prisoners are kept safe, secure and protected from harm. The design of the cellblocks, as well as the equipment used in cellblocks, enables Marshals Service personnel to constantly monitor prisoners. In transport vehicles, policy and procedures have been set up for also constant monitoring of these prisoners. The Marshals Service continues to address concerns of PREA because they are also concerns of the Marshals Service.

Thank you.

CHAIRMAN WALTON: Thank you very much.

MS. CLAUDIA HILL: Good morning distinguished members of the National Prison Rape Elimination Commission. It's a privilege today that I appear before you to discuss the Office of the Federal
Detention Trustee's oversight responsibilities.

The office of The Federal Detention Trustee Office was established in 2001 to provide oversight of detention management in non-federal facilities. In particular, I would like to take my time today to take a closer look with you at the use of the Federal Performance-Based Detention Standards and how those standards relate to sexual assaults in non-federal detention facilities. My written testimony provided you with a background on how these guidelines for oversight of non-federal facilities evolved into the current 200-page procedures and policy manual that is used today.

The implementation of the Federal Performance-Based Detention Standards into the private detention facility contracts began in the fiscal year of 2005. In fiscal year 2006, Quality Assurance reviews were conducted utilizing these standards in all private contract facilities and specifically identified Intergovernmental Agreement facilities housing federal detainees. A majority of facilities that are utilized by the government are Intergovernmental Agreement facilities and are not contractually obligated to meet the Federal Performance-Based Detention Standards requirements.
However, by partnering with local jurisdictions, which are already subject to meet the Prison Rape Elimination Act requirements, these facilities will also be able to meet our standard requirements relating to policy and procedures regarding sexual assaults.

The Federal Performance-Based Detention Standards are based on the American Correctional Association standards, the Adult Local Detention Facility standards, and also the National Commission on Correctional Health Care standards. They are used to ensure non-federal facilities housing federal detainees are safe, humane, and protect the detainees' statutory and constitutional rights.

The Federal Performance-Based Detention Standards is designed as an aid for Subject Matter Experts performing the Quality Assurance reviews to support the Government Contract Quality Assurance Program. The Federal Performance-Based Detention Standards Review Book provides these Subject Matter Experts with directions on making assessments on Review Guidelines, On-Site Assessments, and a Review Checklist.

Under my direction, as the Assistant Trustee of Detention Standards and Compliance
Division, the Office of the Federal Detention Trustee contracts the services of these Subject Matter Experts to perform Quality Assurance Reviews and prepare written report findings.

The standards are divided into nine functional areas, all of which will be of interest to you and are included in my written testimony. Today, however, we need to look closely at the five key functional areas that focus on detainee sexual assault; namely, in the areas of Administration and Management, Health Care, Security and Control, Services and Programs, and Work Force Integrity.

Within these functional areas there are specific policy and procedures that are to be employed by the Quality Assurance Review Team when they are conducting interviews with both staff and detainees. We review each facility's operational procedures in a very detailed manner. Please note that in all cases of -- in all cases of sexual assault, a mandatory notification is required to the appropriate agency, be it the United States Marshals Service, the Federal Bureau of Prisons, or Homeland Security.

Following an in-depth review of the policies and procedures, a Subject Matter Expert records the findings in an automated Facility Review
Management System.

At this time, I will be going into each of the five key functional areas that encompasses the sexual assault policy and procedures.

Administration and Management: During a detainee's administration and orientation process, detainees are to receive information in English, Spanish, or any prevailing local language for the specific facility. They are provided with informational pamphlets and brochures. The following information must be presented to the detainee: The available informal mechanisms of bringing problems and questions, including complaints of victimization, to the attention of staff; how to use that facility's formal grievance system; the facility's plan and program for prevention, intervention, and remediation of sexual misconduct; what constitutes sexual misconduct, sexual harassment, and the consequences of participating in such activities.

Under the Health Care section, the Health Care Department is to ensure written policies and procedures are in place for Health Care departments to respond to sexual assault and that that be communicated to both staff and detainees. The facility is to provide a safe, secure and humane
environment for sexually assaulted detainees undergoing mental health treatment, and the facility is to take measures to protect victims from further assault by their assailants.

Under the Security and Control section, they are to ensure written policies and procedures exist for detainee accountability and supervision. Detainees are permitted and encouraged to make confidential reports concerning detainee fear of harm to a Housing Unit Officer or other staff, including supervisory staff. Staff are to make an effort to gain and use information about potential threats to detainees in order to provide threatened detainees a safe living environment. And detainees in danger of victimization have ready access to a protected living environment pending full investigation of any threat of harm, as well as access to long-term protective environment if investigation established that the detainee is in danger of victimization. And detainees who threaten the physical safety of others are segregated from their potential victims.

In the area of Services and Programs, to ensure policies and procedures exist that classify and separate detainees into separate living settings in a manner that addresses the security needs of those...
individuals. Prior offenses, with emphasis on assaultive nature of such offenses, are looked into. Known or reported history for violence in a confined setting, known or reported existence of victimization factors such as homosexuality or physical appearance, and behavior and/or unusual incidence of conduct while within the facility or from a transferred facility. And, finally, Work Force Integrity. Staff must receive training in preventing, intervening, and remedying sexual harassment and sexual misconduct, be it staff on staff, staff on detainee, or detainee on detainee, which includes staff's obligation to monitor and report behavior of other staff, how to report misconduct of staff, how to observe and interact with opposite gender detainees, how detainees are harmed by such conduct, and how the security of the facility is jeopardized by sexual harassment and sexual conduct.

Now, the Quality Assurance Review Report provides a comprehensive record of the overall facility's operations, and at the conclusion of these reviews there is a closeout that is conducted with the facility executive staff. These reports are forwarded to the various government agencies that have the custody of the detainees. Corrective action plans are
then required to be submitted to the Office of the Federal Detention Trustee by that facility.

Here is an overview of the Federal Performance-Based Detention Standards statistics on meeting policy and procedures as they pertain to sexual assaults. During the fiscal year 2006, the Quality Assurance Review Reports revealed that out of 20 reviews performed, four facilities, 20 percent, did not meet at least one or more of the approximately 30 Federal Performance-Based Detention Standards policy and/or procedure requirements that specifically address detainee sexual assault. Currently, in the fiscal year 2007, the Quality Assurance Review Reports have revealed that out of six reports or reviews performed, three facilities, 50 percent, did not meet one or more of the 30 Federal Performance-Based Detention Standards policy and/or procedure requirements that specifically address detainee sexual assaults. This is, however, essentially good news because a sizable number of these facilities have been shown to meet all of the Federal Performance-Based Detention Requirements addressing detainee sexual assault. And those who have not met those requirements can be clearly identified.

Members of the Commission, in
conclusion, OFDT will continue, the Office of the Federal Detention Trustee will continue to work with other federal agencies, local counties, sheriffs, police departments and this Commission to meet this challenging mission with diligence and determination, in addition to the continued partnership with fellow law enforcement agency efforts to ensure the safe, secure, humane housing of federal detainees in non-federal facilities.

I welcome your questions and observations and thank you again for allowing the Office of the Federal Detention Trustee to testify on this important issue.

CHAIRMAN WALTON: And we thank both of you for your presence here in coming to Austin to present your testimony and your testimony itself.

Ms. Lowry, in reference to -- I think you indicated there is one case that is still pending.

MS. HEATHER LOWRY: Yes.

CHAIRMAN WALTON: When did that allegedly occur?

MS. HEATHER LOWRY: Was it the juvenile case or the --

CHAIRMAN WALTON: It was the first one you mentioned.