1 chapters discussed as background material.
2 CALEA has no standards that directly
3 address issues concerning prison rape.
4 CALEA is well aware that the
5 restriction of citizens' liberties though temporary
6 detention or holding facilities represents areas of
7 significant expense, close scrutiny, and high
8 liability to agencies and their communities. In our
9 limited role, CALEA is ready to assist the National
10 Prison Rape Elimination Commission.
11 Thank you.
12 CHAIRMAN WALTON: Thank you.
13 MR. RONALD RUECKER: Good morning,
14 Mr. Chairman and members of the Commission. On behalf
15 of the International Association of Chiefs of Police,
16 the IACP, I am pleased to be here to discuss the
17 Prison Rape Elimination Act, its impact on the police
18 community, and the role that state and local law
19 enforcement agencies play in the investigation of
20 crimes, sexual or otherwise, that take place in police
21 lock-ups or other correctional facilities.
22 I believe it is fitting to start my
23 comments by stating my belief that many in the police
24 profession are only now becoming aware of PREA and its
25 applicability to their police lock-ups and holding
facilities. The IACP is committed to assisting the Commission in working with the policing community to educate on the important work of this body. It is for these reasons that in April of 2006, the IACP premier publication "Police Chief" magazine published an article on PREA. The article, which outlined the important work of the Commission, identified areas of interest to Police Chiefs and highlighted steps that police agencies could take to address this crucial issue. For your information, I have attached a copy of this article to my statement. It's Appendix A, PREA: What Police Chiefs Need To Know.

Over the past 20 years, a relatively substantial amount of attention has been brought to bear on issues relating to jails and prisons. But local police lock-ups, primarily because they deal with highly transient and short-term incarceration, have received only a scant share of that notice. Individuals detained for interrogation, pending charges, or awaiting transportation to a county jail are among those who are housed in police lock-ups. The transient nature of these persons often serve to conceal their identity, their risk of escape, mental and physical problems, criminal histories, and potential for violence or suicide, among other
important matters.

Even though prisoners are normally housed for only short periods of time, the environment of police lock-ups can become volatile and emotionally charged, as evidenced in part by the all-too-frequent incidence of prisoner suicide and injury. Post-arrest processing of prisoners is a time when the emotional impact of the arrest becomes evident to many prisoners. Those who are already suffering from mental illness or who simply respond badly to pressure and emotional trauma, those who have existing arrest warrants against them and/or who may be guilty of other crimes, those who are drug or alcohol abusers who find themselves behind bars for their illegal actions, persons with existing medical conditions, and others serve to make up the often unknown quantity of persons in police holding facilities.

Such individuals represent a significant challenge to police agencies that are legally responsible for persons in their custody. It is a challenge that can only be met by planning for contingencies and establishing professional protocols that will serve to prevent unnecessary tragedies and problems.

To meet this need, the IACP, through
its National Model Policy Center, has developed a
model policy that is designed to assist police
departments in the management of their lock-up and
holding facilities.

I have attached a copy, which is
Appendix B, of this model policy for the record, but I
would also now like to highlight some of the key
elements of the policy, particularly those related to
the safety of individuals under detention.

The model policy states that the
holding facility supervisor will establish procedures
for security within the lock-up. Paramount to the
issues that should be included in these procedures is
strict control of keys and firearms. In the first
instance, all keys to the secure lock-up should be
inventoried and placed under the control of an officer
at a central location where they can be accounted for
at all times. Keys should be issued only to
authorized personnel who have received instruction on
handling them and should always be returned to a
centralized control point.

No officer should enter a booking area,
lock-up or holding facility while in possession of a
firearm. Generally, such authorization would be
granted only during emergency conditions. Adequate
secure lockers should be located outside the booking area or lock-up for temporary storage of sidearms, pepper spray, and other related weapons in accordance with agency policy.

Many police agencies do not conduct booking in the sense of taking fingerprints and photographs for identification purposes. In many cases, arrestees are taken directly to a county jail or detention center, where these functions are performed. However, in cases where the local police agency performs booking functions, the model policy recommends that a booking officer be assigned to take control of arrestees brought into the facility and be responsible for all booking and security decisions.

A strip search may be conducted if consistent with agency policy. This policy should clearly define the circumstances under which a strip search or body cavity search may be permissible. A strip search is legally permitted only where there is articulable, reasonable suspicion that an arrestee is concealing contraband or weapons on his or her body in a manner that cannot be detected by a pat-down search alone. Routine strip searches of all arrestees or strip searches of prisoners for less than an articulable, reasonable suspicion are not permitted.
In addition, where permitted, strip searches must be conducted, one, by a specially trained and designated officer; and, two, in conformance with hygienic procedures and professional practices; and, three, in a specifically authorized room with the fewest number of personnel necessary; and, four, under conditions that provide privacy for the prisoner from all but those authorized to conduct the search.

Because of the procedure's highly intrusive nature, body cavity searches, as compared to strip searches, are subject to a higher legal standard requiring probable cause to believe that the subject is hiding contraband in a body cavity. In order to conduct such searches, a search warrant is required and is generally only granted when the suspected offense is of a highly serious nature and/or the prisoner poses a threat to the safety of the officers or others and/or the security of the police lock-up or the holding facility. It is imperative that a law enforcement agency develop legally sound policy on strip and body cavity searches, and that officers who may conduct such searches be thoroughly trained in the legal requirements and procedures involved in these searches.
The assignment of prisoners to holding cells should conform with agency policy, particularly where females and juveniles are involved. Females should never be held with males, and juveniles must be sight and sound separated from adult inmates. In addition, holding or incarcerating juveniles must conform with Federal guidelines in terms of both the nature and the duration of incarceration. Officers should also exercise caution when holding prisoners in multiple holding cells where their safety may be endangered. For example, where possible, rival gang members should be held separately, as should other persons accused of particularly vile crimes, such as pedophilia, or any others who by virtue of their criminal charge, physical condition, or lifestyle are more likely to be victimized by fellow prisoners.

However, despite a police agency's best efforts, prisoners are sometimes victimized by fellow prisoners or even by agency staff. In that case, a police department's responsibilities switch to caring for the victim and investigating the crime. To that end, I have attached several model policies that deal with crime scene investigation. These are listed under appendix C.

Finally, before I conclude my remarks,
I would like to share briefly my experience as superintendent of the Oregon State Police and the role that we had in investigating crimes that occurred within state correctional facilities. This, of course, includes sexual assaults.

As recently as the 1980s, the Oregon Department of Corrections had the responsibility for screening and, to some extent, investigating inmate-reported allegations. By the late '80s, there were serious questions being asked about the Department of Corrections' objectivity in these matters. This was particularly true where correctional staff were accused of assaulting inmates.

That said, a commission was established then to make findings and recommendations on the subject of institution crime, who should investigate and how can the inmates be assured that their allegations will be objectively evaluated and, where appropriate, investigated.

As a result of that commission's work, today the Oregon State Police receives and evaluates all allegations of criminal activity within state institutions. Each case is reviewed and a decision is made as to whether the matter should be the subject of a criminal prosecution or a return to the Department
of Corrections to be handled administratively. This is necessary because the constraints on the criminal justice system do not allow for the prosecution of every reported crime. For example, the theft of property or even a minor assault between inmates may be best be handled through administrative sanctions inside the institution. The bottom line is that the Department of Corrections is no longer in the position of having to justify or rationalize its handling of these allegations. They simply point to the State Police as the agency responsible for determining what goes forward in the criminal justice system and what does not. This has worked well, notwithstanding the work load issues for the State Police. And since the time these procedures were implemented, there has been no controversy or assertions of "cover up" where DOC staff are concerned.

Might I add also that the partnership between the Department of Corrections and the State Police is healthy and vibrant.

It should also be noted that the inmate population is well aware of the investigation protocols, and I feel confident that inmates are less reluctant to report a crime than in the past. Still,
however, reluctance to report is a huge issue in the penitentiary environment. After all, in the penitentiary social strata, there is no lower level than that of a "snitch."

The bottom line reality is that inmates and staff can be vulnerable to crime in the institution setting, despite our best efforts to provide for their safety. An open and independent investigative process is necessary if those who perpetrate crimes in the closed-custody setting are to be held accountable. We fail the victims of crime and leave ourselves open to legitimate criticism if we fail to maintain an effective capacity to bring offenders to justice.

As I conclude, Mr. Chairman, I would like to offer the IACP's continuing assistance in reaching out to the policing community. To that end, I would like to make the communication resources of the IACP available to the Commission. Each -- excuse me. Each month, "Police Chief," the magazine, is sent to over 30,000 law enforcement executives in the United States and around the world. We would be glad to include articles about the work of the Commission or to publish draft standards. In addition, "Police Chief" also contains a periodic feature called "From
the Director," which provides the heads of various Federal agencies or initiatives with the opportunity to communicate directly with the IACP membership. I believe that an article from you, as Chair of the National Prison Rape Elimination Commission, outlining the work and goals of the Commission would be of great interest to our membership.

I will be happy to answer any questions that you may have.

CHAIRMAN WALTON: I'll try to get that to you sometime in the near future, but I'm really happy to see here -- as you may know, there was a disconnect early on between -- I guess, as far as communication was concerned, between our office and your organization, and I do think that you play -- and I am glad that you appreciate the fact that your organization plays a significant role in this entire issue. So I'm really happy to see you here.

MR. RONALD RUECKER: Yes, sir. Thank you. We're happy to be here.

CHAIRMAN WALTON: Mr. Brown, other than individuals who head agencies, because of their goodwill and their desire to do the right thing, or for humanitarian reasons, what is the incentive for organizations to become associated with your effort?