values, and leadership failure to provide oversight
and enforce standards.
Therefore, while we welcome uniform
standards based on "best practices," we understand
that such standards are only foundations and it's up
to the departments to go about the -- it's just like a
personal protection order. They're only a piece of
paper and it's up to the leadership in the police
department to make sure that officers are reporting
misconduct.
We have very strong policies on
reporting misconduct of employees by other employees,
and we do constant training on that and other areas to
make sure that it's driven from the top down, because
it's got to be driven from the Chief of Police
straight down.

Thank you very much.
CHAIRMAN WALTON: Thank you, Chief.
MS. ANDREA RITCHIE: Good morning. I
would like to begin by just sharing a few of the many
incidents of sexual abuse I am aware of in police and
court lock-ups before discussing the issue in broader
teams.
On November 24th, 2002, Denise
Almodovar, Sarah Adams, Candace Ramirez, Becki Taylor,
and Lindsay Valsamaki were picked up for alleged public intoxication by Officers Dwaun Guidry and Rolando Trevino of the Balcones Heights, Texas Police Department. They were taken to the Balcones Heights police station, booked, and placed in a holding cell. The officers then removed the five women from the holding cell and brought them into the patrol work room, a room there is no video camera, and ordered them to dance to music from a radio. They then sexually assaulted the five women, forcibly kissing them, forcing their hands down the women's pants and touching their genitals, and exposing their penises and masturbating in front of the women. One of the women later testified that she felt unable to resist or run away because "he had his gun and I was singled out. I was by myself. I didn't know what door led out. I couldn't go anywhere."

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

In 2006, Officer Gemini Jones was accused of raping 23 year-old woman in a Baltimore police station, demanding sex in exchange for leniency on a drug charge. Although Jones was ultimately acquitted of the crime, the victim maintains that the
rape took place, and Jones was subsequently accused of raping another woman during the execution of a search warrant in her home later that year. Another Baltimore officer has also since been accused of having sex with a 16 year-old he interviewed in the station house in July 2006. The Philadelphia Inquirer investigation into complaints of sexual assaults by law enforcement officers prompted by the experience of Erica Hejnar, who you heard from earlier this morning, found nearly 400 reports of police sexual misconduct across the U.S. in the last five years, and also found that at least eight other individuals had complained of sexual assault in police lock-ups in Philadelphia over the past decade. In one case, a woman charged with shoplifting complained that an officer entered her cell, rubbed his penis between her breasts and ejaculated. However, all of the Philadelphia complaints were later found to be unsubstantiated. Finally, last spring, a transgender woman reported to the Sylvia Rivera Law Project, which has previously submitted considerable testimony to this Commission, that a Bronx, New York court officer coerced her into performing oral sex on him in a
Last fall, another transgender woman reported that upon refusing to strip in front of a male court lock-up receiving officer, that the officer proceeded to slap her on the buttocks and tell her that "it didn't feel like no woman's ass," and that was reported to the New York City Prisoner's Rights Project.

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

As a result, women who experience sexual violence at the hand of law enforcement officers are often isolated and unacknowledged, leaving their voices largely unheard and their experiences unaddressed. I therefore want to start by expressing heartfelt thanks to the Commission for placing this issue on the agenda, and hope that this
hearing and, ultimately, the Commission's
recommendations will bring much needed national
attention and action on this issue.

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

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

Data currently gathered by federal and
state governments regarding racial profiling and use
of excessive force does not include information on the
number of allegations, complaints or incidents of
rape, sexual assault, or coerced sexual conduct by
police officers. Similarly, statistics compiled by
the Federal government on rape and sexual assault in
general do not provide information about rapes
committed by police officers and other law enforcement
agents. In the absence of such information, law
enforcement authorities often claim that sexual
misconduct by their officers is rare, and when it
takes place it's dealt with swiftly and decisively.

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

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

Indeed, as we heard earlier from
Mr. Brown, no mandatory or even aspirational national
standard exist with respect to sexual misconduct in
police lock-ups.
In the absence of systemic data collection, much of the publicly-available information about rape and sexual assault of women by law enforcement agents concerns cases in which criminal charges were, in fact, brought against the abusers, creating the false impression that what cases exist are effectively handled through the criminal justice system. Yet these cases appear to represent merely the tip of the iceberg. Incidents of police sexual misconduct are, in fact, rarely reported, much less prosecuted.

For instance, Amnesty International recently document numerous cases of -- cases of rape and sexual assault and abuse of lesbian, gay, bisexual and transgender people by law enforcement officers in cities across the U.S., yet many of the survivors, who courageously came forward to report these human rights violations to Amnesty International, had never reported the incidents to the authorities, out of shame, out of fear that they wouldn't be believed, that they would be exposed -- that their sex orientation or gender identity would be exposed, that they would suffer retaliation by police officers, that they would be deported because they were undocumented, or because they were involved in sex work or use of
controlled substances and they feared that they would be charged with a crime if they lodged a complaint against the police. Others told us that when they attempted to report sexual abuse by law enforcement officers, they were literally laughed off the phone or out of the precinct house.

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

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

Moreover, threats of retribution and retaliation against women who report sexual assault by police officers are commonplace, while prosecutions of law enforcement officers for criminal acts are rare, creating strong disincentives to report.
To provide just one graphic example.

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

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

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

But what we have been able to gather, based on anecdotal evidence is that rape, sexual assault and abuse and sexual harassment of women and
girls at the hands of law enforcement officers takes place with alarming frequency, both inside police and court detention facilities as well as in patrol cars, on the streets, in our homes and in our communities. And the incidents we are aware of counsel strongly in favor of both additional study and concerted action at the national level to address what appears to be a systemic problem.

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

Women of color, lesbians, sex workers,
women who used controlled substances, or women who are perceived to be any of the above, and transgender women, as well as other women who defy racialized societal gender norms are highly sexualized by the police and highly vulnerable to sexual abuse by law enforcement agents. As is the case in other contexts, access to the bodies of women of color is presumed, based on historically constructed controlling images. Transgender women are also highly sexualized by police and often, subject to demands, they perform sexual acts on officers in police or court lock-ups, as well as to verbal abuse, suggesting that they are fair game for other inmates. Lesbians have reported being forced to describe or engage in sexual acts with other women while in police custody, and threatened with rape by male detainees or law enforcement officers to cure or punish their sexual orientation. Sex workers report being forced to strip or engage in other sexual conduct while in police detention, and offers of leniency by police officers in exchange for sexual favors are reportedly endemic across the country. In addition to the power of the badge and the weapon, the existence of mandatory minimum
drug sentences, vaguely worded and discretionary
quality of life regulations and the threat of
involvement of child welfare systems provide
considerable fodder to officers seeking to coerce
sexual conduct from criminalized women. And while the
focus of my research is on sexual assault of women by
law enforcement agents, I do want to mention, of
course, that men and particularly men of color are --
and men who are or are perceived to be gay, also
experience sexual assault in police stations and court
lock-ups.

Unfortunately, the Abner Luimas case,
which is probably the most well-publicized case of
sexual abuse in a police precinct is not the
exceptional isolated incident we would like to
believe. To cite just a few others: In 2002, Freddie
Mason, a black gay man, was sodomized with a
broomstick which was broken and covered in cleaning
fluid, while being called -- and I quote the police
officer here -- a faggot ass nigger, in a police
station in Chicago. And over the past two years -- or
sorry. Over the past year, two young black men have
complained of being sodomized with sharp objects by
officers in Minneapolis. And, of course, in infamous
Chicago police torture cases, many of the over hundred
African-American men tortured in the Area 2 and 3 police precincts were sodomized with cattle prods and, to date not a single prosecution has been brought in those cases.

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

Women in police and court lock-ups are subjected to what has been called over searching, by other witnesses before the Commission, as well as abuses associated with the cross-gender searches raised in the context of custodial sexual abuse. Additionally, strip searches conducted
in police precincts, in view of other detainees and
officers, often by officers of a different gender than
the person being searched have been reported in many
jurisdictions.

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

Transgender women and gender
nonconforming individuals, in particular, report
frequent, intrusive, and invasive searches, including
strip searches, performed under circumstances that do
not warrant a search under the law, such as for the
sole purpose of ascertaining their genital status.
I'm going to provide you with just two illustrative examples of such searches. Marisa, a white transgender lesbian gave the following testimony to Amnesty International regarding an incident which took place in 2001, in Montgomery, Alabama, in which she said, "two jailers and a State trooper made me strip in front of them while they looked on. I was made to dance around in front of them, shouting, 'I've got a penis. I've got a penis.' Then they made me hold my penis in front of them and show them I could masturbate. I was then cavity searched. The anal search was excruciatingly painful, much more than any physician-directed rectal exam I ever had. I was then told to shower while one guy watched. The police officers and jailers constantly referred to me as 'that dick.' Apart from the fact that I was repeatedly forced that say that I was a man, I was called 'faggot,' 'sir,' and 'fucking pussy.'"

Kate Lindsey Kuhn, a white transgender client of mine, was arrested during the Republican National Convention, held in New York City in the summer of 2004. Although she was initially transported and detained in a court lock-up with women, at some point during her detention, despite the
fact that she posed no threat whatsoever to the safety of anyone she was detained with, she was forcibly removed from her cell by three officers. The officers then proceeded to forcibly hold her down and grope her breasts, shoved their hands down her pants and touched her genitals as she cried and begged them to stop, told them that she a rape survivor, and was placed in terror that the search presaged a placement with male detainees and the attendant risk of further sexual abuse. Although the officers told her that the search was necessary in order to determine appropriate placement in the sex segregated court lock-up, after briefly being placed in a cell alone, she was subsequently once again housed with women, thereby seriously undermining any argument that the search was necessary to meet institutional safety needs.

Such violent, abusive, and often repeated searches of transgender and gender nonconforming women, as well as of transgender men, for the purpose of determining genital status or to satisfy officers' curiosity, are routinely conducted across the country. Many police officials have as much as admitted that what can be delicately described as a manual genital check, which is an assaultive touching of the chest area and genitals, is the
accepted practice when taking a transgender person into custody and is often accompanied by ridicule, sexualized verbal abuse and physical violence.

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

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

Before closing, I would like to take a minute to call the Commission's attention to sexual assaults which take place in locations which, while not commonly understood to be detention facilities, could arguably, technically fall within the PREA's definition of a prison, as a government administered
confinement facility. A significant number of cases I've come across in my research involved sexual harassment, assault, and rape in police squad cars and police vans, often driven to isolated locations, but still controlled by a government agent. Additionally, as Commissioner Fellner pointed out, the considerable amount of sexual abuse by law enforcement officers takes place on the streets and in our homes clearly constitutes sexual assault in government custody, even if it doesn't take place in a government controlled facility.

Not only are such incidents worthy of further study, attention and prevention in their own right, but they can be predictive of officers' conduct towards detainees in police controlled detention facilities, as evidenced in the case of Baltimore police officer Gemini Jones, who was accused of raping women both in the station house and while executing a warrant in a private home; and Officer Guidry, who sexually assaulted women both in a police detention facility and in his patrol car. Often incidents of sexual abuse in police lock-ups are preceded by sexual harassment and sexualized verbal abuse in the community. And this should come as not surprise, because officers who engage in sexual abuse while on
patrol are unlikely to go from being Mr. Hyde to Dr. Jekyll the minute they walk in the precinct house.

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

I do just to say something quickly about prosecutions. A review of available evidence indicates that state prosecutions of law enforcement officers and federal prosecutions of law enforcement officers are not the panacea to this problem. They are often not brought and in -- when they do take place, they are often for misdemeanor crimes. And this holds true in jurisdictions across the country where sexual abuse and misconduct is often charged as official misconduct or conduct unbecoming an officer rather than under state sexual assault laws. And often when charges are brought, officers like Gemini Jones are often acquitted because of the private nature of such abuse. Unlike incidents of excessive
force, when there are more likely to be witnesses and
if the victim is lucky, a video camera, often in the
case of sexual abuse, it's a woman's word against an
officer's. And such cases turn on credibility
determinations pitting the victim, who may also be
charged with a crime, against the police officer who
is trained in providing expert testimony. As one
commentator has noted, the characteristics that make
victims vulnerable to police abuse are the same
characteristics that make them less credible to
juries. For instance, victims may have been engaging
in criminal activity when the police brutality
occurred, and from the jury's perspective, may be from
the wrong race, class, sex, or sexual orientation. In
addition, the victim may have been drunk, on drugs,
have a history of alcoholism or drug addiction or may
be mentally ill.

As a result, these are problems which
cannot be solved or prevented through prosecutions
alone, and I would therefore urge the Commission to
make strong recommendations relating to effective
prevention of sexual assault by law enforcement
officers, and to also commission desperately needed
study of sexual violence by law enforcement officers
in police and court-administered facilities as part of
its research mandate, and to recommend immediate
implementation of national data collection systems
tracking allegations and complaint of misconduct in
cells, as well as investigations, discipline, and
prosecutions. Such research and data collection would
go a long way, not only to developing an understanding
of the true breadth and depth of the problem of sexual
violence by law enforcement officers, but also to
detecting patterns and practices within particular
departments, which could then be referred to DOJ's
Pattern and Practice Division, and to informing early
warning systems, which could assist in detecting
repeater rapists, as well as repeater beaters.

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

For instance, the NYPD, one of the
country's largest police departments, does not provide
any specific training on than sexual harassment or
abuse of individuals in police custody, and it relies
instead on its generic courtesy, professionalism, and
respect training and officers' common sense. And it's
clear, from the few cases that I've shared with you
today, that much more is needed.

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

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

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

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

CHAIRMAN WALTON: Thank you very much for your testimony.

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

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