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

COMMISSIONER KANE: Chief, Detroit

obviously has paid a lot of attention to the
prevention of sexual abuse of inmates in your lock-ups
and jails. Could you tell me what utility cameras
have in your whole program?

MR. JAMIE FIELDS: Two things. And one
thing is, the hard thing for cameras for realize --
you know, for the officers to realize is that there is
a hesitancy with officers with cameras, whether
they're in car or cells. But a lot of it has to do
with our training and education, because we've had
numerous incidences where like in -- 97 percent of the
cases or allegations of misconduct, the cameras
actually exonerate the officer. And that's important.
Three percent, however, they don't exonerate the
officer, so it's twofold. One part of it is that if
the officers know that they're constantly under
camera, it might be a chilling effect on some -- on
activity. In fact, one of our districts has a wide
screen TV where you can see the holding cell area in
the public lobby, you know, on camera, so it has a
chilling effect.
The other things is, in investigations we hold our videotapes, they're all recorded and they're held for 90 days, so if an allegation does surface because maybe somebody doesn't want to make an allegation right there, but they can make it anonymously or any other way, we can always pull the videotape and -- as part of our investigation.

COMMISSIONER KANE: So the answer is that you're making significant or extensive use of cameras?

MR. JAMIE FIELDS: Yes.

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

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

COMMISSIONER KANE: Now, is somebody assigned to what watch what's going on or at least pay some attention, rather than just relying on an allegation and them going to back to tape?

MR. JAMIE FIELDS: Absolutely. We -- you know, obviously, cameras are only part of the observation, because people on the front desk, they have other duties or whatever, so therefore, we have
people in the cellblock, we do -- we have 30-minute rounds for all our detainees, we have 15-minute rounds for anybody who has indicated, based on our intake screening questionnaire, that they might be at a higher risk, or we have direct supervision if somebody is perhaps waiting to go to the hospital where we need to transport somebody maybe of a -- a mental illness.

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

MR. JAMIE FIELDS: Oh, no. No. The cameras are required to be watched, but what I'm trying to do is say that the cameras are just an added prevention. Nothing replaces somebody actually physical being back in the cellblocks. And our cellblocks are so small enough where the officers -- we have three people assigned to each cellblock, which is smaller than this room. And it has individual cells that they can hear things and they can observe things.
COMMISSIONER KANEK: I would also,
lastly, observe that although much of the discussion
this morning and testimony this morning has been
directed at officers abusing inmates, the Commission
has had enough mileage under it at this point where,
you know, we do understand that it is -- the
unfortunately intentional officer, exceptional in the
negative sense, that does this. And, you know, our
reports will, I think, talk about this. But we're of
the opinion that the primary effort has to be in the
case of -- of, let us say, deterrence, through various
means, inmate-on-inmate activity. Whether it's in
a -- in a prison, people in for a long time, or in a
lock-up. And we do understand there are problems, but
we're going to propose some solutions. Thank you.
COMMISSIONER AIKEN: No questions.
COMMISSIONER SMITH: I guess I would
actually disagree a little bit with John there, in
that I think that there is an equal problem in terms
of both inmate on inmate and staff on inmate. And in
terms of -- I think that it's very hard to know what
the prevalence is really truthfully on either one of
them. And I guess one of the things that I would be
interested in from both of you is to have you talk a
little bit about how we can get that data from the
whole lock-up community, both on inmate on inmate and
staff on inmate. And I guess I would like to throw in
there a little bit, because I heard you talk about it
a little bit, civilian complaint oversight mechanisms
and whether that might also be a useful place to get
information about prevalence.

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

In addition, we put complaint brochures
in libraries, in public buildings. So there is all
sorts of forms they can make it, and we use that as
a -- as a reporting means. But I can't overemphasize
the importance of statistics, because the Bureau of
Justice statistics, we don't see any statistics on
police lock-ups, and the problem, anecdotally -- I can
tell you, in the last 20 years, probably because of
the singles cells we do in our department and how we
set up, I don't know, even anecdotally, of an
inmate-on-inmate rape, but I do know of probably two
or three sexual assaults prior to our cameras and
prior to things we have instituted. And to the -- at
least from my perspective, those are very troubling,
because that means we've caught them the first time.
And we don't know how many times that officer is
responsible for things that went unreported. So
that's very alarming to us, so we could like to -- you
know, more statistics so we can get -- quantify the
problem. We would be appreciative.

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

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

COMMISSIONER SMITH: Right.

MR. JAMIE FIELDS: -- had a notation
that said, this does not include police lock-ups. So
I'm not sure if they didn't do police lock-ups or we
weren't included for some other reason. I don't know.
COMMISSIONER SMITH: I know there is some intention to do that, I'm just not sure about the timing of that.

And Ms. Ritchie.

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

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

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

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

And there is little access to
independent services. Very few people -- there is no
access by media or community-based organizations to police lock-ups. I mean, lawyers have trouble getting in to see their clients in police lock-ups, so it's very difficult to have openness and -- and scrutiny, external scrutiny.

And from the cases I reviewed, it seems like there really needs to be proactive measures to root out instances of sexual misconduct. Women often don't report sexual misconduct unless they're specifically asked about it. They think the only kind of police misconduct to report, whether it's to a CCRB or an IAB, or anywhere else, is physical abuse. That's police misconduct. Sexual abuse is something shameful that happened to you in the lock-up. And so I think that perhaps exit interviews -- I know the Hollywood police precinct in Los Angeles, because of so many allegations of abuse by transgender women, started asking women on their way out, did you experience any abusive conduct while you were in the detention. Now, of course, that's difficult if you're being asked by the same officer or the officer's buddy who just did it to you, but perhaps something from an independent agency, maybe a letter to anyone who was held in a police lock-up, afterwards asking about any kind of abuse, sexual abuse, and specifically naming
sexual abuse. Because when we did the Amnesty report and we talked to CCRB folks, we said, do you ask people about sexual abuse? Is there anything on your questionnaires about sexual abuse? Are you equipped to provide crisis counseling to people who come in and talk to you about sexual abuse? And that's just not on the CCRB's radar.

COMMISSIONER SMITH: Well, pretrial services --

MS. ANDREA RITCHIE: Precisely.

Absolutely. No one is asking --

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

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

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

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

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

MS. ANDREA RITCHIE: You know, it's interesting. Often public defenders or police misconduct attorneys don't know what to do with those cases. Erica, you know, pointed out earlier that, you know, not only are people reluctant to take police misconduct cases, but often reluctant to take them where sexual misconduct and abuse is alleged, because these cases aren't litigated very often and attorneys -- it's not -- you can't pull out your boilerplate excessive force or your boilerplate First Amendment violation complaint and put in there. It requires some thought, and because the issue doesn't have very much national attention, people know juries
are unlikely to believe it. People believe that it's
the exceptional rogue cop, not the systemic problem
when, in fact, it is.

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

And the last thing that has really been
effective is stings. In Los Angeles, the Internal
Affairs Department caught an officer who was -- sex
workers came in and complained that he was raping sex
workers on the street, and they did a sting and caught
him, so that the credibility issues obviated in that
way.
In another case in Seattle, in Kings County jail, a woman was forced to have oral sex and they -- in that case, the cameras were on and the officers were just using them to take turns to watch this. So I'm just -- not always effective. But in any event, they caught -- because they sent her back in wearing a wire. So I think that it's important to -- to find investigative tools, investigative stings and so on that can also corroborate.

COMMISSIONER FELLNER: Andrea, let me ask -- I want to go to the question of rogue versus systemic. I mean, I think there is no question that it's a major problem that has not gotten the attention it deserves. I think you have illuminated quite well many of the problems that exist and how to come -- to bring it forward. And we need more thought as to how do you both ensure that people aren't being falsely accused and yet valid accusations do come forward without retaliation, and all of that. I mean, there is a lot there. But I suspect that Mr. Fields would disagree, based on his own experience, as to whether it's systemic. And I wonder if you think, in terms of our work, given that there is a lack of data, does it really matter whether it's one or two rogue cops in every large or medium-sized facility, versus ten, 20
or 30? Should our standards differ in any way or the things we recommend differ, even if we can't answer the question whether it's sort of multiple isolated instances or fairly pervasive?

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

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

COMMISSIONER FELLNER: Well, I hope we can follow up with you also on the question of what additional research could be helpful and could be
helpful to our work.

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

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

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

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

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

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

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

COMMISSIONER FELLNER: Thank you.

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

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

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

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

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

MR. JAMIE FIELDS: Part of the police department, we have a rape counseling center that's -- or part of the City of Detroit, Rape Counseling Center
at the hospital, and they would be referred there.

CHAIRMAN WALTON: Do we have your written policies?

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

CHAIRMAN WALTON: We'd appreciate that.

COMMISSIONER FELLNER: That would be great.

COMMISSIONER SMITH: Judge, one last thing. There was something that was a little off on your testimony. You know, some of the reproduction, not the content.

COMMISSIONER SMITH: Something was missing --

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

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

MS. ANDREA RITCHIE: I will.

COMMISSIONER SMITH: Thank you.

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

(LUNCH RECESS)

CHAIRMAN WALTON: We're going to get