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1 be presenting her testimony through the reading of
2 that by Ms. Cynthia Totten, also of Stop Prison
3 Rape, a survivor who is alleging that during her
4 period of incarceration that she has been sexually
5 assaulted.

6 So we will first have the testimony of
7 Ms. Kathy Hall-Martinez.

8 If you could please stand and take the
9 oath.

10 Do you solemnly swear or affirm that the
11 testimony you will provide to this Commission today
12 will be the truth, the whole truth, and nothing but
13 the truth, so help you God?

14 MS. KATHERINE HALL-MARTINEZ: Yes, I do.

15 CHAIRMAN WALTON: Okay. Thank you.

16 Thank you for being here.

17 MS. KATHERINE HALL-MARTINEZ: Thank you
18 very much. I'm honored to address the National
19 Prison Rape Elimination Commission today at this,
20 your sixth official public hearing and your first in
21 our hometown, Los Angeles.

22 As Judge Walton said, my name is Kathy
23 Hall-Martinez, and I'm co-executive director of Stop
24 Prisoner Rape, a national human rights organization
25 that seeks to end sexual violence against men,

1 women, and youth in all forms of detention.

2 The Commission's topic today, the role of
3 staff and implementing PREA, is a highly complex
4 one. Most of what I'm going to be talking about
5 today concerns staff sexual misconduct and the
6 inadequate system response thereto.

7 Before I get to those examples that I'm
8 going to talk about, a few words of introduction.

9 In SPR's experience, corrections officers
10 and administrators are often not aggressive enough
11 in preventing and responding to sexual violence,
12 whether involving another inmate or a colleague.

13 Much of our work relates to trying to give
14 a voice to survivors of sexual violence behind bars.
15 That is part of my testimony's goal today. Even in
16 perhaps especially when they come forward to report
17 what has happened to them, the letters that we
18 receive on a daily basis tell us that they end up
19 with little to show for it, other than frustration,
20 the procedures often aren't followed, and too
21 frequently they experience retaliation.

22 In our view, many, though by no means all,
23 corrections administrators understand the threat to
24 their institutions posed by sexual violence,
25 perpetrated by the very staff that are charged with

1 keeping prisoners secure.

2 Unfortunately, many of these deny -- many
3 of these individuals deny that things are happening
4 in their facilities because there aren't that many
5 reports that come forward.

6 However, when something comes to their
7 attention, most of them certainly do want to address
8 the shocking assaults that may come out.

9 Corrections line staff are even a bit more
10 of a mixed group, and we do think that this is
11 largely due to inadequate training and a prison
12 culture that seems to reward an adversarial approach
13 to keeping prisoners in line.

14 We do recognize, however, that facility
15 overcrowding and understaffing contributes to this
16 culture, but it does not absolve any individual or
17 the system of responsibility for taking measures to
18 ensure every inmate's bodily integrity.

19 Our database has about 660 survivors of
20 sexual assault in detention facilities spread across
21 the United States at this point. 25 percent of
22 those, of the letters we have received, report that
23 a corrections officer or other corrections staff
24 member was the perpetrator. Over one-third of those
25 prisoners are women.

1 While we never claim the information in our
2 database has any statistical significance, it is
3 interesting to note how frequently women write to us
4 about sexual abuse by corrections personnel relative
5 to their numbers in detention facilities compared
6 with men.

7 Nearly all inmates who write to us do so
8 out of desperation. This is quite clear in their
9 letters. Many have tried to work within the formal
10 grievance procedure, but the system has failed them.
11 A few don't report at all because they're too
12 frightened about possible repercussions, and so they
13 don't try but, instead, remain isolated and
14 emotionally tormented by what has happened.

15 Many corrections administrators now tell
16 us, as they have you as well, that they truly
17 believe times have changed, that with PREA now in
18 place and a greater awareness of the damage caused
19 by sexual violence, that things are looking up.

20 While we hope this is true, we continue to
21 get bombarded by letters with examples to the
22 contrary. Many female inmates in particular suffer
23 rape, sexual abuse, and humiliation at the hands of
24 corrections officers and staff.

25 As the following examples illustrate, the

1 lack of power these women have both because of
2 gender dynamics that occur in society in general and
3 the fact of being incarcerated creates an impossible
4 situation that corrections administrators often
5 exacerbate through their responses, whether
6 unwittingly or not.

7 These women go through grueling ordeals if
8 they choose to report the sexual misconduct of a
9 corrections officer. Much as rape laws and
10 investigative procedures did in the community 30 or
11 40 years ago, the women are not believed.

12 Physical evidence they go to pains to
13 preserve is often compromised or lost. Moreover and
14 most painful for them, there is a presumption,
15 whether formal or informal, in favor of the officer
16 when allegations of sexual abuse are made.

17 Officers frequently keep their job and
18 remain on duty and in contact with inmates even
19 during investigations. In our anecdotal experience,
20 this only ceases when multiple women come forward.

21 The survivor witness who is to testify
22 today, who we refer to as "Jane Doe," decided just
23 last Friday that she did not wish to testify after
24 all. She became frightened and uncomfortable with
25 the prospect of testifying because of the level of

1 attention she received last week from officials at
2 the California prison where she is now incarcerated,
3 following a visit from an SPR staff person.

4 She was the victim of rape by a corrections
5 officer at a facility different from where she is
6 now being held.

7 While the warden and lieutenant
8 facilitating the SPR staff person visit were told
9 that the sexual assault in question occurred at
10 another CDCR facility, they nonetheless ordered her
11 to be interviewed by the prison's investigative
12 services unit last week so that it could be
13 confirmed that she had not experienced any problems
14 with sexual abuse at her present facility. They did
15 not take steps to maximize her safety or privacy.

16 Unfortunately, as is true in virtually
17 every corrections facility, being called to ISU does
18 not escape the notice of either corrections officers
19 or fellow inmates.

20 Because she was called down to ISU and
21 procedures require her to be logged out by the
22 housing officers in her unit, this, in turn,
23 increased her visibility.

24 Similarly, her boss at her prison job, who
25 is a corrections officer, excused her from work so

1 she could meet with SPR again but inquired about who
2 was visiting her and whether it was an attorney and
3 why she was -- why she was having this visit.

4 This all led Ms. Doe to be extremely
5 anxious, and she became convinced based on these
6 responses that her daily prison life would be much
7 worse and that she could even be in danger if she
8 appeared in person at the hearing.

9 Avoiding an unexplained absence to go
10 testify meant her life at the prison would more
11 quickly return to normal. Above all, she was
12 petrified of somehow incurring a third strike. She
13 has two previous convictions under California's
14 three strikes law through some kind of a trumped-up
15 grievance or other write-up by staff.

16 This fear likely has some basis in her
17 reality of having observed how the system comes down
18 hard on prisoners like her who make waves and let
19 corrections officers who break the law or the
20 procedures off the hook.

21 That impunity, whether for perpetrating or
22 covering up sexual abuse, needs to be addressed at a
23 systemic level. Corrections administration and
24 staff training would seem to be absolutely
25 fundamental here.

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1 A Denver, Colorado, woman's nightmare began
2 when a corrections officer, who was her job
3 supervisor, began raping her over several weeks in
4 late 2001 and early 2002.

5 She recounts, and I quote (as read):

6 "To this day, I keep thinking
7 of what I could have done
8 differently, but fear took ahold
9 and I did what I felt I had to do.
10 He acted as if the sexual assault
11 was natural and part of my job.

12 "I contracted gonorrhea and
13 was treated with antibiotics. I
14 reported all of this to my case
15 manager. I had to continually ask
16 the status of the case or when
17 someone was going to come talk to
18 me.

19 "I finally spoke to the
20 investigator, gave a verbal,
21 written, and tape-recorded
22 statement. The sergeant still
23 remained employed here. He got one
24 inmate pregnant and continually had
25 sex with another.

1 "My case manager has full
2 knowledge of this situation and so
3 does the warden. I should have
4 been moved from the beginning of my
5 allegations and persistence in this
6 matter." And then she quotes,
7 "According to DOC rules," in a sort
8 of ironic ending to her letter.

9 The relatively encouraging ending to this
10 story, however, is that the perpetrator was
11 eventually prosecuted and convicted in late 2004 --
12 but that was about two years after his assaults on
13 this woman -- for second-degree sexual assault and
14 attempted sexual assault of two other women. And we
15 have the news reports of that case.

16 As is typical in these cases, one wonders
17 why several other women had to be sexually assaulted
18 after this woman had come forward and why it is that
19 corrections -- this corrections official was not
20 prohibited from having access to female prisoners.

21 Female prisoners are not the only victims
22 of male corrections officers. We recently received
23 a letter from a 56-year-old man incarcerated by the
24 Texas Department of Criminal Justice.

25 On September 28th, 2005, a corrections

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1 officer asked the prisoner to perform oral sex, and
2 when he refused, the officer withheld meals from
3 him.

4 And I quote now (as read):

5 "I was waiting to go into my
6 cell while being handcuffed behind
7 my back, and the officer asked me
8 to suck his dick.

9 "He said, 'You're a bitch, and
10 that's why I want you to suck my
11 dick.'

12 "As I was kneeling down at my
13 tray slot to be unhandcuffed, he
14 then pulled down his zipper,
15 attempting to have me perform his
16 desired sexual act through the tray
17 slot. I refused, and he later
18 refused to feed me as a result of
19 my refusal," end quote.

20 Another officer was present at the time of
21 the incident and stood by laughing but not doing
22 anything to stop the offending officer.

23 As of his most recent letter to us, the
24 inmate had filed Step 1 and Step 2 grievances but
25 nothing had yet happened and he was fearing for the

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1 reprisal.

2 A 30-year-old gay inmate currently
3 incarcerated in New Jersey recounted how he was
4 repeatedly harassed by a corrections officer. Quote
5 (as read):

6 "The first incident occurred
7 in March 2006. At that time the
8 corrections officer entered the
9 wing in which I house and proceeded
10 to my cell.

11 "He then stated, 'Come on,
12 give me some love, show me your ass
13 while you play with yourself.'

14 "When I refused, he then
15 stated, 'I will make sure you don't
16 eat or get showered unless you do
17 as I say.'

18 "The second incident occurred
19 in early April 2006. It started at
20 6:00 a.m. when the same officer was
21 taking count. He stopped at my
22 cell, exposed his genitalia, and
23 stated, 'I know you want some of
24 this big black dick.'

25 "When I did not respond, he

1 stated, 'If you don't come kiss it,
2 I will give you a charge," meaning
3 a disciplinary infraction.

4 "This persisted throughout the
5 entire day with many threats, most
6 being of a sexually explicit and
7 violent nature. He also threatened
8 to search my cell and urinate on my
9 bedding and clothing and
10 contaminate my commissary items
11 with his penis," end quote.

12 The inmate was eventually transferred after
13 reporting the officer but believes that it is simply
14 another form of reprisal because his new facility
15 does not offer any mental health counseling. There
16 he has also been forced to use violence to protect
17 himself against an inmate who was being sexually
18 aggressive and has since then been placed in
19 administrative segregation.

20 In a recent letter he recounted that he has
21 no access to counseling and is not allowed to make
22 phone calls to his family.

23 As is far too typical in these cases, after
24 COs and administrators come to learn of the
25 allegations against the CO, it is the victim who

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1 ends up being punished.

2 A 27-year-old Texas inmate, a male, wrote
3 to us in 2004 about several incidents of sexual
4 assault by the same male officer. The first time he
5 told himself, quote (as read):

6 "It was a one-time thing, and
7 I figured I could hide it. I was
8 ashamed of it and I didn't want
9 anyone to think of me as being
10 gay," end quote.

11 When it happened two other times soon
12 thereafter, two other inmates helped him to have the
13 courage to come forward. He hated being labeled a
14 snitch and being laughed at and ridiculed by both
15 officers and inmates, but he moved forward and took
16 a voluntary polygraph test and was then supported by
17 eight other officers and two inmates who gave
18 statements supporting him.

19 He also described a tattoo on the officer's
20 private parts. He then states and I quote (as
21 read):

22 "It's hard to believe that
23 after all this, the only step the
24 administration has taken is to
25 place this officer in the horse

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1 barn away from me, which makes me
2 angry because of what has happened
3 in my life.

4 "But another inmate suggested
5 since the administration seems to
6 want to cover this up, that I
7 should attempt to file a civil
8 class-action suit on TDCJ or/and
9 the officer just to keep this
10 going, which I don't know anything
11 about," end quote.

12 In the face of these ongoing abuses, we at
13 SPR admit to feeling some frustration when
14 corrections administrators and policymakers rail
15 against inmates filing lawsuits when the system has
16 completely failed to provide even a modicum of
17 justice for an inmate like this one. Even if he is
18 able, unseasoned in prison litigation as many are,
19 to attempt to keep this going, shouldn't he have
20 that right?

21 Of course, we and you know the barriers to
22 this kind of a suit succeeding are severely
23 compromised by the Prison Litigation Reform Act and
24 could well bar his case from the courts.

25 A final example of a facility's inadequate

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1 response to staff sexual misconduct. Just the day
2 before yesterday, after we sent out our press
3 bulletin concerning this hearing, we received the
4 following e-mail, and I quote (as read):

5 "I was incarcerated in the
6 California Youth Authority from
7 1999 to 2005. While I was in the
8 Heman G. Stark YCF, I was coerced
9 by a staff member to have sex with
10 him. And in return, he bought me
11 things such as rings, food from the
12 outside, necklaces, et cetera.

13 "It was investigated, and I
14 was moved from the institution and
15 placed in Northern California, but
16 he kept his job. What can be done
17 about this?" End quote.

18 And then the young man expressed some
19 frustration that he didn't have any transportation
20 by which he could have come to the hearing today.

21 I want to switch gears now to talk just
22 briefly about how corrections staff response too
23 often falls short, even when victims do report
24 sexual violence, as I've suggested in some of these
25 examples.

1 38 percent of those who have written to us
2 reported the incident, but no investigation had
3 taken place as of the time they had written to us.
4 At best, this indicates an appalling lack of
5 communication with the inmate about their complaint.

6 At worst, it indicates that the corrections
7 institution doesn't care about what happened to the
8 inmate in their facility and have no intention of
9 disciplining the staff who were -- disciplining or
10 prosecuting the staff who were involved.

11 Another example I wanted to give involves
12 an inmate from Alabama who was -- who wrote to us in
13 desperation. We also received a very upset call
14 from his mother related to an assault that occurred
15 in September 2006.

16 Another inmate armed with an ice pick and
17 leather straps walked the long distance past the CO
18 stations, forced open the victim's cell, jammed the
19 lock, and shut the door. He then violently beat and
20 raped the inmate. Other inmates called out for the
21 COs to intervene or later to assist him, but no one
22 came.

23 The inmate was found bloodied on his cell
24 floor the next morning at first count. The
25 infirmary doctor on duty wanted him immediately

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1 taken to a hospital, but corrections staff
2 interrogated him for three hours before allowing him
3 to be taken to the hospital.

4 During this interrogation, the morning
5 after his assault, he was told to, quote, "suck it
6 up," quote, "stop crying," and "be a man now." He
7 was also called a liar, was verbally abused, and was
8 subjected to disparaging remarks about his gay
9 sexuality and homosexuality generally.

10 Immediately upon return from the hospital,
11 he was put in administrative detention, isolated,
12 and had all other privileges taken away. He managed
13 to smuggle a letter out to his mother.

14 He was released from administrative
15 detention only after passing a polygraph test.
16 Subsequently he wrote to us at SPR.

17 I also wanted to just briefly mention that
18 we've had to grapple recently with multiple letters
19 from a number of detainees in the same unit of
20 facilities in a couple of different states where
21 there's been quite serious staff misconduct or
22 complicity.

23 We have found that contacting senior
24 corrections administrators endangers the inmates.
25 There is a clear sort of pattern of retaliatory

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1 measures that are being taken against these inmates
2 up to and including physical threats. This involves
3 large facilities, as I said, in a couple of states
4 where senior state officials claim to be serious
5 about implementing PREA.

6 We don't know yet what exactly we'll do.
7 We don't have the resources to take on these systems
8 alone. And we certainly do not want to jeopardize
9 inmate safety because that is of grave concern and
10 something that we can't sort of get in between, even
11 as we know at the same time that these inmates are
12 reaching out to us as a last hope.

13 On a final note and one more serious thing,
14 I do want to say, and in conclusion, is that we do
15 understand at SPR how challenging the work of all
16 corrections personnel is. And we greatly appreciate
17 the hard work of huge numbers of corrections staff,
18 from senior administrators to line staff, to medical
19 staff, in addressing sexual violence in corrections
20 facilities.

21 Indeed, even in corrections systems that
22 have as yet done little to implement PREA, we
23 recognize that many corrections officials use common
24 sense and do their best to confront prisoner rape in
25 their jobs day in and day out.

1 We recognize a range of issues that
2 challenge us all not to make light of the goal of
3 substantially reducing or eliminating prisoner rape
4 from corrections facilities, from overcrowding, and
5 inadequate staffing, to a culture outside of prison
6 that provides justification for assaults that occur
7 on the inside.

8 The list of challenges is indeed long, and
9 we're committed to collaborating with corrections
10 staff nationwide at the same time that we will
11 continue to aggressively advocate for better
12 prevention and response initiatives, including
13 PREA's full implementation.

14 We stand ready to provide our expertise to
15 the Commission in any way that's useful. And I want
16 to thank all of you as well as the Commission staff,
17 who has collaborated with us closely and fruitfully
18 throughout this series of hearings that you all have
19 had.

20 I want to thank everyone here today for
21 your attention.

22 And I finally want to just mention that my
23 colleague is now going to read the testimony of the
24 Jane Doe survivor that I referred to at the
25 beginning of my testimony.