hear constantly is that the good guys who work in the prison industry, who don't condone this, and want to report it are deterred from doing so because of the fear of retribution.

Will the potential, if there was federal legislation, of individual liability on the part of individuals who did that have any impact?

MR. BRYAN LONEGAN: I think it would have immediate impact.

I just want to be clear about one thing with your question.

Are you talking about the good guys within the corrections offices?

CHAIRMAN WALTON: Yes. Or anybody who works in the prison industry who --

MS. ANNE WIDEMAN: I would add medical staff.

CHAIRMAN WALTON: Right.

MR. BRYAN LONEGAN: I can tell you that at the Hudson County jail where I do a lot of work there are rogue officers and there are great officers.

I have been told by detainees that there are some that they want to give human rights awards to because they're so kind. They actually solicit
if there's any problem.

But the reality is, is that the rogue officers have instilled such fear that the good officers don't know about it. You'll have a shift where there will be a shift change between, say, a rogue officer who is --

By the way, by rogue activity, I can tell you what they're doing is they're assisting in smuggling of contraband into the immigration facility, the detainee wing. And in exchange for that, what they do is they -- one detainee was explaining this to me. He was just released last week from 16 months in Hudson -- that for any detainee who's going to go complain, what the rogue officer will do is bribe another detainee with extra food, perhaps extra recreation time, maybe the opportunity to go to the law library or to do something, to then make a false complaint.

And so I have had detainees who are in the same cell with one of the detainees who's cooperating with, say, the smuggling and who's been terrified. Because when the good officer comes and they do the inspections, he's going to be -- he's going to be put in the box, he's going to be punished for whatever his cellmate is doing,
whatever his cellmate is smuggling.

And I'm not talking about -- we're talking cell phones. We're talking Cheese Nips. We're not necessarily talking smuggling of the dangerous contraband.

So there is -- there are officers who will resist doing illegal conduct, but I think that they try to ignore the fact that it's their colleagues that are engaged in illegal activity, and, instead, they take it all out on the detainees.

I'm not quite sure I answered your question.

CHAIRMAN WALTON: I think you did.

Commissioner Kaneb.

COMMISSIONER KANEB: First of all, if any of you would want to comment on something that has been missing here, in my view -- I'm sorry.

Would anyone want to comment on whether or not there is a source or do you have a source that would help inform us about the prevalence of male-on-male prisoner rape in detention facilities?

Rather than talking about it across these tables, I think the Commission would like to know -- and I could ask of people in the audience or people from Vera, people from SPR, whoever -- you know,
there is data, and the lady next to me is a scholar in the area on sexual -- male-on-male sexual violence in prison systems.

But I'm asking the question to the room.

What about detention centers?

CHAIRMAN WALTON: Immigration detention centers, you mean?

COMMISSIONER KANE: Yeah, immigration detention centers.

MR. BRYAN LONEGAN: I think the problem is even greater in obtaining that information in immigration facilities. By the nature in which they are run and the nature in which they are neglected prevents anyone from giving you that information.

COMMISSIONER KANE: Well, I was afraid that might be the answer. What I'm asking, is there any- -- can anybody give us any leads on is there any information and, if so, how to get it without taking the hearing time up?

I think we would be interested -- I would be interested -- okay.

Then back to an observation you made. And it's obvious, but I hadn't thought about it. Rogue officers who prey upon inmates -- in our case we're interested in sexual violence -- really can feel
awfully comfortable that they're not going to be ever -- really ever bothered by a complaint because people don't have access to the criminal courts, they don't have practical access to lawyers, and they're probably going to be deported.

So that is something I have noted, and we will, I'm sure, talk about it as we develop our report and as the standards are developed.

And we are going to develop standards for detention centers, immigration detention centers as you know.

In that respect, all I've heard about the standards for immigration detention centers this morning is they're inadequate and, even worse, they're ignored. And they may not even be well known to the people that are supposed to be living by them.

Is that an accurate characterization?

MR. BRYAN LONEGAN: I think so. But I think that the standards that the ABA has put together would be a tremendous step in the right direction. Even if we could comply with this minimum standard that's been established would be a vast improvement.

I wanted to add one other aspect to the
problem of -- about trying to track the problem down
in immigration facilities.

You have to understand that the Federal
Government, ICE, has the authority to detain people
anywhere they want in the country. It's not
uncommon for me to find somebody who's gone through
five or six different jails, five or six different
facilities, spreading out throughout the country.

And if you have any kind of detainee who is
deemed a troublemaker or who has lodged a
complaint -- for example, I was just speaking to a
man who had lodged a complaint of abuse that
occurred to him in El Paso, Texas. He made the
complaint, and the next thing you know he was sent
over to New Mexico.

And then he was bounced back to Texas again
and then back down into New Mexico. And during that
time he was trying to maintain correspondence with
somebody who would address his complaint. And every
time he was transferred, he lost his legal papers,
he lost his documents. He was never able to receive
documents back. He had apparently tried to contact
Washington.

So you have this ability to move the
evidence even before it's deported, which prevents
the tracking of complaints.

COMMISSIONER KANEĐ: Thank you.

MS. ANNE WIDEMAN: One thing I would like to add, because I haven't heard it yet this morning, is addressing the idea that immigrants, children and adults, have often not committed any crime, and there's no evidence that they're anything other than settled in their communities that they came from.

And I would like to hear as part of the standards a look at least restrictive environments for the housing of immigrants who are awaiting their detention proceedings. You know, we're accepting as a given that these people need to be in detention, and I don't think that's a given.

MR. BRYAN LONEGAN: To add on to that, the problem here is the statute that's been developed by Congress. And from my point of view, Section 236(c) of the Immigration and Nationality Act is particularly troublesome.

If anyone is convicted of even the most minor crime after October of 1998, they're now subject to mandatory detention.

And what's happening is, then, this explosion in the immigration detention population. I mean immigration detention is the fastest growing
segment of the detained population in America.

And it's in large part because of this statute. And I think that statute needs to be revisited.

There are a lot of people who are being detained who are not flight risks, who should not be in detention, and who have never spent a day -- even if they have a criminal conviction, have never spent a day in jail. An additional problem.

CHAIRMAN WALTON: Commissioner Aiken.

COMMISSIONER AIKEN: Thank you, Mr. Chairman.

I think the appropriate definition or the word for moving people around in the profession is called "bus therapy."

On the other hand, you have people that are incarcerated, and it does trouble me that they don't have the level of legal access. Which obviously you look at a history of even prison systems, that systemic change usually comes about through a judicial process. And that's cut off or very limited.

The second aspect of it, which I want to ask all of you, and especially Dr. Wideman, what are some of the behaviors, adverse behaviors that can
serve as key indicators of sexual abuse of being traumatized while in confinement in an immigration setting? What are some of the complaints? What are some of the issues that come to you as behaviors that may be a key indicator that there's some pathology?

MS. ANNE WIDEMAN: There are several things that may come up. And a lot of it depends on the particular response that individual has had to their assault.

Some people become overly aggressive. They -- or they attempt to create space around them by either appearing very bizarre in their behavior or very aggressive. So that's one way. If someone's behavior suddenly changes, that's an indication.

A second indication is a withdrawal. People start giving away their belongings. They withdraw from their correspondence. They are not participating in their jobs anymore. They're not going out for rec. They're not going for religious services.

A lot of times there are very subtle physical cues that don't get picked up by medical staff. A frequent sign is abdominal complaints,
psychosomatic pains, headaches. Many immigrants come from cultures where emotional distress is expressed somatically. And it's often the somatic complaints where you start to find that there's been an abuse.

Something as simple as complaining of hemorrhoids and anal fissures, which will get treated with creams, instead of anyone ever asking the question, has someone been harming you or hurting you?

So -- I mean, just very basic things.

MS. SHIU-MING CHEER: And I would also add that very often the people who have been victims of sexual abuse also engage in sexually aggressive behavior towards others. So that could be also an indicator. Because that's what they've learned, that's what they've grown up with.

So when they're in a detention center, say, for example, a 17-year-old boy may then start becoming sexually aggressive towards younger boys.

And I think a common problem that we've all pointed out is that it's very difficult to have enough contact with detainees and build up enough trust and enough rapport with them that they would be able to disclose these facts or even enough trust
and rapport that the attorneys or the paralegals or the doctors would pick up on these sort of psychosomatic symptoms.

MR. BRYAN LONEGAN: I just wanted to add one thing to what Dr. Wideman said.

The medical staff, I don't know if it's necessarily that they're poorly trained, but institutionally there's a lot of pressure on them not to pursue medical complaints.

When you look at the contract that ICE has with the jails that I go to, for example, the jail has to eat the cost of any medical attention. And it's chronically been a problem that they really reduce medical care to its -- to an absurd level.

I had a client who had anal fissures because he had AIDS, and for that he was given Motrin.

The pressure on the medical staff is to limit the cost of medical care inside the facility. And with that, people look the other way.

COMMISSIONER FELLNER: I would like to follow up, Dr. Wideman, on something that you mentioned in response to Commissioner Aiken's question.

You said that anal fissures and hemorrhoids
can be signs of abuse.

MS. ANNE WIDEMAN: Uh-huh.

COMMISSIONER FELLNER: Have you been hearing -- and this sort of comes back to what Commissioner Kaneb was asking. Even if there are no statistics or sort of survey studies of prevalence of inmate-on-inmate abuse, in your own experiences -- actually, this is a question for all of you -- representing or working with detainees, are you hearing, have you heard of stories that indicate this is happening? Or are you simply not hearing at all?

MS. ANNE WIDEMAN: I'm aware of those studies from -- I mean, of those stories from working in the prison system where I would have long-term relationships with inmates where over time, you know, they would get a sense of you as someone who is not going to be reporting things or making things difficult for them.

And typically with the immigrants, you don't have that kind of relationship. You might see someone for three or four hours to do an evaluation. And in that time you're trying to get as much information as you can about their particular case.

And I don't know that they have the
opportunity to develop any kind of those long-term relationships.

One thing The Florence Project had that was a very nice project was a social worker as part of the project. And she often was the person who was able to develop those long-term relationships and find out about abuse that other people weren't picking up on.

But I don't think many people have the resources to provide that kind of --

COMMISSIONER FELLNER: So in other words, in your work, you have not heard directly stories --

okay.

MS. ANNE WIDEMAN: No.

MR. BRYAN LONEGAN: I would -- I mean, I have to say the same thing. I have not heard stories of sexual assault.

That being said, I can also tell you that when I meet with detainees, my -- sometimes I will have as much as a 15-minute conversation, and that's all, before the person's transferred to another facility.

COMMISSIONER FELLNER: Uh-huh.

MR. BRYAN LONEGAN: Sometimes I have ongoing relationships that last for a year.
But our focus is to provide representation in their immigration case and not to pursue detention issues for two reasons -- for several reasons: Number one is we don't receive any funding for that. I know that might be a bit of a cop-out, but we just simply don't have the resources.

But, secondly, one of the things we're really afraid of is if we start pursuing detention issues, that we're going to be barred from doing the "know your rights" presentations that we do in these jails. We're concerned about our access being limited if we were to start to delve and pursue these things.

So from an institutional point of view, it's something that we very much want to deal with. We just don't have the resources or protection from the government to make sure that that happens.

MS. SHIU-MING CHEER: I've only heard one story of sexual assault in an immigration detention center. But I would echo what the others are saying in the sense that I think there's not enough training, also, given to legal service providers on how to detect sexual assault.

Before trafficking became a widespread issue, very often our intakes -- we never asked
detainees how they came into the U.S., who brought
them here, you know, was there any kind of
indication they had to perform some kind of sexual
favor in order to come to the U.S. But after we
were trained on looking for trafficking, we then
found many detainees who had been indeed trafficked.
So I think if legal service providers are
also trained on how to detect sexual assaults and
taught which type of questions to ask, then we would
be able to see many more incidents of it.
COMMISSIONER FELLNER: Thank you.
CHAIRMAN WALTON: Thank you.
Commissioner Struckman-Johnson.
COMMISSIONER STRUCKMAN-JOHNSON: Just a
question John asked me if I knew, and I'll ask Jamie
if she knows, Richard Hoffman, Richard Tewksbury.
Is the BJS survey going to go into an
immigration unit?
CHAIRMAN WALTON: We're being told no.
COMMISSIONER STRUCKMAN-JOHNSON: Okay.
That's what I thought.
COMMISSIONER FELLNER: I had just written
down that question to ask myself.
COMMISSIONER STRUCKMAN-JOHNSON: So is
there any time to change? Time to add it? A few
MR. RICHARD TEWKSBURY: BJS has indicated they're considering it for their second year. First year of data collection they will not be in ICE facilities.

COMMISSIONER STRUCKMAN-JOHNSON: But they're considering later?

MR. RICHARD TEWKSBURY: Yes, ma'am.

COMMISSIONER STRUCKMAN-JOHNSON: Okay.

That seems like a really important thing to do. Because it sounds like nobody can say. It's just a big suspected -- okay.

Thank you.

I just want to say thanks for the testimony here, just concise, detailed, you know, really important and from all three perspectives. It will be very, very helpful and certainly eye opening, kind of shocking revelations. So thank you for that.

CHAIRMAN WALTON: We have a little bit of time.

Let me just ask, Dr. Wideman, because I've had people say to me, well, if somebody has or makes a claim that they were sexually abused and then they are released and they engage in behavior that they
know or should know will put them back in that same environment, how can their allegations about the sexual abuse be credited?

Because one would assume if it was a horrible experience, that they wouldn't engage in behavior that would cause them to end up or potentially end up back in that same environment.

As an expert who looks at human behavior from a psychological perspective, do you have any insight on that?

MS. ANNE WIDEMAN: The experience of sexual assault and sexual violence is very disintegrating to a person's emotional state.

And there's a lot of evidence and research that after a person has been a victim, many parts of their lives come apart. Having difficulty maintaining employment, having difficulty maintaining relationships, having difficulty maintaining a steady state of mood. All of those things, especially if the trauma is untreated, can happen.

And so what you have is people turning to drugs or alcohol, people turning to lifestyles that reflect their lack of care about themselves, that end them up in the very places where they were
traumatized to begin with.

And it's really a vicious cycle. So...

CHAIRMAN WALTON: Any other questions? We do have a little bit of time.

COMMISSIONER FELLNER: I've sort of been puzzling with the whole -- the cultural barriers question. You have such a confluence of factors, the cultural barriers, the short amount of time people may be in detention, and then the fact that they may be moved around, which makes it difficult to acquire the insights on a one-on-one basis by which you might really know what's going on.

And I'm trying to -- the cultural barriers are going to be hard to change. I mean, that's sort of there. The moving around we might be able to make recommendations about.

But I'm wondering if -- other than saying many of these people shouldn't be detained in the first place, which I happen to agree with -- I mean, I think this country tends to incarcerate far more than is necessary for any legitimate purposes and certainly in the immigration area.

But short of simply having people not be in facilities where they are at risk, do you have, also, more practical suggestions for how there can
be better complaint -- self-protective or mechanisms or complaint mechanisms or oversight which can help deter abuse or -- let's start with deterrence. Because some of what you've been saying sort of leads to a dead end. It's sort of, like, well, where -- what can we do? So I'm wondering if we can focus on what some of the steps that might be -- you might suggest be taken, that we might incorporate it as standards that we insist upon for these facilities that would help deter or ensure that the impunity that currently exists doesn't continue to exist.

MR. BRYAN LONEGAN: You know, I don't mean to sound like I'm wisecracking, but it always seems to me that if you don't want people to be treated like they're in jail, don't put them in jails.

COMMISSIONER FELLNER: I agree.

MR. BRYAN LONEGAN: Well, what I'm getting at is not to just incarcerate them from the first place, but if -- I mean, one of the realities is most scholars in the field recognize that you're not going to have a credible immigration policy without the threat of detention.

But do we have to detain people in jails where guards are necessarily -- there's a culture of
detention. And it's penological. And that's not
what we're supposed to be doing with immigration
detainees.

So maybe we just need to rethink how it is
we detain people to begin with. Maybe they
shouldn't be in the Bergen County jail, the Hudson
County jail, the Passaic County jail. Maybe they
need to be in a specialized facility.

Now, I know there are some, and they're
rife with problems, I mean, down south. But I think
we need to do a complete reevaluation as to what
we're trying to achieve in detention and how it
should be done.

And it seems awfully simplistic, but...

COMMISSIONER FELLNER: No. I think it's
very important. Because, again, as you and others
have pointed out, many of the people who are
currently being placed in these facilities have
committed no acts of violence, have given no
indication that they are -- need to be incarcerated
other than that supposedly they might be a flight
risk.

So there are ways to prevent flight by
having secure perimeters, but there's no need within
those perimeters to have it operated as a criminal
MR. BRYAN LONEGAN: I have to say -- you know, when I heard Mr. Rodriguez this morning, I was thinking how I would love to see some of the policies he was talking about initiated. The cameras, for example, in the facility, the design of the facilities I think is part of it as well.

Right now the detainees in Bergen County jail were in a cellblock that was about as large as this room. It was about 75 detainees. It was shaped like a trapezoid. And from any part of the jail, you could see any other. There were no secret nooks and crannies and there were cameras and that was a great facility.

I mean, it was a -- you know, great as compared to what I was working in in other facilities.

And then, unfortunately, they moved them to an older section of the jail where it's filled with corners and black areas and dark areas and there is no camera and things just seemed to be going to hell in a handbasket. And now -- and what was once a jail that I used to praise I can no longer praise.

So I think that there are experts in prisons. I think they're on the right track and
they might know how to do these things in practical ways.

One of the -- we haven't -- in legal aid we have a prisoners rights bureau, which, unfortunately, doesn't have the resources to work in immigration detention.

But when I was preparing to testify here, they said, ask them for cameras.

So I'll do that now.

CHAIRMAN WALTON: I think, Dr. Wideman, you've really kind of commented on what I'm going to ask now. But one of the hurdles I think any effort like this has is the attitude of indifference that a lot of society have about the problem of prison rape.

I think Secretary Hutchinson commented on that when he made his statement about someone saying, well, there are people who care about that, I guess.

And I think, unfortunately, that attitude of indifference is an impediment. And I think one of the things that we have to be able to do in order to ensure that what we recommend becomes a reality is to show that there is a benefit that the greater society acquires from making sure that this type of
behavior doesn't take place.

And if the larger community understands that reality, I think they become more acceptive of bringing about change to deter these type of events taking place.

But do you know of any research that's been done regarding the issue of recidivism and the correlation between having been sexually abused in a prison setting and an increased rate of recidivism as a result of that?

MS. ANNE WIDEMAN: There actually are some studies. And, in fact, Human Rights Watch, in their survey of different studies done, did find a correlation between higher recidivism rates and assault in prison.

I can compile some of those for the Commission.

CHAIRMAN WALTON: That would be helpful. If you know of that, that would be helpful.

COMMISSIONER AIKEN: Mr. Chairman, I have one quick question.

CHAIRMAN WALTON: Okay. We have about five more minutes.

MS. ANNE WIDEMAN: I would say just in terms of setting up standards, from a psychological
perspective, we always want to look at what we reinforce.

And I think that you spoke earlier about accountability, and where does accountability lie? And as a warden or a deputy warden or a captain on a yard or in a detention center, do -- am I accountable for people who get hurt on my watch, or is it always the line officer who ends up losing their job or getting transferred or moving around? Where is the accountability for me as the executive of my business for people who get hurt on my watch? And I think that's an important piece of any standard.

COMMISSIONER FELLNER: Very good point.
COMMISSIONER AIKEN: All right. I do agree with you. However, also what usually happens in a bureaucratic process is when something is going wrong, we find somebody to get.

MS. ANNE WIDEMAN: Yes.
COMMISSIONER AIKEN: And oftentimes we don't look at the systems and relationships between various systems that are supposed to protect and ensure that things are done. So we pick people out instead of looking at big systems and how these systems interrelate to each other.
My question is probably unfair to you, but I'll just pose it. I term it as the 800-pound gorilla that sits in the room, and we don't talk about it. It's not necessarily the actual physical act of sexual abuse upon a person, but the impact, the impact of sexual aggression in confinement facilities.

And what's prompted me to say this -- and I stand corrected with the testimony.

We heard testimony this morning about a graphic act of violence of an officer upon a person, related to oral sex. And that was clearly stated.

But also in that same testimony, at least I heard that there was a confrontation, fight -- I think the word was "riot" after this person went back to that confinement facility and was assigned to a higher level of security and two inmates were fighting over who was going to control her. And that injuries resulted.

And I wonder, those acts of aggression -- I mean, I didn't hear anything about oral sex when that happened. I didn't hear indications about, you know, collecting the semen and all of that stuff.

But here is, quote, unquote, riot. Here is injury. Here is people fighting over an individual that's
been classified and put in this type of housing. Now, my question is, how big is this issue of aggression and other side effects of this issue of sex abuse within confinement facilities, especially in immigration? Is that farfetched or does it make any sense at all?

MS. ANNE WIDEMAN: I would say that rape and sexual assault and sexual abuse are all acts of aggression and violence and are not sexual acts at all.

And I would say that they're just part of the continuum of assault, stabbing, beating. And I think that we have kind of made an artificial distinction and view rape as a sexual act when, in fact, it's an assault. It's a violent physical assault, and the threat of it is a physical threat.

CHAIRMAN WALTON: Okay.

COMMISSIONER FELLNER: I just want to -- I think -- I had the feeling that what Jim was sort of asking more is it goes back to something we talked about earlier, that you can have violence that may not on its face look like sexual violence in the way that forced oral sex is clearly sexualized violence. But it is still violence, in this case the riot, that is triggered by or related to abusive sexuality
or abusive sexual conduct in prisons. And I think that's what he was going -- yeah.

COMMISSIONER AIKEN: Yes. The big issue that I'm trying to determine here is not the actual act of penetration or whatever, but the intimidation and the fear and the reaction as a result of a person's sexuality, as a result of fear of something like that happening to an individual while in confinement status in an immigration situation.

MS. SHIU-MING CHEER: I would say that that is fairly widespread. And in the sense that when you look at people in a situation where they are powerless, such as people in immigration detention centers, they tend to want to exert power in some way against others that they see as even more powerless than themselves.

So often what happens is if a man is perceived to be sort of effeminate or even homosexual, then the other detainees will act towards him in a very aggressive way.

And it might not reach the level of sexual assaults, but very often it's derogatory actions, name-calling, a whole host of actions that create a very inhospitable atmosphere for this person.

CHAIRMAN WALTON: Okay. Well, thank you
very much, as with all the panels, for your presentation. It's very helpful and will contribute, I think, significantly to our effort to address this problem.

We'll recess until a quarter to 1:00.

Thank you.

(Recess taken from 12:02 p.m. to 12:51 p.m.)

CHAIRMAN WALTON: Okay. We're ready to resume. The other commissioners are on their way. But to try and stay on schedule, we will get started.

Our next panel will address strategies for preventing and responding to sexual violence in immigration detention facilities.

Would you please stand and take the oath.

Do each of you solemnly swear or affirm that the testimony you will provide to this Commission will be the truth, the whole truth, and nothing but the truth, so help you God?

MS. REBEKAH TOSADO: I do.

MS. CHRISTINA DE CONCINI: I do.

MS. ILIANA HOLGUIN: I do.

CHAIRMAN WALTON: Thank you.

I would like to welcome our next three