

1 completed, the appropriate personnel face disciplinary
2 action and the district is instructed to take steps to
3 ensure it does not happen again. The Office of
4 General Counsel coordinates with the -- investigate --
5 Internal Investigations Office in order to make sure
6 the information is transferred in case a lawsuit
7 ensues.

8 The Marshals Service is very thorough
9 in its policies and procedures to ensure that
10 prisoners are kept safe, secure and protected from
11 harm. The design of the cellblocks, as well as the
12 equipment used in cellblocks, enables Marshals Service
13 personnel to constantly monitor prisoners. In
14 transport vehicles, policy and procedures have been
15 set up for also constant monitoring of these
16 prisoners. The Marshals Service continues to address
17 concerns of PREA because they are also concerns of the
18 Marshals Service.

19 Thank you.

20 CHAIRMAN WALTON: Thank you very much.

21 Ms. Hill.

22 MS. CLAUDIA HILL: Good morning
23 distinguished members of the National Prison Rape
24 Elimination Commission. It's a privilege today that I
25 appear before you to discuss the Office of the Federal

1 Detention Trustee's oversight responsibilities.

2 The office of The Federal Detention
3 Trustee Office was established in 2001 to provide
4 oversight of detention management in non-federal
5 facilities. In particular, I would like to take my
6 time today to take a closer look with you at the use
7 of the Federal Performance-Based Detention Standards
8 and how those standards relate to sexual assaults in
9 non-federal detention facilities. My written
10 testimony provided you with a background on how these
11 guidelines for oversight of non-federal facilities
12 evolved into the current 200-page procedures and
13 policy manual that is used today.

14 The implementation of the Federal
15 Performance-Based Detention Standards into the private
16 detention facility contracts began in the fiscal year
17 of 2005. In fiscal year 2006, Quality Assurance
18 reviews were conducted utilizing these standards in
19 all private contract facilities and specifically
20 identified Intergovernmental Agreement facilities
21 housing federal detainees. A majority of facilities
22 that are utilized by the government are
23 Intergovernmental Agreement facilities and are not
24 contractually obligated to meet the Federal
25 Performance-Based Detention Standards requirements.

1 However, by partnering with local jurisdictions, which
2 are already subject to meet the Prison Rape
3 Elimination Act requirements, these facilities will
4 also be able to meet our standard requirements
5 relating to policy and procedures regarding sexual
6 assaults.

7 The Federal Performance-Based Detention
8 Standards are based on the American Correctional
9 Association standards, the Adult Local Detention
10 Facility standards, and also the National Commission
11 on Correctional Health Care standards. They are used
12 to ensure non-federal facilities housing federal
13 detainees are safe, humane, and protect the detainees'
14 statutory and constitutional rights.

15 The Federal Performance-Based Detention
16 Standards is designed as an aid for Subject Matter
17 Experts performing the Quality Assurance reviews to
18 support the Government Contract Quality Assurance
19 Program. The Federal Performance-Based Detention
20 Standards Review Book provides these Subject Matter
21 Experts with directions on making assessments on
22 Review Guidelines, On-Site Assessments, and a Review
23 Checklist.

24 Under my direction, as the Assistant
25 Trustee of Detention Standards and Compliance

1 Division, the Office of the Federal Detention Trustee
2 contracts the services of these Subject Matter Experts
3 to perform Quality Assurance Reviews and prepare
4 written report findings.

5 The standards are divided into nine
6 functional areas, all of which will be of interest to
7 you and are included in my written testimony. Today,
8 however, we need to look closely at the five key
9 functional areas that focus on detainee sexual
10 assault; namely, in the areas of Administration and
11 Management, Health Care, Security and Control,
12 Services and Programs, and Work Force Integrity.

13 Within these functional areas there are
14 specific policy and procedures that are to be employed
15 by the Quality Assurance Review Team when they are
16 conducting interviews with both staff and detainees.
17 We review each facility's operational procedures in a
18 very detailed manner. Please note that in all cases
19 of -- in all cases of sexual assault, a mandatory
20 notification is required to the appropriate agency, be
21 it the United States Marshals Service, the Federal
22 Bureau of Prisons, or Homeland Security.

23 Following an in-depth review of the
24 policies and procedures, a Subject Matter Expert
25 records the findings in an automated Facility Review

1 Management System.

2 At this time, I will be going into each
3 of the five key functional areas that encompasses the
4 sexual assault policy and procedures.

5 Administration and Management: During
6 a detainee's administration and orientation process,
7 detainees are to receive information in English,
8 Spanish, or any prevailing local language for the
9 specific facility. They are provided with
10 informational pamphlets and brochures. The following
11 information must be presented to the detainee: The
12 available informal mechanisms of bringing problems and
13 questions, including complaints of victimization, to
14 the attention of staff; how to use that facility's
15 formal grievance system; the facility's plan and
16 program for prevention, intervention, and remediation
17 of sexual misconduct; what constitutes sexual
18 misconduct, sexual harassment, and the consequences of
19 participating in such activities.

20 Under the Health Care section, the
21 Health Care Department is to ensure written policies
22 and procedures are in place for Health Care
23 departments to respond to sexual assault and that that
24 be communicated to both staff and detainees. The
25 facility is to provide a safe, secure and humane

1 environment for sexually assaulted detainees
2 undergoing mental health treatment, and the facility
3 is to take measures to protect victims from further
4 assault by their assailants.

5 Under the Security and Control section,
6 they are to ensure written policies and procedures
7 exist for detainee accountability and supervision.
8 Detainees are permitted and encouraged to make
9 confidential reports concerning detainee fear of harm
10 to a Housing Unit Officer or other staff, including
11 supervisory staff. Staff are to make an effort to
12 gain and use information about potential threats to
13 detainees in order to provide threatened detainees a
14 safe living environment. And detainees in danger of
15 victimization have ready access to a protected living
16 environment pending full investigation of any threat
17 of harm, as well as access to long-term protective
18 environment if investigation established that the
19 detainee is in danger of victimization. And detainees
20 who threaten the physical safety of others are
21 segregated from their potential victims.

22 In the area of Services and Programs,
23 to ensure policies and procedures exist that classify
24 and separate detainees into separate living settings
25 in a manner that addresses the security needs of those

1 individuals. Prior offenses, with emphasis on
2 assaultive nature of such offenses, are looked into.
3 Known or reported history for violence in a confined
4 setting, known or reported existence of victimization
5 factors such as homosexuality or physical appearance,
6 and behavior and/or unusual incidence of conduct while
7 within the facility or from a transferred facility.

8 And, finally, Work Force Integrity.
9 Staff must receive training in preventing,
10 intervening, and remedying sexual harassment and
11 sexual misconduct, be it staff on staff, staff on
12 detainee, or detainee on detainee, which includes
13 staff's obligation to monitor and report behavior of
14 other staff, how to report misconduct of staff, how to
15 observe and interact with opposite gender detainees,
16 how detainees are harmed by such conduct, and how the
17 security of the facility is jeopardized by sexual
18 harassment and sexual conduct.

19 Now, the Quality Assurance Review
20 Report provides a comprehensive record of the overall
21 facility's operations, and at the conclusion of these
22 reviews there is a closeout that is conducted with the
23 facility executive staff. These reports are forwarded
24 to the various government agencies that have the
25 custody of the detainees. Corrective action plans are

1 then required to be submitted to the Office of the
2 Federal Detention Trustee by that facility.

3 Here is an overview of the Federal
4 Performance-Based Detention Standards statistics on
5 meeting policy and procedures as they pertain to
6 sexual assaults. During the fiscal year 2006, the
7 Quality Assurance Review Reports revealed that out of
8 20 reviews performed, four facilities, 20 percent, did
9 not meet at least one or more of the approximately 30
10 Federal Performance-Based Detention Standards policy
11 and/or procedure requirements that specifically
12 address detainee sexual assault. Currently, in the
13 fiscal year 2007, the Quality Assurance Review Reports
14 have revealed that out of six reports or reviews
15 performed, three facilities, 50 percent, did not meet
16 one or more of the 30 Federal Performance-Based
17 Detention Standards policy and/or procedure
18 requirements that specifically address detainee sexual
19 assaults. This is, however, essentially good news
20 because a sizable number of these facilities have been
21 shown to meet all of the Federal Performance-Based
22 Detention Requirements addressing detainee sexual
23 assault. And those who have not met those
24 requirements can be clearly identified.

25 Members of the Commission, in

1 conclusion, OFDT will continue, the Office of the
2 Federal Detention Trustee will continue to work with
3 other federal agencies, local counties, sheriffs,
4 police departments and this Commission to meet this
5 challenging mission with diligence and determination,
6 in addition to the continued partnership with fellow
7 law enforcement agency efforts to ensure the safe,
8 secure, humane housing of federal detainees in
9 non-federal facilities.

10 I welcome your questions and
11 observations and thank you again for allowing the
12 Office of the Federal Detention Trustee to testify on
13 this important issue.

14 CHAIRMAN WALTON: And we thank both of
15 you for your presence here in coming to Austin to
16 present your testimony and your testimony itself.

17 Ms. Lowry, in reference to -- I think
18 you indicated there is one case that is still pending.

19 MS. HEATHER LOWRY: Yes.

20 CHAIRMAN WALTON: When did that
21 allegedly occur?

22 MS. HEATHER LOWRY: Was it the juvenile
23 case or the --

24 CHAIRMAN WALTON: It was the first one
25 you mentioned.