

1 chapters discussed as background material.

2 CALEA has no standards that directly
3 address issues concerning prison rape.

4 CALEA is well aware that the
5 restriction of citizens' liberties though temporary
6 detention or holding facilities represents areas of
7 significant expense, close scrutiny, and high
8 liability to agencies and their communities. In our
9 limited role, CALEA is ready to assist the National
10 Prison Rape Elimination Commission.

11 Thank you.

12 CHAIRMAN WALTON: Thank you.

13 MR. RONALD RUECKER: Good morning,
14 Mr. Chairman and members of the Commission. On behalf
15 of the International Association of Chiefs of Police,
16 the IACP, I am pleased to be here to discuss the
17 Prison Rape Elimination Act, its impact on the police
18 community, and the role that state and local law
19 enforcement agencies play in the investigation of
20 crimes, sexual or otherwise, that take place in police
21 lock-ups or other correctional facilities.

22 I believe it is fitting to start my
23 comments by stating my belief that many in the police
24 profession are only now becoming aware of PREA and its
25 applicability to their police lock-ups and holding

1 facilities. The IACP is committed to assisting the
2 Commission in working with the policing community to
3 educate on the important work of this body. It is for
4 these reasons that in April of 2006, the IACP premier
5 publication "Police Chief" magazine published an
6 article on PREA. The article, which outlined the
7 important work of the Commission, identified areas of
8 interest to Police Chiefs and highlighted steps that
9 police agencies could take to address this crucial
10 issue. For your information, I have attached a copy
11 of this article to my statement. It's Appendix A,
12 PREA: What Police Chiefs Need To Know.

13 Over the past 20 years, a relatively
14 substantial amount of attention has been brought to
15 bear on issues relating to jails and prisons. But
16 local police lock-ups, primarily because they deal
17 with highly transient and short-term incarceration,
18 have received only a scant share of that notice.
19 Individuals detained for interrogation, pending
20 charges, or awaiting transportation to a county jail
21 are among those who are housed in police lock-ups.
22 The transient nature of these persons often serve to
23 conceal their identity, their risk of escape, mental
24 and physical problems, criminal histories, and
25 potential for violence or suicide, among other

1 important matters.

2 Even though prisoners are normally
3 housed for only short periods of time, the environment
4 of police lock-ups can become volatile and emotionally
5 charged, as evidenced in part by the all-too-frequent
6 incidence of prisoner suicide and injury. Post-arrest
7 processing of prisoners is a time when the emotional
8 impact of the arrest becomes evident to many
9 prisoners. Those who are already suffering from
10 mental illness or who simply respond badly to pressure
11 and emotional trauma, those who have existing arrest
12 warrants against them and/or who may be guilty of
13 other crimes, those who are drug or alcohol abusers
14 who find themselves behind bars for their illegal
15 actions, persons with existing medical conditions, and
16 others serve to make up the often unknown quantity of
17 persons in police holding facilities.

18 Such individuals represent a
19 significant challenge to police agencies that are
20 legally responsible for persons in their custody. It
21 is a challenge that can only be met by planning for
22 contingencies and establishing professional protocols
23 that will serve to prevent unnecessary tragedies and
24 problems.

25 To meet this need, the IACP, through

1 its National Model Policy Center, has developed a
2 model policy that is designed to assist police
3 departments in the management of their lock-up and
4 holding facilities.

5 I have attached a copy, which is
6 Appendix B, of this model policy for the record, but I
7 would also now like to highlight some of the key
8 elements of the policy, particularly those related to
9 the safety of individuals under detention.

10 The model policy states that the
11 holding facility supervisor will establish procedures
12 for security within the lock-up. Paramount to the
13 issues that should be included in these procedures is
14 strict control of keys and firearms. In the first
15 instance, all keys to the secure lock-up should be
16 inventoried and placed under the control of an officer
17 at a central location where they can be accounted for
18 at all times. Keys should be issued only to
19 authorized personnel who have received instruction on
20 handling them and should always be returned to a
21 centralized control point.

22 No officer should enter a booking area,
23 lock-up or holding facility while in possession of a
24 firearm. Generally, such authorization would be
25 granted only during emergency conditions. Adequate

1 secure lockers should be located outside the booking
2 area or lock-up for temporary storage of sidearms,
3 pepper spray, and other related weapons in accordance
4 with agency policy.

5 Many police agencies do not conduct
6 booking in the sense of taking fingerprints and
7 photographs for identification purposes. In many
8 cases, arrestees are taken directly to a county jail
9 or detention center, where these functions are
10 performed. However, in cases where the local police
11 agency performs booking functions, the model policy
12 recommends that a booking officer be assigned to take
13 control of arrestees brought into the facility and be
14 responsible for all booking and security decisions.

15 A strip search may be conducted if
16 consistent with agency policy. This policy should
17 clearly define the circumstances under which a strip
18 search or body cavity search may be permissible. A
19 strip search is legally permitted only where there is
20 articulable, reasonable suspicion that an arrestee is
21 concealing contraband or weapons on his or her body in
22 a manner that cannot be detected by a pat-down search
23 alone. Routine strip searches of all arrestees or
24 strip searches of prisoners for less than an
25 articulable, reasonable suspicion are not permitted.

1 In addition, where permitted, strip
2 searches must be conducted, one, by a specially
3 trained and designated officer; and, two, in
4 conformance with hygienic procedures and professional
5 practices; and, three, in a specifically authorized
6 room with the fewest number of personnel necessary;
7 and, four, under conditions that provide privacy for
8 the prisoner from all but those authorized to conduct
9 the search.

10 Because of the procedure's highly
11 intrusive nature, body cavity searches, as compared to
12 strip searches, are subject to a higher legal standard
13 requiring probable cause to believe that the subject
14 is hiding contraband in a body cavity. In order to
15 conduct such searches, a search warrant is required
16 and is generally only granted when the suspected
17 offense is of a highly serious nature and/or the
18 prisoner poses a threat to the safety of the officers
19 or others and/or the security of the police lock-up or
20 the holding facility. It is imperative that a law
21 enforcement agency develop legally sound policy on
22 strip and body cavity searches, and that officers who
23 may conduct such searches be thoroughly trained in the
24 legal requirements and procedures involved in these
25 searches.

1 The assignment of prisoners to holding
2 cells should conform with agency policy, particularly
3 where females and juveniles are involved. Females
4 should never be held with males, and juveniles must be
5 sight and sound separated from adult inmates. In
6 addition, holding or incarcerating juveniles must
7 conform with Federal guidelines in terms of both the
8 nature and the duration of incarceration. Officers
9 should also exercise caution when holding prisoners in
10 multiple holding cells where their safety may be
11 endangered. For example, where possible, rival gang
12 members should be held separately, as should other
13 persons accused of particularly vile crimes, such as
14 pedophilia, or any others who by virtue of their
15 criminal charge, physical condition, or lifestyle are
16 more likely to be victimized by fellow prisoners.

17 However, despite a police agency's best
18 efforts, prisoners are sometimes victimized by fellow
19 prisoners or even by agency staff. In that case, a
20 police department's responsibilities switch to caring
21 for the victim and investigating the crime. To that
22 end, I have attached several model policies that deal
23 with crime scene investigation. These are listed
24 under appendix C.

25 Finally, before I conclude my remarks,

1 I would like to share briefly my experience as
2 superintendent of the Oregon State Police and the role
3 that we had in investigating crimes that occurred
4 within state correctional facilities. This, of
5 course, includes sexual assaults.

6 As recently as the 1980s, the Oregon
7 Department of Corrections had the responsibility for
8 screening and, to some extent, investigating
9 inmate-reported allegations. By the late '80s, there
10 were serious questions being asked about the
11 Department of Corrections' objectivity in these
12 matters. This was particularly true where
13 correctional staff were accused of assaulting inmates.

14 That said, a commission was established
15 then to make findings and recommendations on the
16 subject of institution crime, who should investigate
17 and how can the inmates be assured that their
18 allegations will be objectively evaluated and, where
19 appropriate, investigated.

20 As a result of that commission's work,
21 today the Oregon State Police receives and evaluates
22 all allegations of criminal activity within state
23 institutions. Each case is reviewed and a decision is
24 made as to whether the matter should be the subject of
25 a criminal prosecution or a return to the Department

1 of Corrections to be handled administratively.

2 This is necessary because the
3 constraints on the criminal justice system do not
4 allow for the prosecution of every reported crime.
5 For example, the theft of property or even a minor
6 assault between inmates may be best be handled through
7 administrative sanctions inside the institution.

8 The bottom line is that the Department
9 of Corrections is no longer in the position of having
10 to justify or rationalize its handling of these
11 allegations. They simply point to the State Police as
12 the agency responsible for determining what goes
13 forward in the criminal justice system and what does
14 not. This has worked well, notwithstanding the work
15 load issues for the State Police. And since the time
16 these procedures were implemented, there has been no
17 controversy or assertions of "cover up" where DOC
18 staff are concerned.

19 Might I add also that the partnership
20 between the Department of Corrections and the State
21 Police is healthy and vibrant.

22 It should also be noted that the inmate
23 population is well aware of the investigation
24 protocols, and I feel confident that inmates are less
25 reluctant to report a crime than in the past. Still,

1 however, reluctance to report is a huge issue in the
2 penitentiary environment. After all, in the
3 penitentiary social strata, there is no lower level
4 than that of a "snitch."

5 The bottom line reality is that inmates
6 and staff can be vulnerable to crime in the
7 institution setting, despite our best efforts to
8 provide for their safety. An open and independent
9 investigative process is necessary if those who
10 perpetrate crimes in the closed-custody setting are to
11 be held accountable. We fail the victims of crime and
12 leave ourselves open to legitimate criticism if we
13 fail to maintain an effective capacity to bring
14 offenders to justice.

15 As I conclude, Mr. Chairman, I would
16 like to offer the IACP's continuing assistance in
17 reaching out to the policing community. To that end,
18 I would like to make the communication resources of
19 the IACP available to the Commission. Each -- excuse
20 me. Each month, "Police Chief," the magazine, is sent
21 to over 30,000 law enforcement executives in the
22 United States and around the world. We would be glad
23 to include articles about the work of the Commission
24 or to publish draft standards. In addition, "Police
25 Chief" also contains a periodic feature called "From

1 the Director," which provides the heads of various
2 Federal agencies or initiatives with the opportunity
3 to communicate directly with the IACP membership. I
4 believe that an article from you, as Chair of the
5 National Prison Rape Elimination Commission, outlining
6 the work and goals of the Commission would be of great
7 interest to our membership.

8 I will be happy to answer any questions
9 that you may have.

10 CHAIRMAN WALTON: I'll try to get that
11 to you sometime in the near future, but I'm really
12 happy to see here -- as you may know, there was a
13 disconnect early on between -- I guess, as far as
14 communication was concerned, between our office and
15 your organization, and I do think that you play -- and
16 I am glad that you appreciate the fact that your
17 organization plays a significant role in this entire
18 issue. So I'm really happy to see you here.

19 MR. RONALD RUECKER: Yes, sir. Thank
20 you. We're happy to be here.

21 CHAIRMAN WALTON: Mr. Brown, other than
22 individuals who head agencies, because of their
23 goodwill and their desire to do the right thing, or
24 for humanitarian reasons, what is the incentive for
25 organizations to become associated with your effort?