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1 Thank you very much.

2 CHAIRMAN WALTON: You're welcome.

3 Ms. Totten.

4 MS. CYNTHIA TOTTEN: (As read):

5 "Good morning. I am honored
6 to be here today to speak before
7 the National Prison Rape
8 Elimination Commission. I hope
9 that what I share with you today,
10 though painful, will assist the
11 Commission in reviewing the
12 policies and practices currently in
13 place in the nation's prisons and
14 identifying ways to ensure that
15 corrections personnel do not abuse
16 their power and authority by
17 sexually abusing the inmates in
18 their care.

19 "On April 10th, 2004, I was
20 incarcerated in the receiving yard
21 at central -- California Central
22 Women's Facility in Chowchilla. I
23 was housed in a cell with seven
24 other women. I decided not to go
25 to dinner that night because I was

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1 not feeling well.

2 "So when Nathan Thomas Lesher,
3 a corrections officer assigned to
4 my housing area, passed by the cell
5 during a regular security check
6 between 5:30 and 6:00 p.m., I was
7 alone in the cell, laying on my
8 bunk, reading a book.

9 "About five minutes later
10 Officer Lesher came back to the
11 cell and tapped on the window,
12 directing me to come to the door of
13 the cell. He then unlocked the
14 cell door and I immediately saw
15 that his pants were open and his
16 penis was sticking out. I also
17 noticed right away that fluid from
18 his penis had dripped onto the
19 floor.

20 "I initially thought that
21 maybe this was some sort of sick
22 joke, but Officer Lesher entered
23 the cell and ordered me to turn
24 around and put my hands up against
25 the wall to be searched.

1 "When he stated a second time
2 in a voice that was almost a growl
3 that he was going to search me, I
4 realized that my worst nightmare
5 was coming true. The guttural tone
6 of voice he used and the glazed,
7 scary look in his eyes made it
8 clear that he was not kidding and
9 that I'd better not question what
10 he told me to do.

11 "When I turned around, Officer
12 Leshner grabbed my left breast and
13 squeezed it extremely hard. At the
14 same time he pulled down my pants
15 and began to shove what felt like
16 his fist into my vagina in a very
17 forceful manner. He rammed his
18 fist into me so hard that I
19 instinctively rose up onto my
20 tiptoes so that it wouldn't hurt so
21 much.

22 "As he was doing this, he
23 whispered into my ear several
24 times, quote, 'I know you have been
25 around a long time and that you

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1 know how to keep your mouth shut.'

2 "Then he abruptly stopped and
3 walked out of my cell, locking the
4 door behind him. Once I was
5 certain he was out of the hallway,
6 I took a very small piece of a
7 plastic trash bag that was in the
8 cell and used it to wipe up from
9 the floor the fluid that had
10 dripped from his penis. I folded
11 it very small and proceeded to hide
12 it with my belongings.

13 I was so afraid to report what
14 Officer Leshar had done to me that
15 I didn't tell anyone. I was
16 incredibly relieved, however, when
17 my cellmates came back from dinner
18 so that I didn't have to be alone
19 in the cell anymore.

20 "That night I laid awake,
21 devastated and outraged. My
22 vaginal area was still very sore
23 from the pain of his ramming his
24 fist into it, and the area around
25 my left breast was bruised and

1 tender. While the soreness went
2 away, I felt burning and itchiness
3 in my vagina for several days after
4 the attack, leading me to believe
5 that Officer Lesher's hand was
6 dirty and that he must have given
7 me some sort of an infection.

8 "Other women prisoners had
9 told me that Officer Lesher often
10 stopped at the windows of their
11 cells, looked in, and told the
12 women he wanted to see their
13 breasts. I was even aware of one
14 of my cellmates flashing him in
15 this manner.

16 "I was also told that he would
17 ask women to open the shower door
18 while they were showering so that
19 he could watch. However, I had not
20 heard of him raping anyone, and I
21 never expected that something like
22 this would happen to me in custody.

23 "At the same time I couldn't
24 stop worrying about whether I had
25 hidden the DNA evidence well

1 enough. I believed that if Officer
2 Leshner suspected that I might have
3 tried to save any evidence of the
4 attack, he would file a false
5 report with Internal Services,
6 claiming that I had contraband in
7 my cell just to have my belongings
8 ransacked and the evidence lost or
9 destroyed.

10 "In the days after the attack,
11 I moved the small piece of plastic
12 many times, trying to determine the
13 safest place to hide it.

14 "I had also decided against
15 reporting Leshner because I knew
16 that if I did, I would be placed in
17 administrative segregation where I
18 would be treated as if I had done
19 something wrong -- isolated, housed
20 with inmates who are there for
21 serious disciplinary infractions,
22 with no access to programming and
23 very little time outside of my cell
24 each day.

25 "I stuck to my decision not to

1 report the assault in large part
2 because I was afraid of what would
3 happen to me if Officer Lesher or
4 other corrections officers he was
5 friends with found out that I did
6 not keep quiet.

7 "I did not want to be seen as
8 a snitch, and I knew that I needed
9 to take Lesher's warning to keep my
10 mouth shut seriously because I
11 could risk spending life behind
12 bars if I didn't.

13 "When Lesher assaulted me, I
14 had two strikes against me under
15 California's three strikes rule.
16 If Lesher or another corrections
17 officer issued a disciplinary
18 charge against me, it could count
19 as an additional strike and result
20 in my sentence being extended to
21 life. So I needed to keep as low a
22 profile as possible for my own
23 good.

24 "I did not see Officer Lesher
25 at all in the days following the

1 attack, and on about April 14th I
2 found out that he had been arrested
3 for lewd and obscene conduct after
4 his neighbors reported that they
5 had seen him expose himself
6 publicly.

7 "He was released from jail on
8 \$100,000 bail. Within days of
9 this, Officer Leshar was terminated
10 from his job at the prison, and I
11 never saw him again. I felt some
12 small sense of justice that at
13 least action was being taken
14 against him for one of the crimes
15 he had committed and that he
16 couldn't hurt me again.

17 "Fortunately, I was only at
18 CCWF temporarily while it was
19 decided where I would serve my
20 time, and I was transferred for the
21 California Institution for Women
22 only ten days after the assault, on
23 about April 20th, 2004.

24 "I was incredibly relieved to
25 no longer be at CCWF, and I quickly

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1 made up my mind that since I no
2 longer faced a threat from Officer
3 Leshner or corrections officers at
4 CCWF whom he was friends with, I
5 was going to report him.

6 "I wrote a letter to the
7 Internal Affairs division at CIW,
8 California Institution for Women,
9 on about April 27th detailing the
10 assault.

11 "On May 5th I was called in to
12 speak with an investigator who
13 worked at CIW, and my tape-recorded
14 statement was taken.

15 "I then met with a regional
16 CDCR Internal Affairs officer who
17 also took a tape-recorded statement
18 from me.

19 "I turned over the DNA
20 evidence to this officer the same
21 day. While I heard that several
22 other women were interviewed about
23 Officer Leshner's inappropriate
24 conduct, to my knowledge, no effort
25 was made to prosecute him for

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1 abusing other women.

2 "Several months after my
3 report in August 2004, one of the
4 two Internal Affairs agents I had
5 met with came to the prison to meet
6 with me. He told me, to my
7 disbelief, that DNA evidence had
8 not -- that my DNA evidence had not
9 been tested yet due to priority
10 cases, including the Scott Peterson
11 case.

12 "I have since come to learn
13 that while many corrections
14 officers work hard to maintain a
15 safe and orderly environment,
16 sexual abuse against prisoners by
17 corrections officials is not
18 uncommon. Short of outright
19 abusive behavior, male corrections
20 officers regularly violate rules in
21 the course of their daily routine,
22 that are supposed to provide
23 unnecessary privacy invasions.

24 "For example, on many
25 occasions I have seen male

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1 corrections officers enter communal
2 shower stalls without warning as
3 groups of naked female prisoners are
4 in the middle of bathing.

5 "I have also felt humiliated
6 as I showered in stalls where male
7 corrections officers in an elevated
8 tower looked directly down into my
9 stall.

10 "Male corrections officers
11 know that they are supposed to
12 provide a verbal warning before
13 they enter areas where women
14 prisoners are in states of undress,
15 but these rules are often ignored.

16 "Throughout the past two and a
17 half years since Officer Leshner
18 assaulted me, I have continued to
19 feel the impact of the attack.
20 This situation has been very
21 difficult to deal with, and I have
22 often felt desperate, scared, and
23 at my wit's end. Sometimes I
24 simply want to give up and just
25 forget what happened to me and my

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1 need to find justice.

2 "I don't trust anyone,
3 especially corrections officials,
4 and as a result, I have no support
5 system to help me with what I have
6 been going through. That is why I
7 am speaking to you today using a
8 pseudonym.

9 "After I testify here, I must
10 return to the custody of the prison
11 where I am currently incarcerated.
12 I have done everything I could to
13 ensure that officers there do not
14 learn of what happened to me. I do
15 not talk to any of the inmates
16 about it, and I'm even afraid that
17 speaking to a mental health
18 counselor at the prison would be a
19 bad idea.

20 "I know how easy it is for
21 corrections officials to get ahold
22 of a prisoner's central file. And
23 I fear that if my attack were made
24 public, I would either be
25 retaliated against or become a

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1 target of predatory corrections
2 officers.

3 "In the midst of all this
4 stress, I have struggled with
5 depression and low self-esteem,
6 unlike anything I ever felt before
7 this all happened. And I regularly
8 have very distinctive flashbacks
9 and nightmares where I relive the
10 feeling of Mr. Lesher's arm around
11 my body, grabbing my breast.

12 "I continue to be very
13 intimidated by corrections
14 personnel and other authority
15 figures. For over a year after the
16 assault, I walked around with my
17 eyes pointed at the ground, afraid
18 to look corrections officers in the
19 face.

20 "I often feel overwhelmed and
21 defeated when I think about my
22 efforts to obtain justice for the
23 attack. I initially brought a
24 civil suit against Mr. Lesher, but
25 ultimately withdrew it because I

1 could no longer afford a lawyer.
2 And every time I received legal
3 mail from the lawyer who was
4 representing me in the suit, the
5 memories it brought up were just
6 too painful to deal with.

7 "It felt as if being involved
8 in a civil suit was making it
9 impossible to put what happened
10 behind me. As much as it killed me
11 not to feel strong enough to hold
12 him accountable, it seemed that my
13 mental health was more important.

14 "I have been extremely
15 frustrated with the criminal
16 justice system in this whole
17 process. In about June of this
18 year I finally learned that the
19 results of the testing on the DNA I
20 turned over to the authorities were
21 inconclusive. I was told that this
22 had something to do with the fact
23 that DNA evidence on plastic
24 disintegrates over time.

25 "Thus, Mr. Leshar will never

1 be prosecuted criminally for what
2 he did to me. I can only hope that
3 at some point soon I will be able
4 to resume my civil case against
5 him.

6 "My difficulties coping nearly
7 reached a breaking point earlier
8 this year when I found out that I
9 was going to be transferred from
10 California Institution for Women
11 back to California Central Women's
12 Facility.

13 "I became extremely anxious
14 and emotionally distraught during
15 the days after hearing this news.
16 I could not bear the thought of
17 returning to the same place where I
18 was sexually assaulted and facing
19 corrections officers who might be
20 aligned with Mr. Leshner.

21 "I spoke with a counselor for
22 the unit in which I was housed
23 about my concerns that I would be
24 retaliated against if I were sent
25 back to CCWF, and he responded in a

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1 manner I felt was very dismissive,
2 stating, 'A lot of women make these
3 allegations and nothing happens to
4 them.'

5 "I then spoke with other
6 prison officials who acknowledged
7 how upset I was and, fortunately,
8 my concerns were heeded and I was
9 transferred to a prison other than
10 CCWF.

11 "During the last year I have
12 noticed significant improvements in
13 the way male corrections officers
14 carry out their duties and maintain
15 proper boundaries with women
16 prisoners.

17 "For example, the male staff
18 I've interacted with since that
19 time have abided by recent rules
20 prohibiting male corrections
21 officers in California from
22 pat-searching or touching women
23 prisoners except in an emergency.

24 "Also, supervisory male staff
25 are careful not to have a woman

1 prisoner in their offices with the
2 door closed.

3 "However, I believe that there
4 are a number of areas in which the
5 CDCR, the California Department for
6 Corrections and Rehabilitation, and
7 the California prosecutors' offices
8 still need to improve their methods
9 of preventing and responding to
10 sexual abuse against prisoners.

11 "First, I don't understand why
12 two years passed before I received
13 the results of the DNA test on the
14 evidence I managed to save. After
15 the initial investigation into my
16 case, my letters to the
17 prosecutor's office and Internal
18 Affairs were no longer returned.

19 "This typifies the overall
20 nonresponsiveness of the entities
21 charged with responding to these
22 cases.

23 "I would also like to note
24 that I have yet to receive an
25 inmate handout addressing sexual

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1 abuse at the facility where I am
2 now housed, although I have been
3 here for months.

4 "In addition, there must be
5 improved hiring processes for
6 corrections personnel, including
7 more thorough background checks and
8 mental health screening to weed out
9 predatory applicants.

10 "Given his arrest for public
11 lewd conduct, Mr. Lesher was
12 clearly a sexual predator who
13 displayed such conduct both in his
14 role as a corrections officer and
15 out in the community.

16 "In order to lessen the
17 potential for predatory corrections
18 officers to target vulnerable
19 prisoners, lower-level corrections
20 staff should have only restricted
21 access to inmates' files. A great
22 deal of the fear of retaliation I
23 feel to this day is based on my
24 concern that a corrections officer
25 who decides to pull my file will

1 learn of the sexual assault because
2 it is documented there.

3 "In addition, effective
4 personnel monitoring processes must
5 be put into place that will allow
6 prisoners to feel more comfortable
7 voicing their concerns about
8 specific corrections employees and
9 will catch those who are sexually
10 harassing prisoners.

11 "Mr. Leshar should have been
12 terminated when he was leering into
13 women prisoner cells and asking
14 them to expose themselves. He
15 should not have been allowed to
16 patrol women prisoners' housing
17 areas, making it possible for him
18 to enter my cell and rape me
19 without being detected.

20 "I am hopeful that the
21 concerns I have explained here will
22 be addressed now that the Prison
23 Rape Elimination Act is starting to
24 really take effect in California.
25 I greatly appreciate the steps that

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1 the National Prison Rape
2 Elimination Commission has taken to
3 make it possible for me to testify
4 here today and to do so without
5 putting myself at further risk of
6 retaliation.

7 "Thank you."

8 CHAIRMAN WALTON: Thank you very much.

9 And, please, on behalf of the Commission,
10 relate to the witness that we appreciate her
11 submitting her written statement.

12 MS. CYNTHIA TOTTEN: I will. Thank you.

13 CHAIRMAN WALTON: Questions?

14 COMMISSIONER KANEB: Ms. Martinez --

15 MS. KATHERINE HALL-MARTINEZ: Yes.

16 COMMISSIONER KANEB: -- you voiced concern
17 about retaliation against prisoners who communicate
18 with your agency.

19 Knowing something of your activities and,
20 as you know, being a great admirer of your efforts,
21 I have periodically asked -- it may have been to
22 another staff person -- if, in fact, this phenomenon
23 of potential retaliation, you know, has been on your
24 mind, has surfaced before, and so on.

25 And my impressions of having made that