MR. GIBBONS: The witnesses are Garrett Cunningham, Judy Haney, Scott Hornoff and Ron McAndrew.

Mr. Cunningham --

MR. CUNNINGHAM: Good morning, ladies and gentlemen. I'm honored to be here today to testify before this most --

MR. GIBBONS: Move that microphone a little closer to you.

Thank you.

MR. BALECORTA: Why don't we just stop for a second so that we can really introduce you.

On behalf of the Commission on Safety and Abuse in America's Prisons, I want to welcome each one of you to the first of four hearings in Tampa, Florida. Before I introduce each of you, I want to thank you for your willingness to come before the Commission to discuss
Transcript of first hearing_Part 1.TXT

your very personal and moving experiences to come
before this Commission with your experience in jails
and prisons and public.

I would just like to make the audience aware that
because of the nature of the testimony of these four
witnesses, each of them will be allowed to speak for up
to 15 minutes, at which time the Commissioners will ask
questions. For the rest of the panels today, witness
remarks will be limited to five minutes and to be
followed with questioning.

Today's panel, the first panel of witnesses
consists of Garrett Cunningham, Judith Haney,
J. Scott Hornoff, and Ron McAndrew.

DR. DUDLEY: Our first witness is Garrett
Cunningham. Mr. Cunningham was released from the Texas
Department of Criminal Justice in April of 2004,
however, while in prison he was sexually harassed and
raped by a correctional officer. Despite
Mr. Cunningham's complaints to prison officials the
officer was never investigated or punished for the
abuse. The same officer went on to assault other
prisoners and was finally convicted of sexual contact
with an incarcerated person. Mr. Cunningham has since
founded and runs Pens, Friends & Services, which is an
organization that provides resources and information to
prisoners.

MR. CUNNINGHAM Good morning, ladies and
gentlemen.
Transcript of first hearing Part 1.TXT

MR. SESSIONS: Your mike is not on.

MR. CUNNINGHAM: I'm honored to be here today to testify --

MR. SESSIONS: Will you pull the mike a little closer to you? We cannot hear you.

MR. CUNNINGHAM: I'm sorry.

MR. SESSIONS: Thank you.

MR. CUNNINGHAM: Good morning, ladies and gentlemen. I'm honored to be here today to testify before this most important Commission. My name is Garrett Cunningham and as a former prisoner within the Texas Department of Criminal Justice, I have firsthand experience with the violence and abuse that takes place within America's prisons.

In 2000, I was housed at the Luther Unit in Navasota, Texas. While at the Luther Unit, I worked in the prison laundry under the supervision of Corrections Officer Michael Chaney. After just a few weeks of working with Officer Chaney, he began to touch me in a sexual manner during pat searches. At first, I thought it was an accident, but as it continued every day I soon realized his inappropriate touching was intentional. He also stared at me when I was showering and made sexual comments.

I was afraid to tell anyone about my problems with Officer Chaney, but in March 2000, I finally went to the unit psychologist and told him about the touching and crude comments. He asked me if I thought it was an accident and I told him it could not be because it...
happened all the time. He advised me to stay away from Chaney.

The prison psychologist's advice did nothing to prevent the continuing sexual harassment, so a month later I decided to go to the prison's administration for help. I approached the assistant warden and his second-in-command officer and told them about Chaney's sexual comments and sexual touching during pat searches. They told me that I was exaggerating and that Chaney was just doing his job.

I eventually confronted Chaney and told him to stop touching me. He only got angry and continued to harass me. I tried again to get help from prison administrators, but I was told to keep my mouth shut. Officer Chaney eventually raped me in September of 2000. On that day, I had just finished my job at the prison's laundry and began walking to the back room in order to take a shower. Suddenly, Chaney shoved me, knocking me off balance. I screamed and struggled to get him off me, but he was too big. Officer Chaney weighed about 300 pounds. I'm 5 feet 6 inches tall and weigh about 145 pounds.

While I struggled, Chaney handcuffed both my hands. He then pulled down my boxers and forcefully penetrated me. When I screamed from terrible pain, Chaney told me to shut up. I tried to get away, but I could barely move under his weight. After it was over, I was dazed. He took me to the showers in
handcuffs, turned on the water and put me under it. I was crying under the shower and I saw blood running down my legs.

When he took the handcuffs off me, he threatened me. He said if I ever reported him he would have other officers write false disciplinary cases against me and I would be forced to serve my false -- have other officers write false assault cases against me and I would be forced to serve my entire sentence, or be shipped to a rougher unit where I'd be raped all the time by prison gang members. He also warned me not to say anything to the officials I had complained to before, because they were his friends and they would always help him out.

At first, I didn't tell anyone about the rape. But in October 2000, I was so afraid of being raped again that I told the unit's psychologist that Chaney had raped me. He moved me to another job with a different supervisor and told me that if anyone asked why my job was changed, I should say that I wanted "a change of scenery." A few days later, I was given a new position in the laundry, right next door to where Chaney worked. I continued to see him regularly and he continued to touch me inappropriately.

I wrote the Internal Affairs Department two times...
Transcript of first hearing_Part 1.TXT

1        about Chaney’s inappropriate touching. They never
2        addressed my concerns and failed to take the
3        precautions to protect me. I was too scared to file a
4        written complaint against Chaney because I feared
5        retaliation from prison officials. Instead, I
6        requested a private meeting with an Internal Affairs
7        investigator. I received no response to my request and
8        Chaney was never punished for assaulting me.

9             Officer Chaney went on to sexually harass and
10        assault other prisoners. One year later, Nathan Essary
11        began working under Chaney’s supervision in the same
12        laundry where I had previously been assigned. On
13        several occasions, Nathan was forced to perform sex
14        acts on Chaney. Fortunately for Nathan, he was able to
15        collect Chaney’s semen during two of the attacks and
16        DNA testing positively linked the samples to Chaney.
17        Chaney finally resigned from the Luther Unit in January
18        2002 when he was indicted for his crimes against
19        Nathan Essary. Last month, he pleaded guilty to sexual
20        contact with an incarcerated person. He will serve
21        no time in prison.

22             A civil lawsuit brought by the ACLU’s National
23        Prison Project on Nathan Essary’s behalf settled in
24        December 2004. Nathan received money damages from
25        Chaney and from the State of Texas for violating his
26        constitutional rights.

27        For me, I have found no justice. While I was in
28        prison, the fear of retaliation by staff or other
29        prisoners haunted me and prevented me from reporting
30        Page 26
the rape right away. My fear led me to attempt suicide
just to escape the pain of my situation. Because my
previous complaints to prison officials resulted in
sharp rebukes, and the prison psychologist's assistance
was limited, I felt hopeless. I believe that openly
pursuing my charges against Chaney would have led to
retaliation from staff. They could write disciplinary
cases to keep in one prison for years beyond my
expected release date. They could ship me to a rougher
unit where I'd be guaranteed to face additional abuse.

I was not even safe among other prisoners. If a
prison gang member found out that I was raped, I would
be marked as vulnerable or as a "punk." These labels
practically guarantee being raped by predatory
prisoners and gang members. When I first entered
prison in Texas, and each time transferred to new unit,
gang members threatened me with violence. Fortunately
for me, I managed to fight off their attempts to
prostitute me and steal money from me. Others have not
been so lucky.

Many men and women in Texas experience sexual
abuse at the hands of officers and other prisoners but
their pleas for help go unanswered by administrators
and staff. It seems that officials take action to
protect the prisoner only when the victim has physical
evidence, such as a semen sample. Individuals without
this kind of proof are left to fend for themselves.
Prisoners who file a complaint encounter a complicated
grievance system that few prisoners can navigate, but
you are shut out of the court forever if you cannot
figure out how to get your grievance properly answered
and filed within a few days of the rape. Furthermore,
victims of rape are usually too upset to figure
out what they have to do to file a lawsuit; they're
thinking about lawsuits, they're thinking about how to
get protection, since prison officials do not want to
listen to them. These factors result in very low rates
of reporting among prisoners, which lead to the
inaccurate perception among prison administrators that
there is very little rape in prisons.

The reality is that rape is widespread in
prison -- widespread and prison rape victims feel
hopeless because of officials' failure to prevent
additional attacks despite complaints. Officials must
do more; hire more experienced and well-paid
professionals to oversee our crowded prisons in order
to minimize opportunities for individuals to be alone
and commit violent attacks; engage prisoners in
constructive programming that includes employment to
discourage money-making activities of the prison
gangs; separate predatory prisoners from non-violent
and vulnerable prisoners; finally, take requests for
protection seriously, address them quickly, and help
victims by providing them with the medical and the
mental health treatment that they need.

Now that I'm out of prison, I have not forgotten
the people still behind bars. I speak out about my
experience at the Luther Unit whenever I have an
opportunity and I have my own organization to help
prisoners. With the postage stamps that prisoners send
to me, I provide up-to-date and accurate resource
information to prisoners throughout the entire country
who are looking for legal help, books, pen pals and
aftercare services. The people I correspond with are
always so grateful for the assistance because no one
ever seems to be providing it.

My hope is that this Commission will hear the
pleas for protection from the abused and violated in
America's prisons and expose the widespread nature of
violence. Your scrutiny, along with the attention of
the media and government, is crucial to exposing the
violence behind bars and preventing additional abuse.

I thank you for your time and look forward to your
questions.

MR. DUDLEY: Thank you, Mr. Cunningham

What we're going to do formatwise is ask one or
two follow-up questions before we go into the next
witness, and then after we've completed all four
witnesses, open up for all of the commissioners to ask
questions of any of the four of you.

So for you, you've talked a lot about the -- how
hard it is for the victims of such experiences of abuse
to come forward. What about all the other people in
the prison who must have seen or at least know about
what happened to you and others, what's your experience
Transcript of first hearing_Part 1.TXT

with regard to their speaking up on behalf of those that have been victimized?

MR. CUNNINGHAM: I think that a lot of the reason that the people aren't speaking out is in fear of retaliation from other prisoners and from staff. And I think that, you know, me being a voice for them will hopefully encourage people to start trying to speak up.

MR. DUDLEY: One more quick question before we move forward. The impact -- as we know, most people actually get out of jails and prisons, and what is the impact of this sort of experience either based on your own experience or based on those others that you've come to know and work with? How does it affect people in their ability to function once they're out?

MR. CUNNINGHAM: I think for myself personally it's a very traumatic experience. It's something that I have to live with for the rest of my life. And I think for anyone else who's been in my particular situation or a situation similar to myself without the help, you know, being offered that's needed, I think it's a very difficult situation to deal with.

MR. BALCORTA: Our next witness is Judith Haney. Judith Haney is the lead plaintiff in a class action suit against Miami-Dade County for unnecessary and invasive strip searches. She lives in Oakland, California, and has a BFA from California College of Arts and Crafts.

Ms. Haney currently works as the project manager for the California-based biotech firm.
Transcript of first hearing_Part 1.TXT

Ms. Haney --

MS. HANEY: Thank you.

Good morning. Can you hear me?

MR. SESSIONS: Barely.

MS. HANEY: Can you hear me now?

MR. SESSIONS: Yes.

MS. HANEY: How's this? There you go, right angle.

Okay. Good morning. I'd like to thank the Commission for inviting me to speak today regarding my personal experience of being strip searched in Miami-Dade County.

I'm the lead plaintiff in a federal class action suite filed against Miami-Dade County in March 2004 for the unconstitutional and unlawful practice of strip searching and visually inspecting body cavities of women arrested for non-violent, non-drug or weapons-related misdemeanors in Miami-Dade County Detention Facilities.

I'm here today to speak to you about the details of my strip search, what it felt like, why I filed a class action suit, and what we discovered about Miami-Dade's practice of strip searching women prior to first arraignment.

What I hope the Commission will understand at the end of my testimony is that type of strip search that I and thousands of women experienced was about humiliation and control, not about safety, just as rape
Transcript of first hearing_Part 1.TXT

is about violence and not about sex. I also hope that
the Commission will understand that the people most
likely to be subjected to this unconstitutional and
unlawful abuse are very rarely privileged to seek a

remedy. Finally, this practice is not limited to a
county in South Florida but it happens across the
country.

On November 21st, 2003, during the FTAA protests
in Miami, I was arrested for Failure to Obey during a
jail solidarity rally in front of the Miami-Dade County
Pre-Trial Detention Center. Since I and the others
that I was arrested with were already in front of the
jail, the police were able to arrest us and march us
over to the Detention Center about 100 yards away,
where the police handed us over to corrections officers
for processing.

We went through the routine process of giving our
names, having our pictures taken, being frisked and
asked to empty our pockets and so forth. Then they
marched me and the three other women I was arrested
with into a hallway and sat us down on a bench. I
thought we were just sitting waiting to experience the
next dull aspect of being "processed."

The hallway was not that long, with doors on
either end and several doors that appeared to open into
small rooms. There were three female corrections
officers in the hallway with us. They opened one door
and removed a woman from that room and moved her to a
room farthest from us. The guard then took the first
Page 32
woman from my group and put her into that room. I heard the guard tell her to take off her clothes. Hearing that startled and surprised me. We had not done anything that involved drugs or weapons; we were behaving peacefully and had been compliant with the requests of the corrections officers during the booking process. There had been no indication during our arrest and subsequent frisking and processing that the police or corrections officers considered us a threat in any way.

I leaned over to the young woman to my left and said in a very quiet voice, "Are they strip searching us? That's unconstitutional." I'm not sure I'd even taken a breath before the guard who had been standing nearest to me came over to me and in a very severe tone said, "Are you refusing?"

What happened next happened very quickly, but in my mind I had a lot to consider. I knew that the likelihood was close to zero that if I responded, "Yes, I am refusing -- this is an unreasonable search and is unconstitutional," that the guard would say, "Oh, all right, we won't do it then." I did know from the experience of individuals that have been in similar situations and had refused to be strip searched that the price of refusal could be high.
A friend of mine in a similar situation in San Francisco refused to be strip searched, and she told me that the authorities responded by putting her in what I understand to be called a "cold room." Her clothes were removed without her cooperation, and she was put naked into a bare room with a hole for a toilet and nothing to cover her except what she described as a small dirty mat that looked something like a catcher's vest. The lights were bright, and there was a window looking into the room so that anyone passing by could see her sitting there naked. It had a metal door and someone came by I think every 15 minutes and banged on it; their story was that she was behaving strangely and needed to be put into the room for her "safety."

With her story in mind, I had a brief moment to consider -- was I ready to go through that? If I had refused, would they punish not only me, but the women arrested with me? While I was considering what I would do, the other women on the bench responded to the guard for me -- saying in unison, "No, she's not refusing." This all happened very quickly, and I knew that I wasn't ready to risk the possible consequences of refusing to be strip searched as well as putting the other women in jeopardy.

When it came my turn to be strip searched, the guard led me into the same small room the others had been in; it was approximately six by eight, maybe smaller, and had a bench along one wall. The guard
Transcript of first hearing Part 1.TXT
stood in the doorway and ordered me to stand facing
her and to remove my clothing piece by piece. As I did
so, I handed a piece of clothing to her; she told me to
put it on the bench. I started to fold my
clothing and put it on the bench. She told me no, just
drop it. I proceeded to remove each piece of clothing
and drop each piece on the bench. While I was removing
my clothes, the guard continued to stand at the door
and watched as another guard stood behind her in the
hallway; also watching me.

I go into this detail because it's important to
understand that this is not the doctor's office, the
gym or the spa. It is a highly-controlled process in
which each movement is controlled by a person who has
the authority and force over you. There is no consent
and there is no agency.

After I removed all my clothes, the guard told me
to turn around, bend all the way over, and spread my
cheeks. Bending over and "spreading my cheeks" exposed
my genitalia and my anus to a complete stranger, who
had physical authority over me, so that she could
visually inspect me. The only way I could cope with

this was to stay very focused in my head and to just
separate from my body. The feeling was sort of like
floating and sort of like being a big lump.

The guard's next set of instructions were to
squat and then to hop like a bunny. Remember, I'm
still "spreading my cheeks," so I can't use arms to
balance or assist me in the hopping process.
Page 35
Transcript of first hearing_Part 1.TXT

Hopping-like-a-bunny was physically very difficult for me because I've had bad knees for over 30 years. I didn't do it to the guard's liking, so I had to do it over several times, even though I explained to her that I was physically unable to do it. When that process was complete, the guard told me to turn around and to remove my navel piercing. I explained that it was unlikely that I would be able to remove it since it was not made to be removed. She told me to remove it or she would "cut it out." I tried to remove it, but I couldn't. The guard then left and returned with very large clippers and cut it out of me. She then told me to put my clothes back on.

I stood, bent over, and hopped naked under orders and in view of at least two guards in a small room with a door open to a hallway that passersby could see in for about ten to 15 minutes. My genitalia and anus were exposed and viewable to anyone passing through the hallway for over five minutes. I would ask the Commissioners to take a moment and imagine what that feels like.

After getting out of jail on bond about 36 hours later, I spoke with the men who were arrested at the same time and inquired if they had been strip searched; they had not. This is when I started to believe that I would consider legal action against the county. To perform an unreasonable strip search which in effect is visual rape is outrageous enough, but to do it to women
only and not to men arrested for the same minor
non-violent charge revealed the practice was doubly
unjust.

I did additional research and discovered that
Florida state law had specific guidelines
recording strip-searches, none of which were
followed in my case or in the cases of the women
arrested with me. At this point, I spoke with other
activists who'd had similar experiences and who
referred to me to an attorney who specialized in these
type of cases. I retained the Law Offices of
Mark Merin of California and then later added
Randall Berg of the Florida Justice Institute.

After filing the complaint, my attorneys
discovered that indeed women arrested for minor

offenses, which were not drug or weapons related, were
routinely strip searched prior to the first arraignment
and that men were not subject to the same procedure.
Additionally, they discovered that the practice had
been going on for seven years despite being in
violation of state and federal law. Miami-Dade's
reason was that, due to overcrowding, they were housing
pre-arraignment arrestees with the general population,
and they were concerned about contraband. However,
Miami-Dade did no study prior to instituting the policy
that would indicate that strip searching
pre-arraignment misdemeanants would reduce contraband
in the jail.

During the process of the suit, we identified a
potential class size of ten-to-twenty-thousand women who were subjected to these dehumanizing searches over a four-year time period. Yet we know that the practice lasted seven years. That means it is likely that over 20,000 women were subjected to these searches in one county. These women may be elderly, physically or mentally disabled, menstruating, or pregnant while they were forced to expose themselves and hop around.

The other thing that my attorneys discovered that I think is important for the Commission to know, is that prior to filing the complaint no one knew about this practice. My attorneys, the Florida Justice Institute, a firm that deals specifically with prisoners' rights, had not known about it, the Public Defenders in Miami-Dade didn't know about it. If we hadn't filed the lawsuit, these unlawful strip searches would most likely be continuing today.

Miami-Dade has stopped strip searching pre-arraignment misdemeanants, as has Sacramento, San Francisco, and New York. But it took class action lawsuits to make that happen. These searches happen on the doorstep of the prison system, not deep inside. If this level of humiliation is happening to pre-arraignment misdemeanants, what's happening to the women who are spending years inside the system?

Thank you.

MR. DUDLEY: Thank you, Ms. Haney.

I'm struck by your comment that no one seemed to
know that this was going on before you brought your
suit, and I'm curious to know, based on, you know, what
happened since. Is it your sense that the women who
had been involved didn't know what their rights are and
therefore didn't report them or knew what their rights
are and there were other impediments to having reported
this or revealed this before?

MS. HANEY: I think it's a combination. Knowing

your rights is something that activists are kind of
focused on. But frankly, I think the general
popu- -- general public don't actually know what their
constitutional rights are, and I think that also the
people who are typically involved in being at a
pre-trial or a detention center also don't know
their rights.

But I want the Commissioners to be clear. There's
other factors that contribute to whether you come forth
and say these things. First, you need to know
whether -- that there's a problem that it's
not -- that it's just not part of the ride; that you
shouldn't be subjected to this. But then to be able to
get -- stand forth, know who to contact, understand
that it requires a great deal of focus and time, money,
those are not privileges that everybody has. I've been
privileged. I have the economic support. I have the
community support. I knew people that knew that this
was wrong and knew which attorneys I could go to to
process -- to file this lawsuit.

Most people in the corrections system don't have
those privileges, and I think that that's a big factor in whether people stand up and speak out.

MR. BALCORTA: Ms. Haney, is there a reason why you, or did you attempt to file a civil rights complaint at a state or federal level, and why was that not done?

MS. HANEY: I filed a class action suit. I filed it as a class action suit as opposed to any other kind of suit because I believe that there were potentially large numbers of women most likely that were affected by this, and a solitary civil rights would not address or open it up to this larger group.

And I felt that for people to really see what was happening, we needed to file it as a class action suit so that they could understand that this was happening to thousands of people. This didn't just happen in Florida. As I mentioned, I mentioned several cases. It is happening across the country. Often it's happening because -- the lawsuits are filed by the people who know that they can do this, and it's only because of these lawsuits that we may get the knowledge that the general public knows about these things.

MR. DUDLEY: Our next witness is Jeffrey Scott Hornoff. Mr. Hornoff served over six years of a life sentence in a Rhode Island prison until he was exonerated. Because he had been a police detective before his arrest, he served that time in protective custody. Since his release he has been
Transcript of first hearing Part 1.TXT
pursuing graduate study in criminal justice and has

been a tireless spokesperson against wrongful convictions. And in addition, a spokesperson against abusive and degrading conditions of confinement. However, he remains committed to law enforcement. He is seeking reinstatement with the Cranston, Rhode Island Police Department, but believes that the ways in which we treat those who are incarcerated are wrong and counter-productive.

Mr. Hornoff --

MR. HORNOFF: Good morning.
MR. SESSIONS: Good morning.

MR. HORNOFF: My name is Jeffrey Scott Hornoff, and as mentioned, among other things, I am a police officer, a convicted murder, an exoneree, and now an advocate.

Rather than read from the statement which I submitted to the Commission members, I would prefer to speak from my heart and simply share with you a few of the experiences in which I was subjected to and I witnessed others being subjected to during the nearly six and a half years of my wrongful imprisonment.

In 1989, I was a newly promoted detective with the Warwick Rhode Island Police Department. I was also for a short time a murder suspect by my department during a murder investigation of a friend of mine. After I
Transcript of first hearing_Part 1.TXT

requested a polygraph test -- in which I passed -- an all-too-quick investigation, I was cleared as a suspect.

A few years later the state police took over the investigation. They testified at my trial that they were only assigned to investigate me, so a single and focused investigation took place. On June 19th, 1996, after a six-week trial, I was found guilty of first degree murder. I was subsequently sentenced to life in prison, and I was transported to the Intake Service Center.

During this short time of testifying you will not hear me use the words "criminal justice," "Department of Correction" or "correctional officers" because I do not believe that any of those words truly exist and can be applied properly. I was transported to the Intake Service Center, which is part of the Rhode Island prison system.

I was strip searched again. My shoelaces, my belt, my tie were taken from me. I was placed in a "cold room" similar to what Ms. Haney described. Fortunately, I was allowed my underwear. But there were bright lights. I was kept in there for 48 hours. It was considered observation for my protection.

After that time, I was taken to the lieutenant's office and I was told that because I am a police officer I was going to be placed in protective custody. It is a unit which houses police officers, prison
Transcript of first hearing_Part 1.TXT

4 guards, convicted child molesters -- a couple of who I put in there -- convicted rapists, juveniles, gang members, confidential informants, anyone who cannot make it in general population or who poses a security risk to a prison.

I was initially housed with an elderly man who actually probably saved my life, but after I started to complain about the conditions, I was rather quickly placed in a cell with one of the most vicious and proud pedophiles that I'd ever come in contact with.

The guards would routinely harass the inmates, including myself. Fortunately, I was treated indifferently by most of the guards; no better, no worse, and that's what I wanted. I didn't want favoritism. Other guards, possibly trying to prove a point, went out of their way to go through my cell the few times I did go down to the chow hall. I didn't eat very much in prison because I didn't trust leaving my room and what little possessions I had there, including my legal work. When I did return from the chow hall, oftentimes I would find everything thrown out into the module, the common area, and I would have to go through the photographs, the legal work, and what not and retrieve it.

During the first couple years of incarceration, I was a mod porter, a custodian, if you will. And part of my duties was cleaning up after the frequent cell searches. I understand that cell searches are an
important part of maintaining safety and security, but
when the guards go to extreme measures of laughing at
and ridiculing the inmates while they are handcuffed to
the railings outside of their cells in various forms of
dress and undress, and they proceed to throw all of
their personal possessions out into the common room and
mix them together, joking that it would be fun to watch
the inmates scurry like mice to find photographs of
loved ones, important legal documents. It was just
another form of humiliation.

Also as a mod porter, during one occasion a
mentally ill inmate attempted suicide. It was one of
several suicides and suicide attempts that I witnessed.
This inmate nearly severed one of his hands off. And
the next day I was told to clean his cell. I was given
a face shield and some rubber gloves and some cloth
boots and with two other mod porters we were told to
bag all of the inmate's personal property, his
mattress, pillows, sheets, which were all blood soaked.

We had no training. I didn't know if this individual
had any type of communicable disease. I was ordered to
do this, and if I didn't do it I was going to go into
segregation. So I decided to obey the order.

In mentioning "segregation," I would share with
the Commission that above protective custody was where
the segregation unit was housed. Nowhere in the prison
facility is there more abuse and degradation than in
segregation. I could hear the frequent beatings of
inmates above me as they screamed for help, their cries
coming through the air vents as guards would relentlessly pound on them, and you could hear the laughter.

Approximately two years after I was in prison, I became a law clerk. This was a step up. Because of my legal background, they decided to move me into the law library. As part of my duties, I was to take a law book cart to segregation. Now I was seeing these inmates firsthand, and I would see the bruises on their face. I would see them stripped bare in cells that did not have a blanket, a pillow, or the water turned on. And I began to understand why these inmates would sometimes reach a breaking point in which they would defecate and urinate in their toilets and then shove their sheets and pillows into the toilets creating a mixture that would stop up the system. Then they would begin to flush their toilets, and this would overflow and rain down on us in protective custody.

Besides the abuse in segregation and the other humiliations which I witnessed and endured, I also spoke with the guards; and one of the reasons I will not refer to them as "correctional officers" was I constantly asked them if they had a degree in sociology or psychology or anything that would put them in a position where they could motivate an inmate, whether they're innocent or guilty, to break the cycle that they were in. Some of the inmates would go in and out of the prison system five or six times, which was
rather frustrating for me, being innocent. None of the guards would admit to any type of degrees. They actually laughed and scoffed.

I could go on and tell you about guards who took food out of the cafeteria for their summer picnics. I could go on and tell you about guards who just for the littlest look from an inmate would find some type of retaliation. Whether it's coming from Florida, California, Texas or any of the other areas in which you're going to have people testifying before you, I can tell you it's widespread. I can also tell you that the prison director in Rhode Island, who I have been told by one of the Commission members here is actually looked upon as a bright spot and a model of reform is nothing even close.

Actually, after my release in November of 2002 when the real killer finally came forward, the prison director approached me and reached out to me, and after spending some time with him in his office and trying to share with him my experiences and what was going on on a day-to-day basis -- not only in intake but also in high security and every other facility -- I was frustrated when he said that the government of Rhode Island would give him all the money he wanted for bricks, for barbed wire, for confinement and control. Because truly all American's prisons are is a warehouse.

We are not interested in rehabilitation. We haven't been interested in rehabilitation since
President Nixon was in office and used the campaign platform of "Get tough on time." We need to refocus our efforts and we need to break the cycle.

I'll close by sharing with you something that an inmate shared with me just prior to my release. I found out on November 4th of 2002 I was going to be released, and another inmate was sitting with me in the day room and he looked at me, and said, "Scott, they're creating monsters, and I'm one of them and they're going to reap what they've sown." We are reaping what we've sown. I do not want those individuals being released from prison, treated like animals, to be my neighbors again.

We certainly need this Commission. It is long overdue. I applaud any efforts and any advances that you can make because I've seen a similar Commission in Rhode Island fail miserably.

I did send a rather critical e-mail to the Commission when I initially found out that you are going to be having these testimonies take place. It was at a time when Rhode Island's Commission was disbanding. And since then I have reviewed the Vera Institute and the power that the institute does have as far as policy reform and it is in policy reform that we're going to see the necessary change.

Thank you.

MR. BALCORTA: Before you were incarcerated and were working as a police detective, did you
MR. HORNPOFF: I decided to become a police officer when I was 12 years old, and I devoted my life to the judicial system. When I heard of an individual receiving ten years or twenty years for a sentence, usually I would think that that was justified. After having experienced the judicial system from the many angles I have -- including jury duty since getting out -- I wasn't chosen -- I have come to find that judges throw out these sentences without a true regard for how much time ten years truly is. One day of freedom in reality is like three days in prison. That's pretty much how slow the clock moves when you are incarcerated.

Instead of looking for short-term relief by holding somebody accountable and putting them in prison, besides focusing on finding the one who is truly responsible for the crime, we need to focus on rehabilitation and reintegration. I can tell you that the two and a half years that I have been released, besides the guest lectures I've been doing pretty much for free, I have been putting out employment packages, and without the love and support of my loved ones, I could see me, a police officer, committing crimes to survive. So now I understand why there's a high recidivism rate as well.

MR. BALCORTA: You know, it's individuals that...
come before the public and share experiences like yours. I'm pretty sure that in the past two and a half years you've learned from a lot of individuals who share experiences like yours, and even when you were a police detective you would hear about experiences, I'm pretty sure. What do you think it's going to take, besides Commission hearings, for people to start believing these human beings?

MR. HORNOff: I brought with me just a folder of sample letters from the inmates from Rhode Island who were requested to write in and share the abuses that they were suffering. These individuals are as brave as any I know because they basically put their lives on the line by daring to send these out. Most of the individuals' letters never even reach the Commission because they were thrown away by the mail room guard, who has a great deal of power and likes to use it. These letters come from every facility in Rhode Island. If you were to solicit letters from inmates around the country, you would see the same experiences. You would see the same suffering and abuse. It's really difficult for me to see and to understand why our human race can treat other humans the way we do. We don't treat each other -- there are profound and immeasurable numbers of acts of kindness, but on the same token, we can be pretty cruel to our fellow men and women.
MR. BALCORTA: Thank you.

Our next witness is Ron McAndrew. Before his retirement in 2002, he was the Interim Director of Corrections for Orange County, Florida. He was responsible for overseeing 1,651 employees; the custody, care, safety, and rehabilitation of over 4,000 inmates, and the direction of a budget that exceeded a hundred million dollars. Prior to that, Mr. McAndrew worked for more than 20 years in the Florida Department of Corrections, starting as a correctional officer at the Dade Correctional Institution. He was an investigator for five years at the Tomoka Correctional Institution, and warden at the state prison facilities in Wewahitchka.

MR. MCANDREW: Wewahitchka.

MR. BALCORTA: Wewahitchka -- I'm sorry -- Starke, and Orlando.

Mr. McAndrew --

MR. MCANDREW: Thank you, sir.

Good morning Co-Chairs Nick Katzenbach and Gibbons and honorable members of this Commission.

MR. SESSIONS: Good morning.

MR. MCANDREW: Before I go further, let me say as a weathered warden, I am still troubled to hear the first three witnesses and the accounts that they have presented to you today. I'm stirred emotionally by what each person has said.
Transcript of first hearing_Part 1.TXT

Let me dedicate my written statement today to the
two correctional officers that saved my life at Dade
Correctional Institution back in 1980, Sergeant Robert
Erhenkauser, now a lieutenant at Tomoka Correctional
Institution, and the late Sergeant George Leone.

Further, please let me make it clear that I am not
a disgruntled, retired Department of Corrections
employee from the State of Florida. I had a wonderful
career that I enjoyed very much. I liked this
profession so much that I strongly recommend it to
anyone at any employable age. I've hired people well
over 60 to start out as a correctional officer. Turned
out to be some of the best employees I've ever known;
if they're seeking a challenging and rewarding career
path.

If during this presentation "ax-grinding" should
appear, please know that it's nothing more than
resentment for those that feel they're above the
law.

The very notion of having the opportunity to come
before such an honorable commission with such an
honorable purpose has been but a personal dream of mine
for many years. Thank you. Thank you very much for

this privilege.

It's of central importance first to compliment the
many honest, hard working correctional professionals
that do in fact exist in the Florida Department of
Corrections. During 23 years I had the distinct honor
and pleasure to serve with thousands, that including
Page 51
correctional uniformed staff and senior appointees that have left in me in a state of veneration. This honorable group is not the group of whom I shall speak today.

Arriving in Florida in 1978 as a very modest retiree from private business, a second career was necessary for health insurance and supplemental income. I didn't realize that this new employment as a correctional officer would become the most enjoyable walk of life. The peaks and valleys were strongly highlighted with friendships, honor, rapid from promotions, recognition and praise, but they were definitely perplexed with racism, intimidation, violence, prisoner abuse, theft, safety violations, drug smuggling, perjury, and records falsification, to include the purging of personnel records of the correctional officer disciplinary records from the files of goon squad members.

I experienced direct involvement in putting down two major riots in my first year as a correctional officer, finding a near dead fellow correctional officer, unconscious and bleeding from razor slashes over his face and entire body; it was a scary site. Finding myself being beaten with iron rebar and steel chairs and personally observing both physical and mental torture of those under our custody and care, and it was that that spurred me on toward a goal of better corrections. I knew it could be done better, and it
It was during the early days that I began to learn that the Department of Corrections had a two-core staff assembly throughout the department. There was the first core group who did the work as required by rules and regulations, but often with the exception of "not reporting" certain incidents observed -- I'll get into those incidents -- for fear of job loss or retaliation. The second group was certainly the minority core but the group illustrated that they owned the law and could enforce at will without regard for its content. Though not a core group, a third and very small group did in fact give their full work toward excellent corrections as demanded by the law. Many of this group are still good friends of mine today, that small group, and which we communicate on a rather regular basis.

Taking an early career stance against the second group, second core group, resulted initially in the poisoning of our pet Doberman, the slashing of tires of our personal vehicle and telephone threats, serious telephone threats.

In the years that followed at other locations around the state of Florida, it became obvious that prisoner abuse -- more than anything else -- was systematically chronic. The large prisons were plagued with "goon squads" that were well known to, and feared by, both prisoners and staff. Another important observation collected over time was a definite psyche or mentality belonging to "goon squads" as a
Transcript of first hearing_Part 1.TXT

whole. This comment is based on quotes and actions that I personally observed during this period. Such quotes as, "It's us against them" meaning, of course, that it's us against those who would fault us; or "they want it done, they just don't want to know about it." In other words, upper echelon staff want us to keep order with brutal force, and that's truly believed by a number of uniformed staff around this state, that they don't want to hear about it. In other words, keep it quiet; or the wearing of partially visible self-designed insignia implying "goon or special squad member"; or a group of such members meeting a staff member suspected of "informing" at his personal vehicle at quitting time. That's very intimidating to walk out to your car in a large parking lot where there are three or 400 cars and there are ten or 12 goons sort of surrounding your car. They don't say a word to you, they just look at you real hard like. You better be getting the message, bubba. Telephone threats, as I mentioned; meeting at local watering holes and partying after an "eventful" shift. That eventful will coincide with the incidents that I'm going to get into in just a minute.

The following sample incidents will give basic detail of a number of incidents where goon squad tactics that I personally observed and were attempt -- attempts were made to address the violators:

During the opening of Orange Correctional
Institution (later to become Central Florida Reception Center there in Orlando) a goon squad was observed during this -- I observed a goon squad in its formation process. And with that -- I was an assistant warden at that time, and with my warden's full support, tireless efforts were made to apprehend those responsible for the beating of prisoners to little avail. They were just too slick for us. But when the trail did become "hot", many of the goon squad leaders transferred to yet another newly opening prison in Charlotte County. These very officers were later tried for the murder of a prisoner at Charlotte Correctional Institution. Those who pled guilty and turned state's evidence -- they had not come from Central Florida Reception Center -- they were found guilty and sentenced; the others who went to trial were acquitted by a jury.

The Florida State Prison Assistant Investigator John Doe Bobby, as I call him, observed a correctional officer strike a handcuffed prisoner's head with a gloved fist, knocking the prisoner to the concrete floor (the assailant was over six feet tall and weighed approximately over 250 pounds). Only the investigator, the assailant and the prisoner were present, but within just a few hours nine sworn affidavits were placed on my desk indicating that the prisoner was never struck by the correctional officer in question.

Prior to my departure from Florida State Prison in 1998 to new assignment as the warden of Central Florida
Transcript of first hearing_Part 1.TXT

Reception Center, I spoke with my successor, James V. Crosby, III, indicating that Florida State Prison was being run by a "goon squad," that beatings were chronic, that I had the suspects under investigation and that if something was not done to stop this activity, it would only be a matter of time before a prisoner was killed. Crosby was advised that the investigators on this case had little time at that point to make any conclusive charges. I advised Crosby that I wanted to do a "desk audit" before my departure and would he prefer written or a verbal audit. Crosby rejected the idea of an audit indicating that he knew FSP (Florida State Prison), and that he had grown up in that area and knew the staff from childhood. The threat of a possible killing was repeated, I repeated it, mentioning that if something weren't done in terms of getting the suspects under control and out of corrections entirely, Florida State Prison and the Department of Corrections would suffer.

Crosby asked for the names. I advised him that the top names were a correctional officer lieutenant, a correctional officer, and a correctional officer captain (at least one other name may have been mentioned at the time).

Crosby had once previously attempted to pressure me into promoting the correctional officer lieutenant to correctional officer captain, but I had refused to do this for obvious reasons. Crosby stated I should
just put these names on a "piece of paper and place it in the warden's desk." And following Crosby's arrival at Florida State Prison in March of 1998 the following actions evolved:

The correctional officer lieutenant that I've just mentioned was promoted to captain later led a goon squad into the cell of prisoner Frank Valdes, resulting in the death of this prisoner, an international scandal. This correctional officer lieutenant and four others were acquitted by a jury that came from the same small village and were led by a jury foreman who was a retired correctional officer living within their grip. This was a trial where I was never called to testify on what I'm talking to you about right now, even though I notified the State Attorney's Office twice that I had relative testimony.

The correctional officer captain was promoted to major. Today he's a warden appointee by Mr. Crosby.

The correctional officer was promoted to sergeant. After I personally forced Crosby's hand by demanding an investigation our Central Office in 2000 -- through our Central Office 2000, this correctional officer sergeant was demoted to correctional officer for yet another crime against my person and that of my wife Lynne. Several months later this demoted correctional officer was promoted to sergeant again. In the past month, some 30 days ago, this same correctional officer has
been arrested and jailed on federal drug charges and is awaiting trial. Remember, this is the correctional officer who bashed the inmate in the back of the head with a gloved fist.

The first female assistant warden ever in the history of Florida State Prison, ever, appointed by me during my tenure, was moved to another institution almost immediately upon Crosby's arrival.

Crosby gave the purchasing agent found to be taking graft a promotion to a new job in Gainesville. He did grow up with these folks. This graft case had my direct involvement as the warden at Florida State Prison having obtained hard evidence through the business manager, the purchasing agent's supervisor.

Minority staff that I had promoted or assigned to key Florida State Prison positions was moved. Note that I promoted the first Afro-American lieutenant in the history of Florida State Prison. I'm not talking -- we're not in the year 1800, this is 1996, '97, '98. The first Afro-American lieutenant in the history of Florida State Prison who was assigned to and allowed to supervise shift work at the main unit. I was blatantly informed when I was about to make this appointment that a black man had never worn a white shirt past Times Square. Times Square is a famous area at Florida State Prison. It's where you start making inmate contact. You've gone through about five or six
very intimidating cell doors that make that hard clinging sound behind you, and then you're at an area where you can actually get to the cells of inmates. I hired and promoted the first female assistant warden also in the history of Florida State Prison assigning her over operations at the main unit of Florida State Prison.

The trend or mentality I'm depicting thus far is quite simply that if one surrounds him or herself with enough followers who are willing to provide alibis and affidavits relative to misconduct in connection with the care and custody of offenders, full power and full reign will be constant. The horrifying part of this story is there are not enough correctional professionals who are willing to go after the goons. Retirement, DROP accounts, college tuition for the kids (or even one's own past as a goon squad member) or being fired to cover central office tracks, quells fears that only the owner can fully understand and appreciate.

Racism certainly does exist in the Florida prison system. The horrible "N" word was used without caution until around 1990. Thereafter the word was used without caution in the so-called "protected areas" of Florida State Prison and numerous other places where they felt protected. After sending the following e-mail to Governor Jeb Bush on July the 3rd, 2003; the results were almost instant promotion of a number of
And I'd like to read that e-mail that I sent to Governor Bush. "I urge you to have someone from your legal office question the Department of Corrections, demanding a detailed list of all DC staff above the rank of captain."

I'm getting a zero there. I'm sorry. I mistimed myself on this. I have at least another three minutes to finish my statement, but if the zero's there and I'm not allowed to go further it's okay.

MR. SESSIONS: Well, I would suggest you go ahead and do it.

MR. McANDREW: Thank you.

MR. SESSIONS: I'm not presiding, but do it.

MR. McANDREW: "Dear Governor Bush: I urge you to have someone from your legal office question the Department of Corrections, demanding a detailed list of all Department of Corrections staff about the rank of captain (to include wardens and assistant wardens) who (by gender and race) have since January 2003:

"Resigned, forced to resign, fired, demoted, taken a voluntary demotion, retired prior to completion of the DROP program or normal retirement age, required as a result of any pressure from Central Office."

"If you are given an accurate listing, I'm certain you'll see that not only is trouble in the making, but definitely on the horizon. Sincerely, Ron."

I felt comfortable in sending this to Governor Bush because I worked on his campaign in both '94 and
'98.

During my tenure at Florida State Prison, male staff in general gloated over the idea that the USA vs. Florida lawsuit allowed for "male gender only" past the Times Square (inmate contact) area of the prison. Note this meant that female correctional officers could not work in contact with male prisoners at Florida State Prison and thus were assigned to "behind the scene" locations such as the control room. I have little doubt that the gloating mentality of male security staff alone contributed immensely to the removal of the female assistant warden from Florida State Prison upon Crosby's arrival.

By the way, her number one assignment when I put her in that unit is, "You get to work on this brutality thing." She had worked as a very serious investigator for Volusia County for a number of years. She was the past director of Volusia County Female Corrections, and she was quite an incredible professional and was making good progress at Florida State Prison in putting down some of the beatings. I had a little doubt that the gloating mentality of male security staff alone contributed to the removal of the female assistant warden from Florida State Prison upon Crosby's arrival. This lawsuit did not apply to this female assistant warden as she was not a uniformed officer nor did it apply to female nurses and medical employees.

I've maintained contact on an almost regular basis
with the Department of Corrections staff around the state. I've observed the leadership these days of the majority of prisons in Florida at least over the last five years involves very close Crosby allies from the Columbia, Union, Bradford Counties...or, that close Crosby allies have been given key positions in those prisons which implies that "big brother" is watching. In some cases for some areas I dare say that panic exists because of the cloud of fear. "See nothing, say nothing, know nothing." was recently recounted to me by a mid-level correctional professional.

Medical services in the Florida Department of Corrections has improved tremendously over the past 15 years thanks mainly to full support of Secretary Harry K. Singletary, Jr., Dr. David Thomas, Dr. Matthews and Dr. Di anne Rechtine, the American Correctional Association, and without doubt, the Costello vs. Wainright lawsuit settlement. There does still exist very serious problems with access to medical services because of the "second core" group -- that I mentioned -- uniformed staff that challenge offenders' claims of illness. If the information is correct, there are a number of prisoners who died, and just recently. And that -- there may possibly be claims of access denial to medical services. I'm still trying to confirm all this information.

On unions, the Police Benevolent Association is presently the union in Florida Department of Corrections Part 1.
Transcript of first hearing_Part 1.TXT

Corrections uniform staff. I believe they were very helpful 25 years ago when conditions and wages were so poor. In the years that followed unions have in this opinion, seriously hampered the firing of many brutal correctional staff that assaulted prisoners. In fact, in some cases, officers that were successfully fired for internal criminal activity were then hired by the union to go back to the same prison and defend the union contract.

Each Florida warden is faced with how to deal with the union once evidence is conclusive that a uniformed officer has committed a crime. The central office legal department is very weak and prone to cave too often in favor of unions. Unions, instead of going on and prosecuting, unions at least at this stage have but one single interest -- to collect as much monthly dues as possible.

In this maze of Florida Correctional Institutions, I've asked myself time and again for an idea or a key that would open the door to better and safer security. I have visited prisons around the United States and in Europe, spoken to wardens, staff, and offenders at all levels. One single thought continues to surface: A legal observer representative from an agency headed by an elected official, not a governor or a department head but by an elected official, such as the Attorney General, who would monitor certain activities of uniformed staff in major prisons:
If each major prison in Florida was assigned a legal observer from the Attorney General's office and:

No. 1. Given unlimited access to the entire prison.

No. 2. Given the authority to see all records at any time.

No. 3. To visit at any time of the day or not night with any prisoner or staff member in any location of the prison.

No. 4. To privately converse with anyone inside the prison.

No. 5. To temporarily overrule decisions by uniformed supervisors when suspicious activity is detected.

No. 6. To have access to private telephone numbers of the warden, ranking staff of the Attorney General's office, the State Inspector General's office and the Florida Department of Law Enforcement.

No. 7. To require all DC shift staff supervisors (lieutenants and captains) to notify the legal observer prior to "suiting up" for a "cell extraction." That means putting on all this heavy gear that protects officers when they have to go into a potential volatile situation. To allow the legal observer the opportunity to observe the extraction when at all possible.

No. 8. To develop rules within Chapter 33 of the Florida Administrative Code outlining the authority of this legal observer position.

No. 9. To transfer each legal observer on a
frequent enough basis to prevent fraternization with
correctional staff. In other words, this would be an

independent body.

The cost of such an operation by the Attorney
General's office -- and I went into detail on how many
attorneys would be needed and what have you, but
because of this extended time which I really do
appreciate, let me just say that $4 million would cover
it each year, and that would provide for 40 attorneys
and a whole lot of security and safety for -- not just
for the offenders under our care in the State of
Florida but also for the staff who have to work with
these offenders.

The Frank Valdes case alone has probably cost the
Department of Corrections $4 million by now. And
probably more as time goes on and the lawsuits develop.

The budget of the Florida Department of
 Corrections is almost $2 billion, so four million
wouldn't break the bank but it would certainly be a
great tool, and I believe it would save the state a
tremendous amount of money in lawsuits and damages.

Again, thank you folks very much for this
privilege. I pray that your efforts will produce the
ideas and hopefully laws to give those unfortunate
enough to be under our care and custody in the prisons
around the country a safer environment, and by doing
so, creating a safer environment for the staff who work
for these folks.

God bless this Commission. Thank you.

MR. DUDLEY: Thank you, Mr. McAndrew.

A quick question: You mentioned explicitly racism and sexism and certainly suggested a range of other "isms" that are involved in perpetrating the kinds of problems that you've described. I'm wondering whether, in addition to your recommendation to us, do you think that there needs to be -- could be or should be some better way of screening potential corrections officers for some of this that you seem to be suggesting contributes to the behavior?

MR. McANDREW: Well, I wish I had a magic answer for that, but it requires a little bit of a detailed answer inasmuch as that the -- it's a question of supply and demand. The demand for correctional officers in the State Prison System is so dear that they actually advertise out of state. They advertise in New York; places where they may advertise in the wintertime, by the way, in New York. And it draws people down to Florida for interviews, and some of these folks wind up working as correctional officers.

If you hired -- and I have hired 50 correctional officers in one single day in the past, and within 90 days I'd be down to five out of the 50. Ten percent.
one. That's how quickly people come and go from corrections. It's a little better these days. And I think it has a lot to do with the accreditation of prisons in Florida and the fact that the accreditation process consists -- the training be such that prepares people better to handle the stress and the demands of a correctional officer's job. It's a very difficult -- it's a very difficult job.

MR. DUDLEY: Thank you.

I think now we're opening up for questions from any of the commissioners to any one of these four witnesses.

Yes.

MR. MAYNARD: Mr. Chairman, I just have a question for Mr. McAndrew. The proposals you suggested about access to certainly seem like they would make a difference. What, as a warden yourself on three occasions, what hindrances would you have had in doing those same kinds of things?

MR. McANDREW: You have to physically -- you must physically seek Florida State Prisons to understand just how long it takes you to get inside the prison where prisoners are located or to get to some of the nooks and crannies where these activities I've described seem to take place.

By the time I would park my truck in the parking lot in front of the administration building and walk to the Tower No. 1, and the tower guard had to open the first two chain link gates for me to get in -- that's Page 67
two gates -- and he had to recognize me and that sort
of thing; the next gate I go through lets me into a
control room where there is an officer behind links and
recognizing me and wanting to see my ID card because
it's a requirement that they do that, and asking me if
I have any metal objects or knives or whatever in my
pockets; and then I go through two more gates just to
get past his station, and then there's a long
corridor of about 50 yards to the main control room of
Florida State Prison, and that's the Times Square area.
Well, Times Square is like a big box and it's nothing
but bar stock all the way around and there are doors
that are handled electronically and with keys. And
then the main control room has to let me through that
and then I decide which area of the prison I'm going to
from that particular point. Before -- long before I
get to that main control room not only does every
staff member in the prison know that I'm there, but
every prisoner knows I'm there. If I dropped on the
building by helicopter and chopped my way through the
roof, it would be faster than getting in there to see
what's going on. So, you know, by the time you pull
up in the parking lot they could mop up a quart of
blood, wash a man's face, put him under the covers
and tell him what's going to happen to him later if he
doesn't just go to sleep and be quiet. That's the
story at Florida State Prison and the real armpit of
abuse as I have seen and known it in the Florida
MR. RYAN: Mr. Cunningham--I'm sorry.

MR. CUNNINGHAM as a correction professional.

I can only apologize for, just say, events that obviously you have gone through.

I do have a question as to how you might have--how someone might have been able to contact somebody on the outside. In a couple of the jails that I've been involved in, we have created phone numbers that could be called out, 800 numbers, even in the world of technology, e-mail, something.

Is there anything that you could see for us today to help the individual make contact in some secret manner and clandestine effort to get the information out so that if you are having problems on the inside that--and you're not getting any response, how can we help you?

MR. CUNNINGHAM: That is a rather difficult question to answer because any mail, outgoing mail is always opened--it's not opened, actually, it's not allowed to be sealed before it leaves the building. So I think that having some type of office where complaints, specific complaints going to an outside agency would be delivered, you know, or addressed to a specific individual, make it that one individual's responsibility to see to it that this communication gets to its location.

MR. BRIGHT: Mr. Cunningham could I ask another question, if you've answered that one?
MR. CUNNINGHAM: Yes, sir.

MR. BRIGHT: Over here.

MR. CUNNINGHAM: Sorry.

MR. BRIGHT: I notice you said in your statement, "You're out of court forever unless you can figure out how to file your grievance there in the prison system."

How many days did you have to file a grievance after an incident?

MR. CUNNINGHAM: You have approximately, I believe it's seven days, seven to 14 days to file a grievance.

MR. BRIGHT: And I take it you don't have -- in terms of who's available to you, you don't have any lawyers available, do you?

MR. CUNNINGHAM: No. It's you -- you just have to do all the paperwork yourself and -- when you're in that particular type of situation, my experience, that's nothing that you want to ask another offender for assistance with; that's something you really don't want to discuss with anybody. And, you know, it's something that you have to feel comfortable discussing with officials, you know, or anybody and that's why I chose to go to the unit psychologist and discuss it with him. I felt I could do it in confidence, you know, without the retaliation from other offenders and from prison officials.

MR. BRIGHT: And that's the reason not to file a grievance, you're saying, right?

MR. CUNNINGHAM: That's right.
MR. BRIGHT: And if you don't file a grievance, you can never file a lawsuit for what happened to you, you're barred from ever bringing a lawsuit, right?

MR. CUNNINGHAM: Yes, that's correct.

DR. GILLIGAN: I had a question for Ron McAndrew. I was very interested in your detailed summary of the role of a legal observer and the authorization that he or she would have to perform the functions. I was reminded of a similar set of rules that apparently are in place in western European nations that come with Europe, and the Committee for the Prevention of Torture has set up a similar practice of openness to any prison they choose to inspect; but they did set up one requirement, which is that the people doing the inspections should be nationals of a nation other than the ones whose prisons they're inspecting as a way of insulating them from the -- both the personal and political risks that could be involved there.

I was wondering if it were legally possible to do that in the United States. I assume it might regard a federal law or something. But if it were possible legally in this country, would that idea as one of the conditions for such an observer position make sense to you? Would you imagine that might have any advantages or not or disadvantages?

MR. McANDREW: Doctor -- I think I lost sound here.

Doctor, it's amazing that you -- you -- you asked that question because I'm very familiar with
corrections in France. I lived in France for 12 years.
I have family in France. I'm going to France next Saturday. And I have friends that work in corrections there, and I'm familiar with this observer. And I tell you, it's amazing you asked this question because that's quite where I got the idea for this legal observer representative.

The person from the other country came into play in France, I believe was the first place that this came up as a possibility, and the reason it did, of course, was that the European union was finally formulating a common currency and common ideas of trade and they're doing a lot of stuff for each other. They sort of accredit each other, you might say, from one country to the other, and they're borrowing ideas from each other the same way Florida borrows ideas from California in terms of good corrections, and that's where I got this idea.

The legal representative would come from the Attorney General's office, hopefully, and the Attorney General's office is like a foreign country because he's an elected official. And no matter what the governor wants to tell Charlie Crist, Charlie Crist, although he's a good friend of Jeb Bush's, can say, "I don't agree with that and I'm not going to do it or I'm going to do it another way." And hopefully, and I believe he would be continued to be respected as he is by the governor. But an attorney working out at that...
office -- and I visualize this as young attorneys
beginning to build a legal career within government,
perhaps just out of law school, a member of the Florida
Bar and working these areas around the state and being
available and being on call so that -- when I say "suit
up," it's when they put on all this armor and a large
squad goes into a prison exactly as they did the night
Frank Valdes was beaten to death. He would have to be
notified before they suited up. Unless that inmate was
hanging by a sheet and it was a suicide in progress or
something that was truly life threatening, they would
have to pick a cell phone up and call this
representative and say, "We need you now," and that
person would come to that scene and observe as a
representative of the Attorney General's office.

Now, when I was a uniformed officer, if I knew a
prison inspector was somewhere in the area or
if -- certainly if an attorney was in the area, and if
he came from another department other than our own, I
was going to be on my best P's and Q's. I was going to
be very courteous and very polite not only to him but
to the inmates. That's just -- it's human nature when
you have an outside source like that looking over
your shoulder, and saying, "You do your work, I'm just
here to observe. I'm not going to tell you how to do
it, you've already been trained. But if you start
kicking this inmate in the head because he made a
reference to a member of your family, I'm going
to" -- and that's another thing, are the names that officers wear on their uniforms. In Florida they have metal name tags and it has your name on it and it's very nice, very pretty. I would recommend that all uniforms in Florida have a patch sewn onto the uniform like the U.S. Army does because the first thing a goon squad does when they're up to no good is everybody removes the name tag and you stick it in your pocket and that lessens the possibility of identification. When you've got several thousand prisoners, you know, "Well he was an officer. Well, yeah, he was a white male. He was -- oh, you know, he sort of looks like everybody around here." In other words, he had on a uniform like everybody else. That name I believe is very important.

MR. HORNOFF: Doctor, may I answer your question just for a second?

In theory, having an agency from another country investigating abuses or allegations of abuse --

DR. GILLIGAN: Former independent of -- from another state.

MR. HORNOFF: Well, in Europe I could see that possibly working because they cooperate a little bit better, but do you realistically believe that President Bush would allow an outside country to come in here and tell us what we're doing wrong?
DR. GILLIGAN: No, not an outside country. I meant somebody from another state within the U.S.

MR. HORNOff: All right. From another state that might work because, as Mr. McAndrew's was speaking of a legal representative from the Attorney General's office, I can tell you in Rhode Island, which I refer to as "little Texas," the Attorney General's office works very closely with the Rhode Island State Police. The Rhode Island State Police investigates allegations of abuse within the Rhode Island prison system. The Rhode Island State Police allocates two state troopers to drive the governor around. It's a very small state, the smallest.

DR. GILLIGAN: That's why I was asking this question, exactly.

MR. HORNOff: If we could get, perhaps, a prisoner advocate or a legal representative from Connecticut or another part of the country that would be great.

We definitely need a prison commission -- a prison review commission in every state.

SENATOR ROMERO: I'd like to comment that I've been struck by the testimony. And I'm from California. If I were to change the names, the faces, the letters again, too, I get stacks of letters from inmates and families of inmates writing to me, the stories are the same nationally; and yet, I think sort of the weight of this Commission and something that we must consider as we move forward is that state statutes
Transcript of first hearing Part 1.TXT

vary not only by prisons, by jails, correction standards, training, it's completely different. And I think perhaps part of the work of the Commission could be to take a look nationally at some of these statutes and laws and access to media, for example, which we'll talk about a little bit later, which is completely different depending on where you are in the country; and yet the story remains the same. That is a major challenge for us to address, and I hope that as the Commission moves forward we can take a look at this nationally as far as moving forward with rehabilitation and corrections.

Ms. Haney, I'd like to comment as well. I appreciate your testimony. Even something that you said struck me that -- the question was asked, "Well, did you know your constitutional rights," and in a sense those are questions that, yes, we want to ask, we want to provide, but in a sense it's sort of blaming the victim mentality as though the inmate is the one who's supposed to say "I know my rights", when it's really -- we should turn it back to the focus being the trained officer under color of authority is responsible for knowing the rights and carrying out the laws. So I think we have to turn that language around, but again, in California I've heard it as well.

And then, Mr. McAndrew, you talked about, do people want to know, keeping quiet. Does the American public really want to know? And I have mixed feelings on that, but I certainly think that the response that
we saw at the international level with Iraq, although
it was -- the discussion came, as we all know, with the
collection of physical evidence like semen; when we saw
the videotapes; when we saw the photographs, the
American public -- and I am very proud of how the
American public did respond in California; likewise,
I think, too, that when we have seen the evidence,
we've had to respond, but I think it poses some very
interesting questions for all of us in terms of the
role of the media and an open access. We shouldn't
have to wait for that; we shouldn't have to wait for
the actual evidence to be there, but perhaps until we
do have that evidence coming forward there will be
lulling into silence because to a large extent I think
much of the public doesn't want to know. It's a closed
world. And part of the Commission's work, I think,
could be to provide sunshine that's very much needed

into a very dark, dank, closed room

MR. DUDLEY: Okay. We're running short on time,
so we have maybe time for one more question so that we
can take advantage of this opportunity of having this
group of witnesses with us.

Does anybody have an additional question?

MR. KRONE: I've got one. I'd like to make a
comment first and extend my deepest respect in regards
to all of you. I've experienced everything you've
said firsthand in one way or another.

Since we mentioned the Iraq war, you know, I
Transcript of first hearing Part 1.TXT

wonder if you were as surprised as me -- or not

surprised as me when we've seen the abuses that went

on over there to the prisoners of war because I've seen

it happen right here. What surprised and angered me

was the immediate response, the immediate response, the

quickness to finding and bringing those people to trial

for what they were doing, and yet when we -- we, our

own prisoners are over there are suffering that same

type of abuse right here in our prisons nobody wants to

hear about it and nobody is interested in it.

I'd like to know if you have a suggestion on how

we can get that public interest right here in our

country as what we're doing for our own people?

MR. HORNOFF: I'd like to say that it seems like

Americans just want to feel safe and want to hold

somebody accountable and feel safe.

Nick Yarris spent 22 years on death row in

Pennsylvania. The Iraqi prison guard who was brought

up on charges was a prison guard in Pennsylvania and

oversaw Nick Yarris. For the first two years

Nick Yarris was incarcerated, he wasn't allowed to

speak, he wasn't allowed to talk, because Pennsylvania

was founded on an institutional philosophy of

separating the inmates, of letting them contemplate

their errors and the ways of their life. So for two

years he couldn't speak. And then after that time he

was abused and degraded as much as any of the Iraqi

prisoners. If you want to hear him say this in his own

words, I invite you to try and find a theatre that's
Transcript of first hearing_Part 1.TXT

showing "After Innocence." It's a documentary profiling exonerees, and he's one of them. And I was very fortunate in meeting him and to hear what he endured from one of these Iraqi guards, who was also his guard. It's just -- it's very heartbreaking, but it goes on and not just in Pennsylvania and not just in Florida. It goes on every day while we're sitting here, it's going to go on tonight, it's going to go on tomorrow.

MS. HANEY: I think one other comment that we could make is that what all of us here have been talking about is really giving voice to the people who are having these experiences, but we're also hearing why there is real barriers to that voice. Speaking out can really mean that you'll be subject to retribution and additional violence.

From Abu Ghraib we saw pictures. The reason we saw those pictures is those pictures were taken as part of this torture process.

While I'm not recommending that people in -- that documentation be part of the torture process in the United States, I think that we do need to actually find a way to give the people who are subject to the abuses in the corrections institutions voice, and that has to be a safe way to do that. And I think that that should be something that the Commission should consider, is how to give voice to those people who are having these experiences in a way that they can feel safe to do that.
because I think that is a critical aspect of getting that information out to the public so that they know what's going on.

The people who are experiencing these things know that it's going on, their family knows that it's going on, their friends know that it's going on, but it's not getting out beyond that and we do need to make a very big effort to make sure that everybody knows what's happening so that we can stop it.

MR. DUDLEY: Mr. Cunningham, Ms. Haney, Mr. Hornoff, Mr. McAndrew, please know that the Commission is extremely grateful for the time that you've taken to come and meet with us and the openness with which you've shared your experiences with us. It's been enormously helpful, and hopefully the responses that we can develop from this and the other work that we're doing will make it worth it.

(All witnesses responded with "Thank You.")

(A luncheon recess was taken.)