

ACCOUNTS OF LIFE IN PRISON

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

2 Mr. Cunningham --

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

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

8 Thank you.

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

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

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

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

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

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

17 MR. CUNNINGHAM: Good morning, ladies and
18 gentlemen.

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MR. SESSIONS: Your mike is not on.

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

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

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MR. CUNNINGHAM I'm sorry.

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MR. SESSIONS: Thank you.

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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

23 happened all the time. He advised me to stay away from
24 Chaney.

25 The prison psychologist's advice did nothing to

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1 prevent the continuing sexual harassment, so a month
2 later I decided to go to the prison's administration
3 for help. I approached the assistant warden and his
4 second-in-command officer and told them about Chaney's
5 sexual comments and sexual touching during pat
6 searches. They told me that I was exaggerating and
7 that Chaney was just doing his job.

8 I eventually confronted Chaney and told him to
9 stop touching me. He only got angry and continued to
10 harass me. I tried again to get help from prison
11 administrators, but I was told to keep my mouth shut.

12 Officer Chaney eventually raped me in September of
13 2000. On that day, I had just finished my job at the
14 prison's laundry and began walking to the back room in
15 order to take a shower. Suddenly, Chaney shoved me,
16 knocking me off balance. I screamed and struggled to
17 get him off me, but he was too big. Officer Chaney
18 weighed about 300 pounds. I'm 5 feet 6 inches
19 tall and weigh about 145 pounds.

20 While I struggled, Chaney handcuffed both my
21 hands. He then pulled down my boxers and forcefully
22 penetrated me. When I screamed from terrible pain,
23 Chaney told me to shut up. I tried to get away, but I
24 could barely move under his weight. After it was
25 over, I was dazed. He took me to the showers in

1 handcuffs, turned on the water and put me under it. I
2 was crying under the shower and I saw blood running
3 down my legs.

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

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

25 I wrote the Internal Affairs Department two times

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

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

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

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1 constitutional rights.

2 For me, I have found no justice. While I was in
3 prison, the fear of retaliation by staff or other
4 prisoners haunted me and prevented me from reporting

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5 the rape right away. My fear led me to attempt suicide
6 just to escape the pain of my situation. Because my
7 previous complaints to prison officials resulted in
8 sharp rebukes, and the prison psychologist's assistance
9 was limited, I felt hopeless. I believe that openly
10 pursuing my charges against Chaney would have led to
11 retaliation from staff. They could write disciplinary
12 cases to keep in one prison for years beyond my
13 expected release date. They could ship me to a rougher
14 unit where I'd be guaranteed to face additional abuse.

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

25 Many men and women in Texas experience sexual

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1 abuse at the hands of officers and other prisoners but
2 their pleas for help go unanswered by administrators
3 and staff. It seems that officials take action to
4 protect the prisoner only when the victim has physical
5 evidence, such as a semen sample. Individuals without
6 this kind of proof are left to fend for themselves.
7 Prisoners who file a complaint encounter a complicated

8 grievance system that few prisoners can navigate, but
9 you are shut out of the court forever if you cannot
10 figure out how to get your grievance properly answered
11 and filed within a few days of the rape. Furthermore,
12 victims of rape are usually too upset to figure
13 out what they have to do to file a lawsuit; they're
14 thinking about lawsuits, they're thinking about how to
15 get protection, since prison officials do not want to
16 listen to them. These factors result in very low rates
17 of reporting among prisoners, which lead to the
18 inaccurate perception among prison administrators that
19 there is very little rape in prisons.

20 The reality is that rape is widespread in
21 prison -- widespread and prison rape victims feel
22 hopeless because of officials' failure to prevent
23 additional attacks despite complaints. Officials must
24 do more; hire more experienced and well-paid
25 professionals to oversee our crowded prisons in order

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1 to minimize opportunities for individuals to be alone
2 and commit violent attacks; engage prisoners in
3 constructive programming that includes employment to
4 discourage money-making activities of the prison
5 gangs; separate predatory prisoners from non-violent
6 and vulnerable prisoners; finally, take requests for
7 protection seriously, address them quickly, and help
8 victims by providing them with the medical and the
9 mental health treatment that they need.

10 Now that I'm out of prison, I have not forgotten
11 the people still behind bars. I speak out about my

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12 experience at the Luther Unit whenever I have an
13 opportunity and I have my own organization to help
14 prisoners. With the postage stamps that prisoners send
15 to me, I provide up-to-date and accurate resource
16 information to prisoners throughout the entire country
17 who are looking for legal help, books, pen pals and
18 aftercare services. The people I correspond with are
19 always so grateful for the assistance because no one
20 ever seems to be providing it.

21 My hope is that this Commission will hear the
22 pleas for protection from the abused and violated in
23 America's prisons and expose the widespread nature of
24 violence. Your scrutiny, along with the attention of
25 the media and government, is crucial to exposing the

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1 violence behind bars and preventing additional abuse.

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

4 MR. DUDLEY: Thank you, Mr. Cunningham.

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

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

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

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

22 MR. DUDLEY: One more quick question before we
23 move forward. The impact -- as we know, most people
24 actually get out of jails and prisons, and what is the
25 impact of this sort of experience either based on your

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1 own experience or based on those others that you've
2 come to know and work with? How does it affect people
3 in their ability to function once they're out?

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

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

17 Ms. Haney currently works as the project manager
18 for the California-based biotech firm.

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19 Ms. Haney --
20 MS. HANEY: Thank you.
21 Good morning. Can you hear me?
22 MR. SESSIONS: Barely.
23 MS. HANEY: Can you hear me now?
24 MR. SESSIONS: Yes.
25 MS. HANEY: How's this? There you go, right

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1 angle.
2 Okay. Good morning. I'd like to thank the
3 Commission for inviting me to speak today regarding
4 my personal experience of being strip searched in
5 Miami-Dade County.
6 I'm the lead plaintiff in a federal class action
7 suite filed against Miami-Dade County in March 2004 for
8 the unconstitutional and unlawful practice of strip
9 searching and visually inspecting body cavities of
10 women arrested for non-violent, non-drug or
11 weapons-related misdemeanors in Miami-Dade County
12 Detention Facilities.
13 I'm here today to speak to you about the details
14 of my strip search, what it felt like, why I filed a
15 class action suit, and what we discovered about
16 Miami-Dade's practice of strip searching women prior to
17 first arraignment.
18 What I hope the Commission will understand at the
19 end of my testimony is that type of strip search that I
20 and thousands of women experienced was about
21 humiliation and control, not about safety, just as rape

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

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

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

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

20 The hallway was not that long, with doors on
21 either end and several doors that appeared to open into
22 small rooms. There were three female corrections
23 officers in the hallway with us. They opened one door
24 and removed a woman from that room and moved her to a
25 room farthest from us. The guard then took the first

1 woman from my group and put her into that room. I
2 heard the guard tell her to take off her clothes.
3 Hearing that startled and surprised me. We had not
4 done anything that involved drugs or weapons; we were
5 behaving peacefully and had been compliant with the
6 requests of the corrections officers during the booking
7 process. There had been no indication during our
8 arrest and subsequent frisking and processing that the
9 police or corrections officers considered us a threat
10 in any way.

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

17 What happened next happened very quickly, but in
18 my mind I had a lot to consider. I knew that the
19 likelihood was close to zero that if I responded, "Yes,
20 I am refusing -- this is an unreasonable search and is
21 unconstitutional," that the guard would say, "Oh, all
22 right, we won't do it then." I did know from the
23 experience of individuals that have been in similar
24 situations and had refused to be strip searched that
25 the price of refusal could be high.

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1 A friend of mine in a similar situation in
2 San Francisco refused to be strip searched, and she
3 told me that the authorities responded by putting her
4 in what I understand to be called a "cold room." Her
5 clothes were removed without her cooperation, and she
6 was put naked into a bare room with a hole for a toilet
7 and nothing to cover her except what she described as a
8 small dirty mat that looked something like a catcher's
9 vest. The lights were bright, and there was a window
10 looking into the room so that anyone passing by could
11 see her sitting there naked. It had a metal door and
12 someone came by I think every 15 minutes and banged on
13 it; their story was that she was behaving strangely and
14 needed to be put into the room for her "safety."

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

25 When it came my turn to be strip searched, the

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1 guard led me into the same small room the others had
2 been in; it was approximately six by eight, maybe
3 smaller, and had a bench along one wall. The guard

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4 stood in the doorway and ordered me to stand facing
5 her and to remove my clothing piece by piece. As I did
6 so, I handed a piece of clothing to her; she told me to
7 put it on the bench. I started to fold my
8 clothing and put it on the bench. She told me no, just
9 drop it. I proceeded to remove each piece of clothing
10 and drop each piece on the bench. While I was removing
11 my clothes, the guard continued to stand at the door
12 and watched as another guard stood behind her in the
13 hallway; also watching me.

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

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

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

4 The guard's next set of instructions were to
5 squat and then to hop like a bunny. Remember, I'm
6 still "spreading my cheeks," so I can't use arms to
7 balance or assist me in the hopping process.

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

21 I stood, bent over, and hopped naked under orders
22 and in view of at least two guards in a small room with
23 a door open to a hallway that passersby could see in
24 for about ten to 15 minutes. My genitalia and anus
25 were exposed and viewable to anyone passing

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1 through the hallway for over five minutes. I would ask
2 the Commissioners to take a moment and imagine what
3 that feels like.

4 After getting out of jail on bond about 36 hours
5 later, I spoke with the men who were arrested at the
6 same time and inquired if they had been strip searched;
7 they had not. This is when I started to believe that I
8 would consider legal action against the county. To
9 perform an unreasonable strip search which in effect is
10 visual rape is outrageous enough, but to do it to women

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11 only and not to men arrested for the same minor
12 non-violent charge revealed the practice was doubly
13 unjust.

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

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

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

14 During the process of the suit, we identified a

15 potential class size of ten-to-twenty-thousand women
16 who were subjected to these dehumanizing searches over
17 a four-year time period. Yet we know that the practice
18 lasted seven years. That means it is likely that over
19 20,000 women were subjected to these searches in one
20 county. These women may be elderly, physically or
21 mentally disabled, menstruating, or pregnant while
22 they were forced to expose themselves and hop around.

23 The other thing that my attorneys discovered that
24 I think is important for the Commission to know, is
25 that prior to filing the complaint no one new about

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1 this practice. My attorneys, the Florida Justice
2 Institute, a firm that deals specifically with
3 prisoners' rights, had not known about it, the Public
4 Defenders in Miami-Dade didn't know about it. If we
5 hadn't filed the lawsuit, these unlawful strip searches
6 would most likely be continuing today.

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

15 Thank you.

16 MR. DUDLEY: Thank you, Ms. Haney.

17 I'm struck by your comment that no one seemed to

18 know that this was going on before you brought your
19 suit, and I'm curious to know, based on, you know, what
20 happened since. Is it your sense that the women who
21 had been involved didn't know what their rights are and
22 therefore didn't report them or knew what their rights
23 are and there were other impediments to having reported
24 this or revealed this before?

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

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

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

21 Most people in the corrections system don't have

22 those privileges, and I think that that's a big factor
23 in whether people stand up and speak out.

24 MR. BALCORTA: Ms. Haney, is there a reason why
25 you, or did you attempt to file a civil rights

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1 complaint at a state or federal level, and why was that
2 not done?

3 MS. HANEY: I filed a class action suit. I filed
4 it as a class action suit as opposed to any other
5 kind of suit because I believe that there were
6 potentially large numbers of women most likely that
7 were affected by this, and a solitary civil rights
8 would not address or open it up to this larger group.
9 And I felt that for people to really see what was
10 happening, we needed to file it as a class action suit
11 so that they could understand that this was happening
12 to thousands of people. This didn't just happen in
13 Florida. As I mentioned, I mentioned several cases.
14 It is happening across the country. Often it's
15 happening because -- the lawsuits are filed by the
16 people who know that they can do this, and it's only
17 because of these lawsuits that we may get the knowledge
18 that the general public knows about these things.

19 MR. DUDLEY: Our next witness is
20 Jeffrey Scott Hornoff. Mr. Hornoff served over six
21 years of a life sentence in a Rhode Island prison until
22 he was exonerated. Because he had been a police
23 detective before his arrest, he served that time in
24 protective custody. Since his release he has been

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

9 Mr. Hornoff --

10 MR. HORNOFF: Good morning.

11 MR. SESSIONS: Good morning.

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

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

22 In 1989, I was a newly promoted detective with the
23 Warwick Rhode Island Police Department. I was also for
24 a short time a murder suspect by my department during
25 a murder investigation of a friend of mine. After I

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

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

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

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

25 After that time, I was taken to the lieutenant's

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1 office and I was told that because I am a police
2 officer I was going to be placed in protective custody.
3 It is a unit which houses police officers, prison

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

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

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

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1 to go through the photographs, the legal work, and
2 whatnot and retrieve it.

3 During the first couple years of incarceration, I
4 was a mod porter, a custodian, if you will. And part
5 of my duties was cleaning up after the frequent cell
6 searches. I understand that cell searches are an

7 important part of maintaining safety and security, but
8 when the guards go to extreme measures of laughing at
9 and ridiculing the inmates while they are handcuffed to
10 the railings outside of their cells in various forms of
11 dress and undress, and they proceed to throw all of
12 their personal possessions out into the common room and
13 mix them together, joking that it would be fun to watch
14 the inmates scurry like mice to find photographs of
15 loved ones, important legal documents. It was just
16 another form of humiliation.

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

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

5 In mentioning "segregation," I would share with
6 the Commission that above protective custody was where
7 the segregation unit was housed. Nowhere in the prison
8 facility is there more abuse and degradation than in
9 segregation. I could hear the frequent beatings of
10 inmates above me as they screamed for help, their cries

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11 coming through the air vents as guards would
12 relentlessly pound on them, and you could hear the
13 laughter.

14 Approximately two years after I was in prison, I
15 became a law clerk. This was a step up. Because of my
16 legal background, they decided to move me into the law
17 library. As part of my duties, I was to take a law
18 book cart to segregation. Now I was seeing these
19 inmates firsthand, and I would see the bruises on their
20 face. I would see them stripped bare in cells that did
21 not have a blanket, a pillow, or the water turned on.
22 And I began to understand why these inmates would
23 sometimes reach a breaking point in which they would
24 defecate and urinate in their toilets and then shove
25 their sheets and pillows into the toilets creating a

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1 mixture that would stop up the system. Then they would
2 begin to flush their toilets, and this would overflow
3 and rain down on us in protective custody.

4 Besides the abuse in segregation and the other
5 humiliations which I witnessed and endured, I also
6 spoke with the guards; and one of the reasons I will
7 not refer to them as "correctional officers" was I
8 constantly asked them if they had a degree in sociology
9 or psychology or anything that would put them in a
10 position where they could motivate an inmate, whether
11 they're innocent or guilty, to break the cycle that
12 they were in. Some of the inmates would go in and out
13 of the prison system five or six times, which was

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15 rather frustrating for me, being innocent. None of the
16 guards would admit to any type of degrees. They
17 actually laughed and scoffed.

18 I could go on and tell you about guards who took
19 food out of the cafeteria for their summer picnics. I
20 could go on and tell you about guards who just for the
21 littlest look from an inmate would find some type of
22 retaliation. Whether it's coming from Florida,
23 California, Texas or any of the other areas in which
24 you're going to have people testifying before you, I
25 can tell you it's widespread. I can also tell you that
the prison director in Rhode Island, who I have been

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1 told by one of the Commission members here is actually
2 looked upon as a bright spot and a model of reform, is
3 nothing even close.

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

16 We are not interested in rehabilitation. We
17 haven't been interested in rehabilitation since

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18 President Nixon was in office and used the campaign
19 platform of "Get tough on time." We need to refocus
20 our efforts and we need to break the cycle.

21 I'll close by sharing with you something that an
22 inmate shared with me just prior to my release. I
23 found out on November 4th of 2002 I was going to be
24 released, and another inmate was sitting with me in the
25 day room and he looked at me, and said, "Scott, they're

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1 creating monsters, and I'm one of them; and they're
2 going to reap what they've sown." We are reaping what
3 we've sown. I do not want those individuals being
4 released from prison, treated like animals, to be my
5 neighbors again.

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

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

18 Thank you.

19 MR. BALCORTA: Before you were incarcerated and
20 were working as a police detective, did you

21 truly -- do you think you truly understood what a
22 prison sentence meant for the men and women that you
23 helped to convict?

24 MR. HORNOFF: I decided to become a police officer
25 when I was 12 years old, and I devoted my life to the

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1 judicial system. When I heard of an individual
2 receiving ten years or twenty years for a sentence,
3 usually I would think that that was justified. After
4 having experienced the judicial system from the many
5 angles I have -- including jury duty since getting
6 out -- I wasn't chosen -- I have come to find that
7 Judges throw out these sentences without a true regard
8 for how much time ten years truly is. One day of
9 freedom in reality is like three days in prison.
10 That's pretty much how slow the clock moves when you
11 are incarcerated.

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

24 MR. BALCORTA: You know, it's individuals that

25 come before the public and share experiences like

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1 yours. I'm pretty sure that in the past two and a half
2 years you've learned from a lot of individuals who
3 share experiences like yours, and even when you were a
4 police detective you would hear about experiences, I'm
5 pretty sure. What do you think it's going to take,
6 besides Commission hearings, for people to start
7 believing these human beings?

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

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1 MR. BALCORTA: Thank you.

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

15 MR. McANDREW: Wewahitchka.

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

18 Mr. McAndrew --

19 MR. McANDREW: Thank you, sir.

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

22 MR. SESSIONS: Good morning.

23 MR. McANDREW: Before I go further, let me say as
24 a weathered warden, I am still troubled to hear the
25 first three witnesses and the accounts that they have

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1 presented to you today. I'm stirred emotionally by
2 what each person has said.

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

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

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

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

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1 this privilege.

2 It's of central importance first to compliment the
3 many honest, hard working correctional professionals
4 that do in fact exist in the Florida Department of
5 Corrections. During 23 years I had the distinct honor
6 and pleasure to serve with thousands, that including

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7 correctional uniformed staff and senior appointees
8 that have left in me in a state of veneration. This
9 honorable group is not the group of whom I shall speak
10 today.

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

25 I experienced direct involvement in putting down

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1 two major riots in my first year as a correctional
2 officer, finding a near dead fellow correctional
3 officer, unconscious and bleeding from razor
4 slashes over his face and entire body; it was a scary
5 site. Finding myself being beaten with iron rebar and
6 steel chairs and personally observing both physical and
7 mental torture of those under our custody and care, and
8 it was that that spurred me on toward a goal of better
9 corrections. I knew it could be done better, and it

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certainly can.

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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.

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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

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14 whole. This comment is based on quotes and actions
15 that I personally observed during this period. Such
16 quotes as, "It's us against them;" meaning, of course,
17 that it's us against those who would fault us; or "they
18 want it done, they just don't want to know about it."
19 In other words, upper echelon staff want us to keep
20 order with brutal force, and that's truly believed by a
21 number of uniformed staff around this state, that they
22 don't want to hear about it. In other words, keep it
23 quiet; or the wearing of partially visible
24 self-designed insignia implying "goon or special squad
25 member"; or a group of such members meeting a staff

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1 member suspected of "informing" at his personal vehicle
2 at quitting time. That's very intimidating to walk
3 out to your car in a large parking lot where there are
4 three or 400 cars and there are ten or 12 goons sort
5 of surrounding your car. They don't say a word to you,
6 they just look at you real hard like. You better be
7 getting the message, bubba. Telephone threats, as I
8 mentioned; meeting at local watering holes and partying
9 after an "eventful" shift. That eventful will coincide
10 with the incidents that I'm going to get into in just a
11 minute.

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

16 During the opening of Orange Correctional

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17 Institution (later to become Central Florida Reception
18 Center there in Orlando) a goon squad was observed
19 during this -- I observed a goon squad in its formation
20 process. And with that -- I was an assistant warden at
21 that time, and with my warden's full support, tireless
22 efforts were made to apprehend those responsible for
23 the beating of prisoners to little avail. They were
24 just too slick for us. But when the trail did become
25 "hot", many of the goon squad leaders transferred to

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1 yet another newly opening prison in Charlotte County.
2 These very officers were later tried for the murder
3 of a prisoner at Charlotte Correctional Institution.
4 Those who pled guilty and turned state's
5 evidence -- they had not come from Central Florida
6 Reception Center -- they were found guilty and
7 sentenced; the others who went to trial were acquitted
8 by a jury.

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

19 Prior to my departure from Florida State Prison in
20 1998 to new assignment as the warden of Central Florida

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21 Reception Center, I spoke with my successor,
22 James V. Crosby, III, indicating that Florida State
23 Prison was being run by a "goon squad," that beatings
24 were chronic, that I had the suspects under
25 investigation and that if something was not done to

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1 stop this activity, it would only be a matter of time
2 before a prisoner was killed. Crosby was advised that
3 the investigators on this case had little time at that
4 point to make any conclusive charges. I advised Crosby
5 that I wanted to do a "desk audit" before my departure
6 and would he prefer written or a verbal audit. Crosby
7 rejected the idea of an audit indicating that he knew
8 FSP (Florida State Prison), and that he had grown up in
9 that area and knew the staff from childhood. The
10 threat of a possible killing was repeated, I repeated
11 it, mentioning that if something weren't done in terms
12 of getting the suspects under control and out of
13 corrections entirely, Florida State Prison and the
14 Department of Corrections would suffer.

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

20 Crosby had once previously attempted to pressure
21 me into promoting the correctional officer lieutenant
22 to correctional officer captain, but I had refused to
23 do this for obvious reasons. Crosby stated I should

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just put these names on a "piece of paper and place it
25 in the warden's desk." And following Crosby's arrival

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1 at Florida State Prison in March of 1998 the following
2 actions evolved:

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

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

17 The correctional officer was promoted to sergeant.
18 After I personally forced Crosby's hand by demanding an
19 investigation our Central Office in 2000 -- through our
20 Central Office 2000, this correctional officer sergeant
21 was demoted to correctional officer for yet another
22 crime against my person and that of my wife Lynne.
23 Several months later this demoted correctional officer
24 was promoted to sergeant again. In the past month,
25 some 30 days ago, this same correctional officer has

1 been arrested and jailed on federal drug charges and is
2 awaiting trial. Remember, this is the correctional
3 officer who bashed the inmate in the back of the head
4 with a gloved fist.

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

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

15 Minority staff that I had promoted or assigned to
16 key Florida State Prison positions was moved. Note
17 that I promoted the first Afro-American lieutenant in
18 the history of Florida State Prison. I'm not
19 talking -- we're not in the year 1800, this is 1996,
20 '97, '98. The first Afro-American lieutenant in
21 the history of Florida State Prison who was assigned to
22 and allowed to supervise shift work at the main unit.
23 I was blatantly informed when I was about to make this
24 appointment that a black man had never worn a white
25 shirt past Times Square. Times Square is a famous area

1 at Florida State Prison. It's where you start making
2 inmate contact. You've gone through about five or six

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3 very intimidating cell doors that make that hard
4 clinging sound behind you, and then you're at an area
5 where you can actually get to the cells of inmates. I
6 hired and promoted the first female assistant warden
7 also in the history of Florida State Prison assigning
8 her over operations at the main unit of Florida State
9 Prison.

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

23 Racism certainly does exist in the Florida prison
24 system. The horrible "N" word was used without caution
25 until around 1990. Thereafter the word was used

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1 without caution in the so-called "protected areas" of
2 Florida State Prison and numerous other places where
3 they felt protected. After sending the following
4 e-mail to Governor Jeb Bush on July the 3rd, 2003; the
5 results were almost instant promotion of a number of

6 Transcript of first hearing_Part 1.TXT
minority staff to senior positions:

7 And I'd like to read that e-mail that I sent to
8 Governor Bush. "I urge you to have someone from your
9 legal office question the Department of Corrections,
10 demanding a detailed list of all DC staff above the
11 rank of captain. "

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

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

18 MR. McANDREW: Thank you.

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

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

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

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

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

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10 '98.

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

23 By the way, her number one assignment when I put
24 her in that unit is, "You get to work on this brutality
25 thing." She had worked as a very serious investigator

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1 for Volusia County for a number of years. She was the
2 past director of Volusia County Female Corrections, and
3 she was quite an incredible professional and was making
4 good progress at Florida State Prison in putting down
5 some of the beatings. I had a little doubt that the
6 gloating mentality of male security staff alone
7 contributed to the removal of the female assistant
8 warden from Florida State Prison upon Crosby's arrival.
9 This lawsuit did not apply to this female assistant
10 warden as she was not a uniformed officer nor did it
11 apply to female nurses and medical employees.

12 I've maintained contact on an almost regular basis

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

25 Medical services in the Florida Department of
Corrections has improved tremendously over the past 15

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1 years thanks mainly to full support of
2 Secretary Harry K. Singletary, Jr., Dr. David Thomas,
3 Dr. Matthews and Dr. Dianne Rehtine, the American
4 Correctional Association, and without doubt, the
5 Costello vs. Wainwright lawsuit settlement. There does
6 still exist very serious problems with access to
7 medical services because of the "second core"
8 group -- that I mentioned -- uniformed staff that
9 challenge offenders' claims of illness. If the
10 information is correct, there are a number of prisoners
11 who died, and just recently. And that -- there may
12 possibly be claims of access denial to medical
13 services. I'm still trying to confirm all this
14 information.

15 On unions, the Police Benevolent Association is
16 presently the union in Florida Department of

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

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

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

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20 If each major prison in Florida was assigned a
21 legal observer from the Attorney General's office and:

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

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

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

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

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

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

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

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

23 No. 9. To transfer each legal observer on a

24 frequent enough basis to prevent fraternization with
25 correctional staff. In other words, this would be an

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1 independent body.

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

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

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

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

1 for these folks.

2 God bless this Commission. Thank you.

3 MR. DUDLEY: Thank you, Mr. McAndrew.

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

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

23 If you hired -- and I have hired 50 correctional
24 officers in one single day in the past, and within 90
25 days I'd be down to five out of the 50. Ten percent.

1 And then after six or seven months, I might only have

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2 one. That's how quickly people come and go from
3 corrections. It's a little better these days. And I
4 think it has a lot to do with the accreditation of
5 prisons in Florida and the fact that the accreditation
6 process consists -- the training be such that prepares
7 people better to handle the stress and the demands of a
8 correctional officer's job. It's a very
9 difficult -- it's a very difficult job.

10 MR. DUDLEY: Thank you.

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

14 Yes.

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

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

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1 described seem to take place.

2 By the time I would park my truck in the parking
3 lot in front of the administration building and walk to
4 the Tower No. 1, and the tower guard had to open the
5 first two chain link gates for me to get in -- that's

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6 two gates -- and he had to recognize me and that sort
7 of thing; the next gate I go through lets me into a
8 control room where there is an officer behind links and
9 recognizing me and wanting to see my ID card because
10 it's a requirement that they do that, and asking me if
11 I have any metal objects or knives or whatever in my
12 pockets; and then I go through two more gates just to
13 get past his station, and then there's a long
14 corridor of about 50 yards to the main control room of
15 Florida State Prison, and that's the Times Square area.
16 Well, Times Square is like a big box and it's nothing
17 but bar stock all the way around and there are doors
18 that are handled electronically and with keys. And
19 then the main control room has to let me through that
20 and then I decide which area of the prison I'm going to
21 from that particular point. Before -- long before I
22 get to that main control room, not only does every
23 staff member in the prison know that I'm there, but
24 every prisoner knows I'm there. If I dropped on the
25 building by helicopter and chopped my way through the

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1 roof, it would be faster than getting in there to see
2 what's going on. So, you know, by the time you pull
3 up in the parking lot they could mop up a quart of
4 blood, wash a man's face, put him under the covers
5 and tell him what's going to happen to him later if he
6 doesn't just go to sleep and be quiet. That's the
7 story at Florida State Prison and the real armpit of
8 abuse as I have seen and known it in the Florida

11 MR. RYAN: Mr. Cunningham -- I'm sorry.

12 Mr. Cunningham, as a correction professional
13 I can only apologize for, just say, events that
14 obviously you have gone through.

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

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

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

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

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13 MR. CUNNINGHAM Yes, sir.
14 MR. BRIGHT: Over here.
15 MR. CUNNINGHAM Sorry.
16 MR. BRIGHT: I notice you said in your statement,
17 "You're out of court forever unless you can figure out
18 how to file your grievance there in the prison system "
19 How many days did you have to file a grievance
20 after an incident?
21 MR. CUNNINGHAM You have approximately, I believe
22 it's seven days, seven to 14 days to file a grievance.
23 MR. BRIGHT: And I take it you don't have -- in
24 terms of who's available to you, you don't have any
25 lawyers available, do you?

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1 MR. CUNNINGHAM No. It's you -- you just
2 have to do all the paperwork yourself and -- when
3 you're in that particular type of situation, my
4 experience, that's nothing that you want to ask another
5 offender for assistance with; that's something you
6 really don't want to discuss with anybody. And, you
7 know, it's something that you have to feel comfortable
8 discussing with officials, you know, or anybody and
9 that's why I chose to go to the unit psychologist and
10 discuss it with him. I felt I could do it in
11 confidence, you know, without the retaliation from
12 other offenders and from prison officials.
13 MR. BRIGHT: And that's the reason not to file
14 a grievance, you're saying, right?
15 MR. CUNNINGHAM That's right.

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

19 MR. CUNNINGHAM: Yes, that's correct.

20 DR. GILLIGAN: I had a question for Ron McAndrew.
21 I was very interested in your detailed summary of
22 the role of a legal observer and the authorization that
23 he or she would have to perform the functions. I was
24 reminded of a similar set of rules that apparently are
25 in place in western European nations that comes with

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1 Europe, and the Committee for the Prevention of Torture
2 has set up a similar practice of openness to any prison
3 they choose to inspect; but they did set up one
4 requirement, which is that the people doing the
5 inspections should be nationals of a nation other than
6 the ones whose prisons they're inspecting as a way of
7 insulating them from the -- both the personal and
8 political risks that could be involved there.

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

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

18 Doctor, it's amazing that you -- you -- you asked
19 that question because I'm very familiar with

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

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1 observer representative.

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

13 The legal representative would come from the
14 Attorney General's office, hopefully, and the Attorney
15 General's office is like a foreign country because he's
16 an elected official. And no matter what the governor
17 wants to tell Charlie Crist, Charlie Crist, although
18 he's a good friend of Jeb Bush's, can say, "I don't
19 agree with that and I'm not going to do it or I'm going
20 to do it another way." And hopefully, and I believe he
21 would be continued to be respected as he is by the
22 governor. But an attorney working out at that

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23 office -- and I visualize this as young attorneys
24 beginning to build a legal career within government,
25 perhaps just out of law school, a member of the Florida

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1 Bar and working these areas around the state and being
2 available and being on call so that -- when I say "suit
3 up," it's when they put on all this armour and a large
4 squad goes into a prison exactly as they did the night
5 Frank Valdes was beaten to death. He would have to be
6 notified before they suited up. Unless that inmate was
7 hanging by a sheet and it was a suicide in progress or
8 something that was truly life threatening, they would
9 have to pick a cell phone up and call this
10 representative and say, "We need you now," and that
11 person would come to that scene and observe as a
12 representative of the Attorney General's office.

13 Now, when I was a uniformed officer, if I knew a
14 prison inspector was somewhere in the area or
15 if -- certainly if an attorney was in the area, and if
16 he came from another department other than our own, I
17 was going to be on my best P's and Q's. I was going to
18 be very courteous and very polite not only to him but
19 to the inmates. That's just -- it's human nature when
20 you have an outside source like that looking over
21 your shoulder, and saying, "You do your work, I'm just
22 here to observe. I'm not going to tell you how to do
23 it, you've already been trained. But if you start
24 kicking this inmate in the head because he made a
25 reference to a member of your family, I'm going

1 to" -- and that's another thing, are the names that
2 officers wear on their uniforms. In Florida they have
3 metal name tags and it has your name on it and it's
4 very nice, very pretty. I would recommend that all
5 uniforms in Florida have a patch sewn onto the uniform
6 like the U.S. Army does because the first thing a
7 goon squad does when they're up to no good is everybody
8 removes the name tag and you stick it in your pocket
9 and that lessens the possibility of identification.
10 When you've got several thousand prisoners, you know,
11 "Well he was an officer. Well, yeah, he was a white
12 male. He was -- oh, you know, he sort of looks like
13 everybody around here." In other words, he had on a
14 uniform like everybody else. That name I believe is
15 very important.

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

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

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

22 MR. HORNOFF: Well, in Europe I could see that
23 possibly working because they cooperate a little bit
24 better, but do you realistically believe that President
25 Bush would allow an outside country to come in here and

1 tell us what we're doing wrong?

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2 DR. GILLIGAN: No, not an outside country. I
3 meant somebody from another state within the U. S.

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

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

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

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

22 SENATOR ROMERO: I'd like to comment that I've
23 been struck by the testimony. And I'm from
24 California. If I were to change the names, the faces,
25 the letters again, too, I get stacks of letters from

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1 inmates and families of inmates writing to me, the
2 stories are the same nationally; and yet, I think sort
3 of the weight of this Commission and something that we
4 must consider as we move forward is that state statutes

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

17 Ms. Haney, I'd like to comment as well. I
18 appreciate your testimony. Even something that you
19 said struck me that -- the question was asked, "Well,
20 did you know your constitutional rights," and in a
21 sense those are questions that, yes, we want to ask, we
22 want to provide, but in a sense it's sort of blaming
23 the victim mentality as though the inmate is the one
24 who's supposed to say "I know my rights", when it's
25 really -- we should turn it back to the focus being the

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1 trained officer under color of authority is responsible
2 for knowing the rights and carrying out the laws. So I
3 think we have to turn that language around, but again,
4 in California I've heard it as well.

5 And then, Mr. McAndrew, you talked about, do
6 people want to know; keeping quiet. Does the American
7 public really want to know? And I have mixed feelings
8 on that, but I certainly think that the response that

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9 we saw at the international level with Iraq, although
10 it was -- the discussion came, as we all know, with the
11 collection of physical evidence like semen; when we saw
12 the videotapes; when we saw the photographs, the
13 American public -- and I am very proud of how the
14 American public did respond in California; likewise,
15 I think, too, that when we have seen the evidence,
16 we've had to respond, but I think it poses some very
17 interesting questions for all of us in terms of the
18 role of the media and an open access. We shouldn't
19 have to wait for that; we shouldn't have to wait for
20 the actual evidence to be there, but perhaps until we
21 do have that evidence coming forward there will be
22 lulling into silence because to a large extent I think
23 much of the public doesn't want to know. It's a closed
24 world. And part of the Commission's work, I think,
25 could be to provide sunshine that's very much needed

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1 into a very dark, dank, closed room.

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

6 Does anybody have an additional question?

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

11 Since we mentioned the Iraq war, you know, I

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12 wonder if you were as surprised as me -- or not
13 surprised as me when we've seen the abuses that went
14 on over there to the prisoners of war because I've seen
15 it happen right here. What surprised and angered me
16 was the immediate response, the immediate response, the
17 quickness to finding and bringing those people to trial
18 for what they were doing, and yet when we -- we, our
19 own prisoners are over there are suffering that same
20 type of abuse right here in our prisons nobody wants to
21 hear about it and nobody is interested in it.

22 I'd like to know if you have a suggestion on how
23 we can get that public interest right here in our
24 country as what we're doing for our own people?

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

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1 Americans just want to feel safe and want to hold
2 somebody accountable and feel safe.

3 Nick Yarris spent 22 years on death row in
4 Pennsylvania. The Iraqi prison guard who was brought
5 up on charges was a prison guard in Pennsylvania and
6 oversaw Nick Yarris. For the first two years
7 Nick Yarris was incarcerated, he wasn't allowed to
8 speak, he wasn't allowed to talk, because Pennsylvania
9 was founded on an institutional philosophy of
10 separating the inmates, of letting them contemplate
11 their errors and the ways of their life. So for two
12 years he couldn't speak. And then after that time he
13 was abused and degraded as much as any of the Iraqi
14 prisoners. If you want to hear him say this in his own
15 words, I invite you to try and find a theatre that's

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

25 MS. HANEY: I think one other comment that we

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1 could make is that what all of us here have been
2 talking about is really giving voice to the people who
3 are having these experiences, but we're also hearing
4 why there is real barriers to that voice. Speaking out
5 can really mean that you'll be subject to retribution
6 and additional violence.

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

10 While I'm not recommending that people in -- that
11 documentation be part of the torture process in the
12 United States, I think that we do need to actually find
13 a way to give the people who are subject to the abuses
14 in the corrections institutions voice, and that has to
15 be a safe way to do that. And I think that that should
16 be something that the Commission should consider, is
17 how to give voice to those people who are having these
18 experiences in a way that they can feel safe to do that

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19 because I think that is a critical aspect of getting
20 that information out to the public so that they know
21 what's going on.

22 The people who are experiencing these things know
23 that it's going on, their family knows that it's going
24 on, their friends know that it's going on, but it's not
25 getting out beyond that and we do need to make a very

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1 big effort to make sure that everybody knows what's
2 happening so that we can stop it.

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

11 (All witnesses responded with "Thank You.")

12 (A luncheon recess was taken.)