

11 MS. SCHLANGER: We're going to hear
12 next from Michael Jacobson, who is the Director of the
13 Vera Institute of Justice, which is obviously the
14 sponsoring organization for this Commission. Before
15 he joined Vera as its fourth director in January 2005,
16 he was a professor at the City University of New York
17 Graduate Center and the John J. College of Criminal
18 Justice. He's got a Ph.D. in sociology and, also,
19 some very practical experience.

20 He was the New York City Correction
21 Commissioner from '95 to '98 and he was the City's
22 probation commissioner before that.

23 Prior to that, he worked in the New
24 York City Office of Management and Budget from 1984 to
25 '92.

1 He is the author of "Downsizing
2 Prisons, How To Reduce Crime And End Mass
3 Incarceration," which is a book that was published
4 this year. He serves currently as the Chair of New
5 York City's Criminal Justice Agency.

6 So thank you very much for joining us.

7 MR. JACOBSON: Thank you, Chairman
8 Katzenbach and commissioners for inviting me testify.

9 I would like to do three things in the
10 few minutes I have to testify. First, simply to
11 welcome you to New Jersey, the New York/New Jersey
12 metropolitan region. It's great to have you here.

13 The second, sort of briefly to talk
14 from the outside -- a person sort of on the outside of
15 what you are doing on the importance of your work and,
16 third, to talk about the need to focus your attention
17 on governors and state legislators whose policy
18 decisions have created the size, scope and, to a large
19 degree, the operations of our system of imprisonment,
20 or mass imprisonment, which characterizes our current
21 system of punishment.

22 So, first, as I said, welcome to New
23 Jersey, it's great to have you here and look forward
24 to the rest of today and tomorrow.

25 On the work you are doing, I would like

1 to emphasize how important it is to have a completely
2 independent, diverse and thoughtful group of people,
3 some of whom have a great deal of expertise on this
4 issue and some who don't, focus attention on our jails
5 and prisons, where now over 2.2 million people
6 incarcerated in this country.

7 You are doing this work at a time when
8 many states are beginning to re-examine many of the
9 policies and laws that have been inimical to the
10 growth in our prison systems. A great deal of policy
11 attention is now being paid around the country to who
12 we are sending to prison, for how long and at what
13 costs and benefits. Specifically, as you heard this
14 morning from several of the folks who testified, the
15 issue of our huge national return to prison points.
16 52 percent within three years. And the process of
17 discharge planning and prisoner re-entry, all of which
18 are the subject of quite intensive interest at all
19 levels of federal, state and city and county
20 governments around the country.

21 The issue, however, of what happens to
22 people in our jails and prisons receives far less
23 attention. Understandable in some ways, there's a
24 lack -- as Allen Beck mentioned this morning, a lack
25 of uniform, standard data on prison conditions

1 generally, on violence and use of force specifically,
2 and that, coupled with the fact that prisons are
3 closed and what sociologists call total institutions
4 allow uninformed perceptions of what happens in our
5 prisons. Those who have preconceived notions of how
6 our different systems operate can simplistically
7 characterize them as anything from brutal, violent
8 places where no one is safe to then being soft country
9 clubs where prisoners lounge around, watch cable TV,
10 eat well and have unlimited recreation and generally
11 live fairly well.

12 Both these views are incredibly
13 simplistic and neither acknowledges the enormous
14 challenges faced by correction professionals who have
15 to manage these institutions and these challenges, I
16 would argue, are perhaps the most difficult of any job
17 in our current criminal justice system.

18 Forcing policymakers and the public to
19 think in a more informed, rational way about what does
20 and should happen to people in our prison systems can
21 only result in a better, fairer, more effective and
22 just system. Any contribution you can make to this
23 will have a lasting and important and significant
24 impact.

25 Finally, I implore you to focus some of

1 your attention on our governors and state
2 legislatures. Correction commissioners have not
3 created the scope, complexity, crowding, health
4 problems and the myriad other issues you've heard
5 about in our nation's prisons. Legislatures and
6 governors generally have. Correction commissioners do
7 not decide how much money is required to run their
8 systems, state legislatures and governors decide that.

9 And, frequently, these elected
10 officials also decide how much and what kind of
11 programs will exist in our prisons.

12 Over the last 30 years in this country
13 correctional policymaking has largely been taken out
14 of the hands of experts and into the hands of
15 governors, state legislatures and other elected
16 officials.

17 You cannot, I would argue, usefully
18 examine the issue of safety and abuse in America's
19 prisons without focusing an intensive and critical eye
20 on the role played by these elected officials in
21 creating the systems we now have.

22 The field of corrections policy has, by
23 far, the biggest gap between what we know and what we
24 do and for this you can see and you will hear
25 testimony and do research on what we know, for

1 instance, about educational, vocational work and drug
2 treatment programs and how little of that we actually
3 do.

4 This gap between our knowledge base and
5 our practice exists because correctional policymaking
6 at all levels has occurred in an extremely
7 hyperpoliticized environment where issues of
8 punishment have had and continue to have tremendous
9 political capital.

10 As a result, even the best correction
11 managers cannot compensate for a state system that is
12 crowded, underfunded, understaffed, growing and, these
13 days, under tremendous pressure to cut costs. Toward
14 this end and future hearings, I would hope that you
15 ask some of these elected officials and policymakers
16 to testify as well.

17 My time is up. I will end by thanking
18 you again for your work and the difficult challenge
19 you've set out for yourselves and I wish you all good
20 luck. Thank you.

21 MR. SCHWARZ: So, Mr. Jacobson, I think
22 you were here before lunch when there was some
23 discussion about the -- whether there was a
24 correlation between incarceration or incapacitation
25 and the decline in crime and what that correlation

1 was. Now, presumably, it can't be zero and it can't
2 be 100 percent, but what does the data show and what
3 are the reasons underlying the data?

4 MR. JACOBSON: Well, let me answer that
5 question a few ways. First, just to give you a brief
6 sense of what the sort of the most empirical research
7 on this issue of the relationship between our build-up
8 of the use of prisons and crime decline shows.

9 There's been a fair amount of empirical
10 work on this, mostly by Al Blumstein and William
11 Spellman, who have done different sorts of work around
12 this. Both their work seems to indicate that if you
13 look over the last decade or so, that our build-up of
14 imprisonment is responsible for somewhere around 20 to
15 25 percent of the nation's crime decline. This is a
16 matter of some debate, there's still a lot of work to
17 do. This, obviously, varies also incredibly state by
18 state.

19 So, for instance, if you live in a
20 state like New York; New York, over that last 10 or 15
21 year period has had one of the slowest-growing prison
22 systems in the country. In fact, in the last five or
23 six years New York state has a shrinking prison
24 system, larger, I believe, than any prison system in
25 the country. And during that, during the last 10 or

1 15 years New York has, by far, the largest crime
2 reduction of any state in the country.

3 On the other hand, you have a state
4 like West Virginia, which has had a massive buildup in
5 its prison system, one of the largest buildups in the
6 last ten years, and has also seen an increase in the
7 amount of violent crime.

8 So there are some very significant
9 variations on a state by state level but when you look
10 at the national data, the consensus seems to be
11 somewhere around 20 to 25 percent of the crime
12 reduction can be explained in statistical terms
13 through a buildup of imprisonment. So you are right,
14 it's not nothing, it's certainly not majority and the
15 questions that both researchers and policy folks ask
16 themselves when they look at that data is that
17 25 percent came at a significant cost, financial cost,
18 social cost.

19 So one of the questions we like to
20 struggle with is for the billions of dollars that we
21 spent to get that 25 percent, could those dollars have
22 also been spent in another way that perhaps would have
23 given you even more crime reduction?

24 The second general response to that
25 question, it sort of illuminates the first, is that

1 not only is the buildup of the prison system
2 responsible for a portion, but going out in the future
3 it's going to be responsible for a declining
4 proportion and that's because in this country we've
5 always locked up violent offenders for a very long
6 time. We've never been soft on violent crime. People
7 who commit and get convicted of violent crimes have
8 always been spent long period of time in prison.

9 So two things have happened during the
10 last really 35 years, but certainly over the last 10
11 or 15 years. First, we've taken folks who are
12 convicted of violent offenders and kept them in prison
13 even longer. Is there some benefit to that?
14 Probably, but, also, what's happened is that -- you
15 can see this the best when you look at the three
16 strikes laws, what three strikes laws generally do is
17 upon the third strike you may be in prison, and then
18 California has the most inclusive three strikes law in
19 the country, you can go to prison for 25 years to
20 life, when you look at what happens in a place like
21 California or other states is that even before the
22 three strikes law existed in California, when you
23 committed and got convicted of your third felony in
24 California, you were already going to prison for a
25 very long time. So if you committed a third strike in

1 California when you were 35 years old, before the
2 three strikes law, you may have already gone to prison
3 for 10 or 15 years and gotten out when you were 50.
4 Now what the three strike law does it keeps you in
5 prison for the years 50 until you die, when you are in
6 your mid '70s, exactly at the point of time when you
7 get no public safety benefit whatsoever of keeping
8 people in prison.

9 So we've increased the length of stay
10 for violent offenders and you get more and more
11 marginal results of public safety from that because
12 they're already in prison for so long.

13 And the other thing we've done is that
14 we keep putting less and less risky people in prison
15 and that makes sense because of the length of stays we
16 already have for violent offenders and as we fill our
17 prisons with folks, especially drug offenders who pose
18 relatively little threat to public safety and that,
19 coupled with the fact that a lot of research shows
20 that when you put a drug offender in prison, your sort
21 of atypical, nonviolent, low level street drug
22 offender, we're not talking about kingpins here,
23 there's close to a one for one replacement effect.

24 That is, when you put someone in prison
25 for dealing drugs at a street level, you are

1 essentially opening up an economic opportunity.
2 That's a job that's waiting to be filled by someone
3 else who comes in and does that. Unlike, for
4 instance, when you put a violent offender or a rapist
5 in prison for a good number of years, you clearly get
6 a deterrent effect and incapacitation effect. No one
7 is waiting to take that rapist's job. That's not true
8 in the whole area of drugs.

9 So as we expand our prison system
10 geometrically and, again, although the rate of
11 increase has slowed, the base is so large that even
12 though we're only increasing by two or three percent a
13 year, we're still putting huge numbers of people in
14 prison, new numbers each year, you get to have less
15 and less of a public safety effect.

16 So even if you think that 25 percent is
17 a realistic number over the last decade, you are going
18 to get less and less and less public safety benefits
19 from continuing to grow our system.

20 MS. SCHLANGER: Thank you very much.

21 THE WITNESS: You're welcome.