MS. SCHLANGER: We're going to hear next from Michael Jacobson, who is the Director of the Vera Institute of Justice, which is obviously the sponsoring organization for this Commission. Before he joined Vera as its fourth director in January 2005, he was a professor at the City University of New York Graduate Center and the John J. College of Criminal Justice. He's got a Ph.D. in sociology and, also, some very practical experience. He was the New York City Correction Commissioner from '95 to '98 and he was the City's probation commissioner before that. Prior to that, he worked in the New York City Office of Management and Budget from 1984 to '92.
He is the author of "Downsizing Prisons, How To Reduce Crime And End Mass Incarceration," which is a book that was published this year. He serves currently as the Chair of New York City's Criminal Justice Agency.

So thank you very much for joining us.

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

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

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

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

On the work you are doing, I would like
to emphasize how important it is to have a completely
independent, diverse and thoughtful group of people,
some of whom have a great deal of expertise on this
issue and some who don't, focus attention on our jails
and prisons, where now over 2.2 million people
incarcerated in this country.

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

The issue, however, of what happens to
people in our jails and prisons receives far less
attention. Understandable in some ways, there's a
lack -- as Allen Beck mentioned this morning, a lack
of uniform, standard data on prison conditions
generally, on violence and use of force specifically, and that, coupled with the fact that prisons are closed and what sociologists call total institutions allow uninformed perceptions of what happens in our prisons. Those who have preconceived notions of how our different systems operate can simplistically characterize them as anything from brutal, violent places where no one is safe to then being soft country clubs where prisoners lounge around, watch cable TV, eat well and have unlimited recreation and generally live fairly well.

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

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

Finally, I implore you to focus some of
your attention on our governors and state legislatures. Correction commissioners have not created the scope, complexity, crowding, health problems and the myriad other issues you've heard about in our nation's prisons. Legislatures and governors generally have. Correction commissioners do not decide how much money is required to run their systems, state legislatures and governors decide that. And, frequently, these elected officials also decide how much and what kind of programs will exist in our prisons.

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

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

The field of corrections policy has, by far, the biggest gap between what we know and what we do and for this you can see and you will hear testimony and do research on what we know, for
instance, about educational, vocational work and drug
treatment programs and how little of that we actually
do.

This gap between our knowledge base and
our practice exists because correctional policymaking
at all levels has occurred in an extremely
hyper politicized environment where issues of
punishment have had and continue to have tremendous
political capitol.

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

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

MR. SCHWARZ: So, Mr. Jacobson, I think
you were here before lunch when there was some
discussion about the -- whether there was a
correlation between incarceration or incapacitation
and the decline in crime and what that correlation
was. Now, presumably, it can't be zero and it can't
be 100 percent, but what does the data show and what
are the reasons underlying the data?

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

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

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

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

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

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

The second general response to that question, it sort of illuminates the first, is that
not only is the buildup of the prison system responsible for a portion, but going out in the future it's going to be responsible for a declining proportion and that's because in this country we've always locked up violent offenders for a very long time. We've never been soft on violent crime. People who commit and get convicted of violent crimes have always been spent long period of time in prison.

So two things have happened during the last really 35 years, but certainly over the last 10 or 15 years. First, we've taken folks who are convicted of violent offenders and kept them in prison even longer. Is there some benefit to that? Probably, but, also, what's happened is that -- you can see this the best when you look at the three strikes laws, what three strikes laws generally do is upon the third strike you may be in prison, and then California has the most inclusive three strikes law in the country, you can go to prison for 25 years to life, when you look at what happens in a place like California or other states is that even before the three strikes law existed in California, when you committed and got convicted of your third felony in California, you were already going to prison for a very long time. So if you committed a third strike in
California when you were 35 years old, before the three strikes law, you may have already gone to prison for 10 or 15 years and gotten out when you were 50. Now what the three strike law does it keeps you in prison for the years 50 until you die, when you are in your mid '70s, exactly at the point of time when you get no public safety benefit whatsoever of keeping people in prison.

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

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

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

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

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

MS. SCHLANGER: Thank you very much.

THE WITNESS: You're welcome.