MR. SCHWARZ: Our next speakers will give us an examination of independent prison oversight.

Anne Owers was appointed Chief Inspector of Prisons in Great Britain in 2001. Before that she was for nine years the Director of Justice for one of the United Kingdom's leading human rights
organizations, and when there she was a member of a number of governor committees, including the Home Offices Task Force on the Implementation of Human Rights Advocacy. Ms. Owers is going to describe the role of the inspector in prisons in the independent scrutiny of conditions and treatment in prisons and other places of detention, and she will describe the methodology that's used based on a set of expectations of accessing prisons and detention facilities and comment on how her tools for measuring outcomes may be applicable to other countries and cultures.

So thank you very much for being here and we look forward to listening to you and then questioning you.

MS. OWERS: That you very much, Commissioner, and thank you very much for inviting me. It is a great pleasure to be here and it has been a great pleasure over the last two days to learn about what's going on here too.

The first thing I really want to say is that I don't see that I am coming here to say that we have now cracked it in the United Kingdom and we're about to tell you that this is the way to do things. We have far from cracked our problems in prisons. We
have a lot of the same problems that I have heard being described over the last two days in prisons here; problems with mental illness, problems connected with substance abuse, problems of an increasing prison population, even though by U.S. standards it is small. Barely the prison population of New York State, I understand. But apart from that, you can't, it seems to me, simply import one system into another, you can't just transplant something that works somewhere into somewhere else just like that. You have to recognize the difference in different systems. There's difference of scale as some of your previous witnesses have said, there's the fact that you are operating within a federal system, and there are differences of legal and political culture and context, and it is very important to take those into account in whatever you are doing.

When my predecessor was Chief Inspector of Prisons we had a visit from a group of Russians coming to see how we did things and they asked three questions. They said, "Who appoints the chief inspector of prisons?" "The home secretary," we said. "And where does the money come from?" "Well, it is part of the Home Office vote." "And who is
your chief inspector?" "Well, he used to be a
general." "Ah," said the Russians, "we have
independent inspectorates just like that."

In order to be effective you have to be
working with the grain, you have to be working in a
culture that will accept what you say and that can
buttress the independence that I think is necessary
to this role.

As I've said in evidence to the commission,
and I won't go through it again in detail, our
inspectorate is a creature of statute. It is created
by statute, my office is created by statute. I hold
the office for five years at a time. I am appointed
independently of the Prison Service and also to an
extent independently of government since I'm a Crown
appointment and therefore I'm not part of the
permanent civil service.

We inspect regularly all the 139 prisons,
and by prisons I mean prisons and jails because we
don't distinguish in England and Wales, so it is
every single prison institution I am responsible for
inspecting regularly. Some of that is with warning,
some of it is without warning. I have the power at
any time and over half my inspections are carried out
unannounced without any warning to the institution.
We will take in a whole team of inspectors including experts in education and health care and substance use. We will look at everything that is happening within that prison and we will provide a holistic picture of all that's actually going on irrespective of what should be going on or what those running that prison might think is going on. We do that by using criteria that we have developed over a lengthy period, which I have copies of which I can happily leave for the commission, called "Expectations" which is our criteria in detail for what we would expect to see, what would be best practice in all the areas of prison life, the prisoner's experience, and we have developed those over time. We have a separate one for juveniles also.

And we also have free access within the prison to everything. We have our own keys, we talk to prisoners, we talk to staff, we see all the documents, and before we go into a prison we will carry out a confidential survey of prisoners to find out what they think of their establishment and although prisoners are by no means honest about all the things they do, we find them a surprisingly reliable source about prisons, not least because they
are, sadly, expert consumers of prisons, and we can
benchmark the responses from one prison against other
prisons of its type or indeed what that prison was
like last time, that is one source of information, it
is only one. It is always triangulated against what
my observers, what my inspectors see, the
documentation they read, and what the staff also tell
us.

We produce and publish a report which is a
public document with recommendations for change. The
Prison Service must produce an action plan saying
whether they accept or don't our recommendations, and
we will go back ourselves, always without warning, to
check whether those recommendations have been
implemented, so that's the way in which we carry out
our inspection and I'm very happy to answer more
questions about that.

I want to, though, in this initial short
introduction to address some of the issues that have
arisen about why you have external oversight,
external inspection of prisons, why we have it, and
to draw out that although the structures may not,
will not be the same, some of the principles might
guide your thoughts on this in the commission's work.

External oversight is emphatically not
because there are not good people running prisons and
working in prisons and responsible to politicians for
the running of prisons. You have heard some
witnesses on that today and yesterday. I see those
people all the time in prisons and, indeed, without
good managers and good leaders our inspection would
be no use at all because nothing we wanted to happen
would be able to happen. We rely on prison staff to
make it happen. We do more than that. Half of my
inspectors are people who have been operational
within the Prison Service. I choose them and that's
how I know there are good people working in the
Prison Service, and they work for me for a three-year
period but they have been operational prisons and
they will go back to being operational prisons and
that is very important. And in case anyone were to
think that this is too cozy a relationship, I would
have to tell you that those people who come from
prisons are in many ways and often much less
forgiving of bad and sloppy work done within prisons
than colleagues that come from outside. They're by
no means pushovers; quite the reverse.

We are not, I'm very clear, an advocacy
group, we are a group that is there to provide an
evidence-based account of what is actually going on
in the prison. We are aware of how fragile prison
establishments are. They do not remain safe and
decent places by accident, they only remain so
because of constant work by those who work within
them, and so we are very aware of that. What we see
our role is is essentially preventive. Of course we
can pull out sometimes when things are going wrong,
but our whole aim is to find out what is going on and
to prevent things getting worse. We can spot in the
detailed work we do where those things that should be
standards are not being implemented properly. Our
Prison Service, like many of your witnesses today,
has got a detailed set of standards, its own
standards for prisons. It has audits, it does audit,
it has targets which it expects prisons to meet.
Those forms of internal accountability are there and
present and very important.

We can look at what's actually happening on
the ground. In a prison that is less than well run,
what there may be is a virtual prison which is
operated from the governor's, the warden's office
where what is thought to be happening is being passed
up the line to those above. Even in well-run prisons
I don't think I have ever been on an inspection which
hasn't found something, however small, that the
governor or the warden of the prison didn't know was
happening and where the warden hasn't said,
"I'm glad you told us that, I will need to take
account of that," and that is a very important,
preventive role that inspection can play. As one of
your witnesses said yesterday, for those running
prisons, it is what you don't know that will get you,
and I think we are part of a procedure that can mine
a bit under the surface and find out things that
sometimes may not be known and their outcomes may not
be known, so it very much complements our Prison
Service, and you will be able to read how robust our
reports are, but I'm pleased that, nevertheless, our
Prison Service is very supportive of my inspectorate
and wants it to continue in its present form because
it sees it as an important part of what it is doing,
not least because I think independent inspection
which is coming from outside the institution can
provide a credible voice which gives some political
space for reforming and changing prisons. It is not
coming from those who are actually running prisons,
it is coming from somebody outside, it is pulling out
to the public what is actually happening in their
name in their prisons.

As many of your witnesses have said, the
public doesn't always want to know what's going on in
their prisons; they would like them to be out of
sight, out of mind, and yet prisons are a public
service just as surely as hospitals and schools and
police are a public service, and it seems to me that
the work that we can do, the publicity we can get for
what's going on in prisons and the publicity we can
get for what needs to be done in prisons is an
important part of public accountability. Thank you.

MR. SCHWARZ: Let me start the
questioning and then others will have more.

Maybe you could give us, even though it is
hard to do in a compressed period of time, but what
would you say are the factors which demonstrate a
prison to be healthy or unhealthy?

MS. OWERS: We have developed four
tests of what we call a healthy prison, which the
tests are based upon something that the World Health
Organization produced some while ago when it was
doing an inquiry into prison suicides. Those tests
are that a healthy prison is one where prisoners,
even the most vulnerable, are safe; where prisoners
are treated with respect for their human dignity;
where they are able to engage in purposeful activity,
and they are prepared for what we call resettlement
and what you call reentry, so those are the four things we look at. And when we do the detailed examination under our expectations, we group what we find under those four headings and we will tell the prison how we assess, how we think it is doing under each of those four tests.

MR. SCHWARZ: Then the second point I wanted to ask you is your written materials attached a questionnaire for prisoners and you talked about it in your opening remarks. That sounds like a very interesting thing to do, but what assurance do you have of validity? I mean, have you tested -- how do you test for validity? Is there bias in what's being said or is that canceled out by something else?

MS. OWERS: Well, the first thing is we select a random sample which is statistically valid. The first thing is you've got statistical validity, you are not basing what you are saying on one or two people, so we have statistical validity which can rub out individual bias. The second thing is that, of course, what prisoners tell us isn't necessarily what we believe, it is only part of our evidence base, so we will have that when we go into the prison but we will be checking what the survey is telling us by what we see and hear and feel and read when we're
actually in prison.

Having said those things, it is surprising
to us, and I think it was very surprising to the
Prison Service, how often prisoners are able to
pinpoint the things that are right and the things
that are wrong in a prison. We ask some quite
difficult questions, ones that our service found
quite difficult, like have people ever been
victimized by other prisoners, have they ever been
victimized by staff. And when we first asked those
questions our Prison Service said, "But they're all
going to say that, they're all going to say that,"
and actually they don't. A very small number do. So
when a significant number of prisoners are expressing
concerns about staff, it is something that we look at
with particular concern, or whenever they're
expressing fears of unsafety from other prisoners
which is, obviously, also part of safety. So that
although we treat this quite rightly as only one
source of evidence which needs to be corroborated,
because of its statistical base it does provide, I
think, quite a good landscape map of the areas of
good and bad practice within the prison.

MR. SCHWARZ: The final one I wanted to
ask you is you mentioned in your earlier remarks the
helping with political support for reform. You were
there I think at the first panel this morning where
there was a lot of discussion about how one generates
political support for reform and I would be
interested in your comments on that dialogue or your
own views on the subject.

MS. OWERS: I think it is a very tricky
one and one that certainly our country no more than
this has cracked yet.

There are two things that relate to
independent oversight that I think are relevant here.
One is that while public opinion generally is not
sympathetic to people who are held in prisons, my
experience has been that nor does the public want to
think that its country is running prisons where
people are held in degrading conditions, for example.
And so there is actually a public, a public
groundswell where things are revealed that should not
be happening and that's rare in our prison system but
it has happened and it does generate that
groundswell.

The other thing, I think, is to get an
intelligent debate going about what prisons are for.
People clearly go to prison as a punishment, as one
of your earlier witnesses said, but if that's all
that happens, then society is not truly protected
because, as many of your witnesses have said, they're
going to come out, and often quite quickly, and we
want prisons to be places which make them less rather
than more likely to re-offend, and getting an
intelligent debate about what actually happens within
prisons, which is part of what we do, I think part of
that.

MR. SCHWARZ: Thank you.

Mr. Maynard, did you have a question? I saw you
waving your pencil or something like that.

MR. MAYNARD: You probably said it
earlier, but you said 131 prisons, jails?

MS. OWERS: We have 139.

MR. MAYNARD: How often do you visit
those, how often do you inspect those?

MS. OWERS: Not often enough, but each
of those will see us at least twice in a five-year
period. But if there is a prison or a jail that I'm
particularly worried about then I will go in more
quickly than that, and the ones where our inspections
have raised some concerns are the ones that we will
go into more quickly. Our work is supplemented by
citizen committees called Independent Monitoring
Boards who are there all the time and also have
access to the prison and can go in regularly. They're not connected to us, but they're a separate form of monitoring.

MR. MAYNARD: Laurie.

MS. ROBINSON: Thank you very much for being here. I think this is very interesting. You commented that the correctional administrators are very open to and supportive of having visits by you and your staff and I'm curious. Is that consistent across the board or are there some who are resentful and unhappy about it? I mean, human beings generally are somewhat diverse in their reactions. And where there is resentment, as presumably there will be, I'm curious how you deal with that.

MS. OWERS: It is certainly true that not every governor of a prison is absolutely delighted when an inspection team walks through the door and all of them are somewhat nervous and it is not pleasant being inspected.

My remarks were about the top of the Prison Service, the Director General of the Prison Service, who is responsible to ministers for it, who feels that what we do is a very important part of his intelligence-gathering network and what he needs to
know about prisons he can't get into in detail at the
time.

When we do encounter, which we sometimes
do, we sometimes encounter a variety of difference of
mechanisms. They can be anything from "I know
exactly what's going on here so you don't need to
come," to putting up various issues that we don't
think are relevant about why the prison isn't working
properly. Also staff sometimes can be resistant, but
it is actually surprising, and I think it is partly
because we have a great familiarity with prisons. It
is surprising to me that we are -- we very rarely get
the kind of resistance -- well, we never had
resistance that makes it impossible to do our job,
but we very rarely have resistance that means that it
is a very uncomfortable procedure.

MS. ROBINSON: But I'm actually curious
about those who are somewhat reluctant and, in
effect, how you kind of win them over to be more open
to, in effect, the kind of recommendations you might
have or things that you are pointing out. Not
necessarily where you have to kind of work your way
into the prison, but more to develop the partnership
and working relationship.

MS. OWERS: I think you have to start
from the belief, as I think some of your earlier
witnesses said, that people actually want to work in
and run good prisons; people do not want to be
associated with a prison that is a failing prison,
that is doing badly. You have to work with that. If
you are working with people who genuinely wouldn't
care what kind of institution they were running or
what kind of institution you were working in, you
wouldn't get anywhere.

We find a lot of people in prisons have got
kind of stuck, have maybe got stuck in a way of doing
things or stop seeing something or are completely
ground down by the day-to-day problems of with
limited resources and an increasing prison
population, trying to deliver everything that
everybody wants to a whole heap the political masters
and other kind of masters, and people can get very
kind of ground down by that. And what we try to do
is to present it as a helpful exercise, an exercise
that is about a free consultancy, trying to improve
performance, trying to let them running their prison
be able to put levers on those above them about what
they need in order to do their job properly. It has
to be in that sense, although we have to be in very
separate places to start the exercise, it will only
work if you can convince the people you are talking
to that things could be better.

MS. ROBINSON: Thank you.

SENATOR ROMERO: Just two questions.

Your role in terms of looking at the
independent oversight, it is one thing to go in and
to inspect but the question, for example, that I have
here in California is what's the enforcement, where
is the teeth, what's the power to -- we can have all
the observations, we can have all the reports and
they will sit on shelves. I would like to hear that
from you in terms of truly the power, the authority,
the teeth to make something happen.

And, secondly, it is fascinating to listen
to your description of this, I rather like it. Can
you outline some of the maybe most stark contrasts
you see between the system of independent oversight
as you practice it, and although we are 50 states
with 50 different correctional systems, maybe some
observations to compare and contrast between your
system and what you have observed with ours.

MS. OWERS: I'm sorry, the second
question was so interesting I almost have forgotten
your first which was --

SENATOR ROMERO: Teeth.
MS. OWERS: Oh, yes. I shouldn't have forgotten teeth.

SENATOR ROMERO: After lunch, teeth.

MS. OWERS: Thank you.

In relation to that I think I would echo what your inspector general, Matthew Cate, was saying yesterday, which is you can chose to go down two routes. You can either be part of a system and have regulatory powers or you can be outside a system in which case you haven't got regulatory powers and you have to rely on your powers of persuasion, shaming, advocacy in order to get what you want. We are, like him, in the second group. I would not have the freedom to try to have expectations which asked prisons to get better and to go above minimum standards if I was tied into the system and had regulatory powers, so the powers of advocacy and persuasion. But, as I say, I think you are working with a system, and certainly we are in our current prison system, with the director general and his staff who want that prison system to get better, and I think an indication of that is that around 95 percent of our recommendations are accepted by the Prison Service and when we go back to check, because we don't entirely trust when people tell us that they
have done things, when we go back to check we found
around 72 percent of those recommendations have been
implemented, and so 72 percent of those things are
better in that prison than when we were last there
and in the kind of state our prisons are in that's
pretty much good enough for me at the moment,
although I would like to be a hundred percent.

Going to the second question, I'm reluctant
to get into that territory because, as I said at the
beginning, I think that you have to develop systems
that work for you and you have to develop systems
that fit into the political, the legal, the cultural
and the federal nature of the systems that you are
running. I have heard today some very interesting
examples of ways in which individual states have been
looking at things and I think the test will be to see
whether those kind of principles that I set out about
external oversight, first of all to see whether you
think they are useful principles, but also see how
they might work in particular states and in the
federal system, and I'm not sure I can do better than
that.

MR. SCHWARZ: That's a good answer but
let me ask you a pure fact question that maybe you
would feel comfortable answering.
I was having lunch with the judge from Alabama and the former head of the Alabama Prison Service who said that the starting pay for a corrections officer in the State of Alabama is $15,000; 8,000 pounds, or something like that. So what would the starting pay be for a corrections officer in Great Britain?

MS. OWERS: It would be about twice that in the public sector, it is less in the private sector prisons, about 3,000 pounds less, but it is about double that. And, of course, we have, the difference for us is we have a national prison system which is run nationally and more or less the same throughout the country.

MR. BRIGHT: Let me ask another factual question very much like that.

When did your office first become established and is there any measure of how effective it has been, particularly with regard to the safety of the institutions that you inspect?

MS. OWERS: My office was established in 1982 so it has had quite a long run for its money. We're nearly celebrating 25 years.

It is very difficult, I think, to isolate one particular actor in a prison system. My view,
and I think the view of most people, is that our prison system has gotten better over that time. It is significantly safer, there is more activity, there is more education, more training, and certainly a greater emphasis on reentry than there was at that time, and I think the inspectorate has played a key role in that, I mean, if you think of some of the things that we have gone on about have now become things that are embedded in practice. I give you an example. We produced a thematic report, because we do some thematic reports, on suicide in prisons about six or seven years ago, and that has led to a huge change in the way the prisons manage prisoners at risk of suicide and self-harm. And I know that my predecessor, the previous chief inspector, came over to the U.S. and looked at some systems in the U.S. he was rather pleased with and invited the government to think about those. Prison health care too, which was in a dreadful state some while ago, is now run by our National Health Service with the aim that it is run to equivalent standards to that provided in the community. I think those are some examples of areas where the inspectorate -- you know, on the big issues you have to go on and on for quite a long time. The small issues you can get some wins; the larger issues
take longer. But the fact that we don't give up on
them means, I think, I hope that they would
eventually happen. My big issue at the moment, as it
has been said about many places in the U.S., is
mental health and the need for better mental health
provision out there so that we don't have poorer
mental health provision for those within our prisons.

MR. BRIGHT: And you say dealing with
that to get people who are mentally ill out of the
prisons or to get treatment for those people in the
prisons?

MS. OWERS: It has to be both. It is
one of paradoxes, I think, of inspecting prisons;
that you could make prisons places that people feel
more comfortable about sending the wrong people to.
My view is that prisons are not mental health
institutions, they're not therapeutic environments,
and at present we are sending far too many of our
mentally ill people to prisons because we closed down
our large mental institutions and we did not replace
them with anything else. And they are people who are
very difficult to manage in prisons; they are a
danger to themselves, to staff and to other prisoners
many times, and many of them, as here, are held for
lengthy periods in segregation.
Mental health services within our prisons have gotten better and they need to get better because there are mentally ill people in the prisons, but I think the end game has to be to provide better mental health facilities, secure facilities and non-secure facilities, out there in the community so the don't prisons become by default mental institutions.

MR. BRIGHT: The National Health Service provides the mental health care as well?

MS. OWERS: Yes.

MR. BRIGHT: You have no private providers?

MS. OWERS: There are some private providers. The National Health Service will not provide to prisons, for example, so the private prisons have private providers.

MR. SCHWARZ: We have one more questions from Dr. Dudley if you want to.

DR. DUDLEY: Could you just kind of briefly characterize the prison population, like what percent is mentally ill, the cultural breakdown?

MS. OWERS: I'm not sure I can do that off my head but I can certainly provide the commission with answers afterwards.
There are around 78,000 people in our prisons now of which around 5,000 are women and around 3,000 are juveniles under 18. The estimates of mental disorder are very wide and I think it depends on what you count as mental disorder because some people can become depressed because they're in prison, but certainly a lot of the statistics would say you are looking at around 70 to 80 percent of people with some form of mental disorder often, of course, linked to substance use. And, of course, once people come off of the substance that is masking the disorder, then the disorder becomes that much more pronounced. In terms of ethnic breakdown, I'm not sure, I don't have the statistics at my fingertips, but I can certainly provide that.

MR. SCHWARZ: Did you have one?

JUDGE SESSIONS: I have one or two.

Talking about recidivism rates in this country, they're accepted as being unacceptably high in most circumstances. How does the recidivism rate in England compare with what we have here generally and how does the reentry program, which is the second question, or the resettlement program, affect that?

MS. OWERS: Our recidivism rates have been poor, very high for young adult men, age 21. It
is 70, 75 percent recidivism. In general the prison
population, around, I'd say over half, around 52, 53
percent that's reconvicted within two years and, of
course, that doesn't count the crimes which aren't
even detected.

For that reason we have started within the
last three or four years to put a lot more focus on
reentry programs. We put a lot of trust in the
cognitive behavior therapy programs developed in
Canada and they looked initially as if they were
producing very good results but actually
longitudinally, unless you put other things in place
like employment, like family connections and so on,
that won't work, and so we're putting a lot more
energy now into reentry.

JUDGE SESSIONS: Are those in
transition then, are they improving on the reentry
programs?

MS. OWERS: It is too early to tell.

This is still very new.

JUDGE SESSIONS: How deep are you into
it then? That's the fourth question.

MS. OWERS: How deep. Well, it started
very slowly around two years go. We're now creating
a new structure where we're joining together prison
and probation to try to do that in a more seamless
and organized way, but it is the short-term offenders
who are the major issue.

JUDGE SESSIONS: Thank you, Inspector.

MS. OWERS: Thank you.

JUDGE SESSIONS: Thank you very much.