MR. BRIGHT: Thank you very much.

The next panel, we have a very distinguished and interesting panel which we have asked to discuss how meaningful reforms can be implemented. I would like to introduce and welcome Scott Harshbarger, Merrick Bobb, Director Dora Schriro. We have asked them to identify some of the main areas of consensus with regard to culture and attitudes of corrections practice.

Scott Harshbarger is a former Attorney General of Massachusetts, recently the chair of both
the Massachusetts Governor's Commission on Correctional Reform, as well as the Department of Correction Advisory Council.

We are going to hear from Merrick Bobb, the court-appointed monitor for the past seven years of the Los Angeles County jails which is the largest in the nation, and he is also President of the Police Assessment Resource Center.

And, finally, Dr. Schriro is the Commissioner of Corrections for the State of Arizona and is there after having served also in the State of Missouri.

I would like to welcome you here. Start with Mr. Harshbarger.

MR. HARBHARGER: Thank you very much. It is a great honor to be here with so many distinguished elected and appointed officials, experts in law enforcement and corrections, academics and advocates.

To say what I have to say in seven minutes is one of the great challenges of our time. I will attempt to comply with that because I want to focus on three things beginning with my theme in the statement that I presented to you.

I want to talk briefly about my experience
as Chairman of the Corrections Commission for the last two years, as well as focusing a bit on the role of the independent oversight committee, and then hopefully at that time talk about what I think is the real issue here which is the politics of corrections and how we could deal with that issue far more effectively than we have to date.

Let me just start by mentioning within the records of the commission's report, the lessons are set forth in a very detailed corrections report which we issued in June of 2004. We then did a preliminary report on the progress that Kathy Dennehy and others in the corrections department had made and we completed a final report just this fall, set forth our recommendations for priority nationally. I will not detail these except it is important to my other themes perhaps about the politics of the public policy issue.

From the first GCCR report there are 18 recommendations, and you will recall just as a footnote, we were appointed following the murder of the defrocked priest, Father Gagan, in Massachusetts. We had the benefit of many, many people, including the exceptional independent investigation led by George Camp and Mark Delaney, to find the facts and
obtained a mandate for top to bottom review of the
department and that's what we attempted to do. We
focused our recommendations government, leadership,
culture, labor/management contracts, budget
allocations, the serious deficiencies of
classification, discipline, grievances, appeals, and
procedures of policies generally, the need to change
sentencing practices and regulations within the DOC
to give priority in preparing serious long-term
offenders for reentry, and the serious deficiency in
caring for female offenders with mental health and
health care issues. This independent, nonpartisan
commission, the majority of whom had come from
prosecutorial backgrounds and corrections
backgrounds, as well as the justice system, focused
our entire effort on trying to ensure that the major
criteria was public safety, accountability and fiscal
responsibility rather than other values.

As we went through this over a two-year
period our final report focused on six key areas that
the Department of Corrections could not achieve
alone, whatever else they were supposed to do, and
these recommendations were set forth in our final
report. The legislation needed to ensure
post-release supervision, comprehensive statewide
plans for reentry, change the sentencing legislation and initial practices, restructuring of the labor/management relationships, restore managerial rights and capacity, as well as budget reallocations, the creation of an independent inspector general and independent advisory council with staff and resources, as well as multi-agency partnerships for dealing with female offenders' mental health and health care which DOC simply could not do alone.

My second mission is to offer you very brief thoughts about these independent, the effectiveness of the independent advisory council, and they have been discussed and debated a great deal of time, but my experience was that they are very important for helping implement internal and external reform. They play a vital and invaluable role, particularly in corrections, as well as we have seen in almost every other institution in our society that is potentially secret, closed, secure and immune for whatever reason from external accountability, disclosure, advocacy and transparency, whether it is the church, whether it is corporate America, whether it is non-profits that hide behind that veil or whatever, this is not an exception.

No commission, however constituted, can
replace effective leadership in corrections, strong support by executives, and implementation of capacity. It cannot be a micromanager, it must be an overseer, a sounding board, that is what we learn and that is what we know going forward. However, this is where I encountered my first disillusionment, perhaps, with the system which as we proposed to play this more independently in the third phase of this work, we found we were not supported by the governor, the secretary of health and safety. We were supported by the commissioner of corrections, but the reality was people were not overly interested in us playing a role that might be interpreted as being I think political, but would have been focusing on how do we get other agencies, how do we get the legislature, how do we get the executive agencies to play their role, how do we get sentencing reform, how do we achieve budget reallocation, how do we tackle the labor/management contract and deal with that. And at this big point, that's when I resigned from the commission.

But the point about that was that these are things that the commissioner cannot do alone; this area of media, public media pressure and public focus on these things.
The major task is education and this is my segue to the politics of that. Every day in Massachusetts, 10,000 inmates, it is not California, Senator, but 10,000 inmates with a budget of half a billion dollars are being held for our protection and for some purpose of punishment. That reality is that the public is entitled to now how we spend that money and with what results, and the reality is 97 percent of these serious offenders are coming out of prison at some point. They should be prepared to reenter in ways that will ensure they're less dangerous than when they went in and less likely to commit new crimes in the communities in which they go to.

I learned many other valuable lessons which I have referenced in here, particularly for those of you in corrections, including the fact that even though I had been in this system for 30 years I knew very little about the corrections system, how it was run, what the pressures were, and I learned a great deal about two major things; the consensus of this among correctional leaders for how we do this job and do it well and, secondly, I learned how difficult it is to be a correctional officer. Even though I have critiqued the union in this regard, I think it is important for all of us to understand this is a
dangerous, difficult job with very few rewards and we are lucky we have as many good people doing it as we do, but I believe that reform is in the interest of correctional professionals as much as it is inmates and the communities.

Let me then turn to the third piece, and I'm glad to answer questions on all of these other issues if you would like to discuss them with me.

I want to focus now on my experience as a district attorney, attorney general, four-time elected official, a two-time loser. I am the former President and CEO of Common Cause in Washington, D.C., an independent, non-partisan citizen's watchdog group, and now I'm with a law firm of Proskauer Rose, who, by the way, I'm very proud of the firm, they brought the Johnson case here in California in the last year.

Since my time is up, let me just say these three things. The reforms you recommended in Massachusetts are crucial if we intend to be serious about reducing recidivism, reducing repeat offenders, and the reduction of urban crime. It may not sound tough and far too many people have built political careers of accusing people on being soft on crime, but these are very effective crime reduction tools.
My major question to you and challenge to you in my written statement is how do we, since we know what works, we know how to do this, we failed to do the work necessary to implement good public policy, we failed to show people what we stand for and why they should care about what we stand for as opposed to only what we oppose and criticize. So the challenge is, and perhaps the hardest question you pose to us is, how do we develop a constituency for the kind of reform that is real in terms of public policy, it is the issue of homeland security in my view, and the common causes and the common ground involved here, it can bring us together rather than polarize us, but it won’t happen overnight, but I do believe that we have a responsibility to take what we know works, make a good public policy, and find a way to implement, not just talk about these kind of reforms.

Thank you very much.

MR. BRIGHT: Mr. Bobb.

MR. BOBB: Thank you very much for the opportunity to appear before you all. I’m delighted to be here today. I’m delighted to see as many friends as I see on this commission. And, Senator Romero, it is particularly good to see you.
Some 14 or 15 years ago when I first got into this business with the Los Angeles County Sheriff's Department Senator Romero was right there by my side and of tremendous assistance.

What I would like to talk about today in the brief time that I have is the Los Angeles County jail system. I serve as a monitor of that system for the Los Angeles County Board of Supervisors. The Los Angeles County jail system, as I'm sure you know, is the largest urban jail system in the United States. It has houses some 20,000 inmates on a daily basis. It is also an extremely active place. There are 500 inmates entering into the system on a daily basis and 500 released on a daily basis on average. There are 7,000 inmates of that 20,000 who are transferred from one jail to another, taken to court, taken back from court, and so forth. The jail is spread throughout Los Angeles County which, as you may know, is as large as the State of Rhode Island, so that we have jails in the northern part of the county which are some 40 or 50 miles from Downtown Los Angeles, as well as jails in the Downtown Los Angeles area. This amount of movement, this amount of people coming in and out, presents very unusual challenges for our Sheriff, Lee Baca.
What I do is not to resolve or look at individual inmate complaints, that job falls to the Office of Independent Review which Jody mentioned earlier. Their responsibility is to assure that the investigations of individual complaints are fair, thorough and complete, and they certify in a way that those complaints are thoroughly and are fairly resolved. They do not dictate in any way the result, they cannot, but they can make recommendations to the sheriff.

Jody and the ACLU have had a valuable presence in the Los Angeles County jail system for many years and they act as a contact point and a facilitator for inmate services that have not been provided or are lacking. So, for example, if a given inmate has not been able to get to the doctor or the conditions of confinement are particularly problematic, the ACLU will use its good offices to intervene and try to facilitate a decent resolution.

My role is different. As monitor, I look at the system as a whole, the jail system, and try to make an assessment whether they're working or not and what could be done to improve those systems, so I will take each stage of the confinement process. Okay. I will look at intake. I will ask myself how
does it happen, how well is it done, how well are
inmates, health or medical health problems dealt
with, are they segregated out early, where do they
go, what kind of treatment do they get. Then I will
look carefully at the classification system and try
to decide whether the Los Angeles County jail system
has a functioning and correct classification
mechanism. It does not. We have found over time
that there have been many, many classification
errors; that there is a lot of confusion over what
system of classification to use. It is complex, it
is cumbersome, it is internally inconsistent, so I
have worked to try to think of ways to make that
classification system more rational.

Housing conditions within the Los Angeles
County jail system are difficult and also have failed
significantly from time to time. The current riots
or disturbances we're experiencing is a direct result
of that. The Los Angeles County jail system was
built to house misdemeanants serving sentences of a
year or less. The operating assumption behind the
jails was that 70 percent of the inmate population
would be misdemeanants serving short sentences. At
this point, 80 percent or more of the inmates are
either felons awaiting trial or sentenced prisoners
post-conviction who are awaiting transfer to the state prison system. Indeed, in the Los Angeles County jails today there are some 3,000 state prisoners who are awaiting transfer and I would hope, I would suggest that the state help out in this particular situation by giving those people to the state prison and reducing that condition.

There's talk in the current circumstance of segregation by race or ethnicity. I think that may be necessary as a very temporary measure but what I would rather see happen myself is a classification and segregation by security risk. On the North Point System I would very much like to see the eights and nines not mixed with five and sixes and ones and twos and threes. Because the system was set up, as I say, for misdemeanants, there are lots of dormitories in the Los Angeles County jail system and very few hard-locked cells. That presents a great challenge to the sheriff, of course, in terms of getting people out of the dorms, into hard-locked cells to quell the disturbances.

My time is up but I would be delighted to answer any questions you have and to talk further about the role that a monitor can play in helping to assure safe and secure institutions.
MS. SCHRIRO: Good morning, ladies and gentlemen. I'm Dora Schriro, I'm the Director for the Arizona Department of Corrections, and I have been a jailer for some 30 years or so. I think this is extraordinary work. I came to the field looking to make a difference with my colleagues and I'm ever so pleased to be able to talk to you this morning about some of the ways in which we make change happen.

For us, the conversation is really about how one creates public value in the public sector and how do you use that, particularly in the environment as difficult as corrections can be.

I would like to talk to you briefly about the method that we developed first in Missouri where I served and is substantially improved here in Arizona and continues to get better with time, but then to spend the bulk of my brief comments on the kind of characteristics of an organization that is really positioned to make and sustain that positive change happen, that's some of what we need to be doing for ourselves, and looking to the academic community and others to help us in that regard.

For us, our approach to problem solving is what we call a parallel universe. We recognize that
virtually everyone who comes to prison is going to be discharged at some point in time, so no matter how tough we are with sentencing, sooner or later everybody comes home and we look at the data, it is really quite surprising because the average length of stay is not nearly as long as we would expect.

When we also looked at our population we discovered over a third, really, is a jail population, they're with us for less than six months, so we needed to develop a strategy that would fit a traditional term sentenced prisoner, as well as those who are going to be with us for ever so brief of time, just enough to have their lives disrupted and then have to go back to the community.

Parallel universe is our approach to problem solving. It is a simple, integrated and comprehensive approach which recognizes that everyone, virtually everyone is coming home, and so we attempt to use every moment of the time of the sentence in ways that are much like the real world to which the offender population is going to return because for many of them, when they came to us they failed at many things. They not only broke the law, but they hadn't completed high school, they were involved in drugs and alcohol, they had violence in
their family life or were unemployed, so it is a lot of stuff to fix in a short period of time.

To give them skills alone is great but, quite frankly, it is not really enough. You have to teach them how to use those skills so as to apply them to the underlying values and mores associated with literacy and employability, and so we have been on a search for ways to revisit all of our core assumptions, rearrange our operational practices and our programming strategies to accomplish those important roles.

The paper talks in greater detail about parallel universe and I would be really happy to answer questions, but I want to move on fast to how you create environments in an organization to sustain that kind of sweeping, indeed, and comprehensive change. In my experience, there are five kind of characteristics and you need to have all of them to some extent so as to support those kinds of important reforms.

First and foremost there must be leadership, and leadership is not only the traditional leadership in the form of a director or senior staff, one of my colleagues is here with me today, but creating a community of leaders, not only
within the organization but with your partners who
have a stake in your success, so that would be family
and friends of the offender population, the crime
victim's community in particular, and others in the
public sector.

Second, that staff must really be empowered
to make change happen. We seek and we cultivate a
staff who has very high expectations for themselves
and very high expectations for the offender
population of which they work, very high expectations
that the work that they do will have long-term,
positive impact on the community.

Third is that prisons must be a safe place,
and when I talk about safe place I'm referring not
only to the physical safety, but psychology safety.
Staff and inmates alike are at risk of great
criticism, and in a paramilitary organization anybody
can pull up anybody else and so it is kind of a
precarious place to be. And so creating an
environment in which practice does make purpose and
where the attempts to get better are rewarded and
recognized, as well as those deliberate missteps are
addressed as well.

Fourth, that there must be press, and I
don't mean the kind in the back of the room, but that
there is this singular focus on what I call the capital "J", job, getting the big job done. It is running your prison safely today, but far more reaching is preparing the population to go back to the community so that there is no further negative impact of any of those folks as they return.

The fifth of the factors is there must be wide use of scarce resources. We come to learn quickly in our business that we have to get really good at making stone soup. There's never going to be enough money to do the things that need to be done, and yet we can do so much more wisely with what we have, and some of the resource development that I consider in my leadership capacity and that I consider with my community leaders is how do we use our time well. Well, from the first day to last day, every moment is focused on this tedious preparation.

The second is the money is used wisely and so based on evidence-based practices, zero in not on the lowest people who literature says are going to screw up if you mess with them, let's focus on the mid- and higher-ranked folks in terms of needs and risk and level our resources there with enough time to get it done. But staff is an extraordinary resource and what they really want to do is to be a significant, a
group of significant contributors. All of our scarce
resources, even though they're in short supply, is
public support and public respect and the way in
which we cultivate that important support is to have
measurable outcomes, to publish those measurable
outcomes on a routine basis and share them with
others, whether it is good or bad, it is still our
responsibility, and through this we achieve
transparency and accountability with the public that
we serve. I'm all done.

MR. BRIGHT: Great views on the part of
all three people.

I would assume, though, that everybody
tries to do the most they can with the very limited
resources they have but when you talk about sweeping
and comprehensive change, we need resources to do
that and I will come back to the question for Mr.
Harshbarger.

Everybody agrees reentry is a critical
issue today or one of the critical issues today.
Yesterday we heard that right here in California a
disproportional number of people are coming from very
hard up communities that contributes to them coming
in and then going back to those same communities when
they get out, and I guess the question is everybody
will talk about those things but how do you actually make it come about, particularly with regard to the resources that are needed.

MR. HARSHBARGER: I'm not sure. I wish I had the answer.

I think one of the greatest challenges here is how we talk about this and how we discuss it generally because, for example, in Massachusetts, which is a blue state, the reality is that there is no constituency now for any of the reforms that we have proposed. We have a Republican governor. The governor is the governor. So the governor is there and it is a democratic legislature. These entities are not talking about these issues, and yet the question I go to with my common cause hat is this. Where are the fiscal conservatives on this. I mean, here is half a billion dollars that we cannot measure and the outcome is simply not producing what it should. Who ought to be caring about how we deal with this efficiently. Where are all the district attorneys, where are the mayors, where are the people -- they're coming back to communities and causing many of these community safety problems.

Now we talk about reentry but what I found is there's no money allocated for this purpose,
there's very little to be gained, and sometimes maybe
our problem is how do you measure prevention, how do
you measure what we prevented from happening as
opposed to the results see when there has been a
crises, there's been a tragedy in this area, but I
think that's why there is the need for a broader
discussion.

But the fact is, there is no, right now in
my view of this last couple years has been, and
probably in my career has been within corrections no
news is good news is the best way it is done, no news
is good news and that's how you are measured and if
we don't hear you, you are doing fine, and all of you
know what occurs with that situation. As opposed to
what was just recommended and what I heard from many
of you which is being more public, talk about why
this is important issue, why it matters, how we deal
with mental health, health care in prison, because
people are coming out.

One other fact that I just want to mention
is this. In Massachusetts, a corrections
commissioner, for example, we discovered that 85
percent of the inmates in the prison, 85 percent of
the inmates are restricted by either statute or
regulation to be stepped down from levels of security
because of rules relating to how you deal with homicides, how you deal with dangerous offenders, how you deal with sexual offenders. 85 percent are actually restricted in movement. And the second piece is 50 percent because of minimum mandatory sentencing which many of us as prosecutors supported and believed in and felt were important, now wrap up and go right to the street with no supervision whatsoever. I guess my answer is I don't know the answer how we get there except there has got to be a public discussion and debate about this in turn. But it is a public safety issue, it is a fiscal accountability issue, it is a fiscal responsibility question, not whether this is, you know, being soft on crime or this is good for the inmates only. I mean, I think we failed to talk about the end result here and most of us talk to each other rather than trying to get out of the debate with the public in general.

MS. SCHRIRO: We have the right people and they're hard working but we found a lot of waste and we continue to find places where we can make changes for the better. Just a couple examples. There were hundreds of state inmates backed up in county jails throughout the State of Arizona
when I came. It wasn't good for them, it wasn't good
for us. We took a hard look at our intake process
and streamlined it and we cleared up all of our
backlog and now we take every state-ready inmate the
day the sheriff is ready to transport them to us,
whereas we used to spend several million dollars a
day paying bed days to the counties. That's now
money that I have recouped that I can re-deploy to
some of my other initiatives because it is not being
spent in that way.

We made the commitment that our goal would
be in the first five years that we came together as a
team that every programmable inmate would be employed
full time. Employment means work and treatment,
activity during the day plus meaningful, evidence-based leisure activities and meaningful family
development activities. We found that while we had
many classrooms and vocational training programs that
they were half full, and sometimes a big class was
assigned to small rooms so we put our restraints on
ourselves. There were all sorts of little places of
waste but in the aggregate we were able to rearrange
those basic program resources and without any other
appropriation create sufficient capacity to clear up
the backlog of the hundreds of people waiting to get
into the adult basic education. We have a 300
percent increase in the GED graduates last year with
over 3,000 having graduated. Everywhere we look we
find places to make improvements and that doesn't
mean at some point you don't need more, but it is not
in as many places as you would expect and where they
are, we can speak with so much better data about the
urgency and the necessity for that support and in our
system, quite frankly, it is really just limited to
three, really three important areas.

We need a significant pay increase for our
staff. We are losing them like crazy and we need
them. And, secondly, that we need to expand our air
treatment capacity, but it doesn't cost a lot of
money to do that. There are any number of really
effective interventions out there that are not
expensive to adopt. And that third, we need health
care.

MR. BRIGHT: You are aware many systems
don't have what you have, don't have classes, don't
have GED programs, all of that.

MS. SCHRIRO: I don't know, I guess my
very best resource is I have a terrific governor who
when she appointed me directly to put the corrections
back in the trenches, that's where it started.
MR. BOBB: I would like to briefly address the reentry problem again from the perspective of Los Angeles County.

I told you there are about 500 inmates coming in and going out of the jail on a daily basis. There is no real discharge planning at this point for those inmates coming out of the system, albeit the sheriff's department does have a small unit that attempts to do some of that. But what happens in Los Angeles County is that they're released, they're not taken back to the communities from which they came, they wander over to skid row or are dumped in skid row. There are instances sheriff's departments and other departments in the county are just taking inmates down to skid row and dumping them, hospitals are dumping people on skid row, and what we're doing, and this is switching hats, I'm switching now to my position as the president of the Police Assessment Resource Center, PARC, in conjunction with our parent organization, Vera, is proposing and is generating support for an administration project that will provide that kind of resource, discharge planning for the jail itself, providing them with services before they get out of jail, examine their benefits to see whether they qualify for Medicaid and other benefits.
when they get out, figuring out ways to transport
them to their communities of origin, locating
services in those communities of origin to which they
can go. I think, and I hope, and we need some help
from the state level on this too, is that this kind
of focused discharge planning will ultimately impact
significantly on the recidivism rate.

MR. SCHWARZ: I think we're talking
about what's really the most important issue for this
commission which is how do we make our
recommendations that are surely going to be good,
one that are going to affect the public debate.

By the way, before I hit a followup
question I want to recognize Chris Stone who was the
director of Vera and the idea for this commission.

But obviously this is a core issue and I've
got an observation that's sort of a question. One
observation is I think one of our contributions will
be to come forward with the best practices like your
idea of the virtual, the virtual inmate or the
virtual environment, that are working in one place
and, therefore, could be adopted in others and work
well there also. And also as Scott said, new allies,
fiscally conservatives, or as in yesterday's story
about faith-based people coming out against global
warming, you know, that's a whole constituency that
ought to be on our side on some of these issues here.

But ultimately we get down to the question
of is our society going to again be focused on
rehabilitation and can we make the case, is there
proof, and I would love to hear from any of you. Is
there proof that actually working on rehabilitation
with people who are incarcerated does make a
difference in the recidivism rate. I mean, it
should, but I think we've got to prove that. And
what other ideas do you have to be able to convince
the public that overcrowding is part of the reason
for lack of rehabilitation and lack of rehabilitation
is part of the reason for recidivism and, therefore,
for hurting public safety, so I'm trying to get all
of you to continue to comment on this most important
issue.

MR. HARSHBARGER: I have dealt with the
external reality of this for 25 years. I have never
seen a time when, and perhaps in the mid-seventies at
best, when we seriously talked about rehabilitation
being a meaningful goal even for our juvenile system,
let alone for our adult system. We had models that
showed the work. We had the Massachusetts Experiment
in juvenile corrections which to this day remains a
successful example of preventing and limiting
juvenile delinquency and juvenile crime that is still
not adopted in most states. So the challenge I think
from my perspective is not how do you improve the way
you are doing it but if we look at any other area we
would say the present thing we're doing is a
disaster, it is simply not working. That is, the
burden ought to be on those who say we need to be
tougher, and tougher does not include corrections,
rehabilitation, and all of things we're talking
about. Maybe it is a language change that we ought
to adopt.

But today you do not get a counterpoint.
If you are a public official, you are running for
office, you are a media person, there's nobody who
stands up repeatedly and says you are wrong about
your position that we ought to be tougher, that we
ought to doing something about rehabilitation,
programs in prison, reentry, supervision in the
community as being soft. And I think, it is very
basic, in the time that I have been involved I have
been fortunate to have a constituency that has
supported me in standing for many of these positions
that I consider to be top priority.

One example. I look at the police
department over the last 20 years and they made
dramatic changes in the culture, in terms of talking
about the best way to be tough on crime is
prevention. It is the cheapest, the best form of
public protection. Prevention programs,
partnerships. Nobody accuses Bill Bratton or Paul
Evers or Cathy O'Toole of being soft on crime because
they have adopted an entire new approach to this area
and in terms of people that they promote and hire.

But in this area the thing I find to be the
strongest public point is you are seeing what can be
done, you are talking about best practices. It is
not a mirage, there are people in every jurisdiction
who have done this very, very well, and the question
is, why is there not a way to convince others. If
you actually had every governor who took seriously
the job of corrections, who said this is a fiscal
issue, it is a public safety issue, it is a question
of community safety, not anything else, within that,
though, people like the commissioner will tell you it
is about safety, it is about humanity, it is about
fairness, it is about equal justice, it is all those
pieces that are a part of it, why haven't we been
able? I don't know the answer, but you are
challenging how do you make it possible to talk and
insist we talk about this. Not just make it possible, but how do we start to insist that this is how we got to be talking about an expenditure, a budget that dominates most local and state budgets, continues to rise, is the second largest provider of mental health services right now, is going to be the leading provider of care for older Americans, but yet why is corrections being asked to deliver mental health services when we have departments of mental health. Why not through a major health care provider, why aren't we figuring out these partnerships. So the thing that frustrates me is that some of us who believe that this is the way have got to be prepared to, as John Gardener said, to come out of the boardrooms and get into the fray and to say we challenge you, we're going to challenge you to talk about this in a much more positive and effective ways.

JUDGE SESSIONS: Mr. Harshbarger, you mentioned in your final report of the advisory group in October of last year, you said there was need to swiftly pass legislation to improve reentry and expanded supervised release amendments. That was in bright big letters. Did you produce with that report the proposal for legislation and what the legislation
would be, did you write it? What did you do with it?

MR. HARSHBARGER: We did. We planned in the next phase to focus on that and if others didn't pick it up, we felt one of the roles of the independent advisory council would be to propose these specific legislations.

JUDGE SESSIONS: You know they're not going to pick it up, that's underlined, that's a punch in the nose. You are a former attorney general. Could your group possibly produce proposed legislation that might be acceptable for this group to say as an appendix this is legislation proposed in Massachusetts, they're having a practical problem, other states have practical problems. Director Schriro has talked about how they managed better to do with what they've got. I don't know if you have proposed legislation, but that is where it is if we're going to do it. It is something the judge can deal with if there's legislation, it is something that litigants can deal with if there's legislation. If you could favor us with some effort in that regard, it would be helpful.

MR. HARSHBARGER: I would be glad to but to some extent, I'm not trying to be apologetic, I hoped we established credibility.
The great thing about an independent group, I would argue, was not, I think we supported it to some extent, probably, not by paying Kathy Dennehy as Commissioner of Corrections but we gave her a huge buffer benefit because we were there. But the next phase, we were going to become, I felt, an annoyance to others in the system who were not doing their job. And, unfortunately, in the state, the nature of politics, the press wanted to make a contact with the governor as opposed to the question why was no elected official, why was the legislature not addressing this very issue as well. So I think my challenge on my side is to try to figure out how do we mobilize from an advocacy community an effective response if we don't have the official position to do it. Your point is well taken. It is very frustrating that these things that seem to make good common sense and everybody seems to agree upon simply don't get proposed or are --

JUDGE SESSIONS: Well, there are people who oppose.

MR. HARSBARGER: There is, with all due respect, a corrections industry which we ought to accept that likes the things the way they are. There's a lot of money in it, there's a lot of vested
interest in it. Change is threatening, change is scary. If you happen to be the first one changing you can never tell, if you are the elected official, if I go through this process of change are they going to stand with me or are people going to oppose me. Who is going to stand with me if I'm willing to take on this challenge. I know they will stand with me if I say I'm tough on crime, they will be with me all the way, even if it doesn't work. But if I take on the challenge of change is the governor going to be with me if there are a couple of riots? Is A.T. Wall --

JUDGE SESSIONS: The question is whether you might provide information, proposed legislation that might deal with the release and what happens in the next reentry problem.

MR. HARSHBARGER: I should have answered your question more direct, I apologize.

MS. SCHRIRO: Just in response to Mr. Schwarz's question, and it is nice to see you again. Years ago I was in New York City Corrections.

First, I think in any field there's a temptation to exceed one's reach but in our field it is important that we know those things that we can or should control and those things that need to be in
partnerships with others.

I see some trends with governors, one perhaps worth cultivating, and that is where they are adopting an interagency or an inter-cabinet approach to problem solving so they don't look to me to say fix this and then look to mental health to fix that, kind of as you were suggesting, so a lot of that collaboration can occur at the state or the county or the city level based on the inclination of those elected officials, but increasingly I think what's happening, I think it is important for us to remember that crime doesn't start in the prison, it starts in the community, and so those things that corrections should address versus those things that should be considered by others as the primary initiators is a worthwhile endeavors.

The one piece that I hear missing is the offender's involvement in reform because, for whatever the reasons, they were the one who broke the law or pled guilty and I think one of the cornerstones of the reforms that we undertake and one of the reasons why there is wide acceptance for it is because we talk about what is our accountability and what is our responsibility as corrections professionals, but what is the offender accountable
and responsible for throughout the course of their incarceration and as they prepare for discharge and reentry as well. And of all the partnerships, of all the sharing of responsibilities, for me, I think that's one of the most important, and so focusing on that population as well is critical.

One of the fundamental weaknesses to both the retributive and the rehabilitative approaches is that it is us doing something to them, whether it is us doing treatment to them or us doing punishment to them, and the real question is what are they doing for themselves and their families and their communities and then how to support them in that endeavor. It may be wordsmithing at the end of the day, but I think it is more than that.

Last, I think there is a terrific amount of evidence-based research out there. Every organization in our correctional system has the most modest of research units but those one or two people prove some really phenomenal stuff and I think if you were to solicit recidivism studies from virtually any state correctional system, they will have something to share with you. And there are any number of university folks who are also doing recidivism studies and other studies about what works and why it
works, and so perhaps when you are at the end, that's a next chapter or some other addendum very worthwhile pursuing and adding to your valuable work.

MR. BOBB: I would like to respond a bit more to Fritz's question.

I think what one of the things we need to look at, and I'm heavily influenced in my views by Mike Jacobson's book Downsizing Prisons, is figuring out how to reduce prison population. I think I would look at three strikes laws across the country and see whether they are putting in jail people that should not be there. I would look at the power of diversion programs, I would look at sentencing to see whether we are in an era of over-sentencing and therefore putting too many people into our prison system. What are we doing with the physically and mentally ill; should they be there. We need legislation to, in essence, decriminalize poverty. We need to look at problems not so much as criminal law problems but social problems, get legislation to do that. If we can downsize the prison system, get a prison population under control and in hand where we don't have 167,000 inmates incarcerated in California, then I think that generates money, it generates savings in terms of prison construction, in terms of daily costs
for inmates and the like, then that money and those savings should be channeled into reentry efforts and programs, both during the course of the inmate's stay and then to make sure that there is adequate planning to discharge them to maximize the opportunities that this person has some semblance of a network, some ability to, if he or she chooses, help themselves get out and not come back.

MS. ROBINSON: Scott Harshbarger, I think, has really framed some very important themes for us with this whole issue of developing constituencies and I know, Scott, you and I have had this conversation over a decade or more about how to build constituencies broader than the criminal justice system itself for bringing change and how the public, the country deals with crime. And harking back to Fritz Schwarz's question, I agree, as the commissioner raised, that there really is a great body of evidence-based research available on the question of whether a rehabilitation program really can be successful in helping prisoners change their behavior and become the law-abiding citizen back in the community and change their behavior in terms of using drugs and alcohol. And one of the things that really strikes me is that there is such a wonderful
growing body of professionals in the corrections field, and you see that reflected in the NIC's work, et cetera, around the country who are doing the kinds of things, you can see what they're doing in Arizona, and maybe one of the things that the commission itself can do is try to think about how do you bring together the kind of other allies that Scott is talking about to try to bring some juncture and gather together people who can give support to that. Isn't that really the key? And I would like to have some brainstorming further on the part of the panel about how you bring to light and spotlight the kind of experimentation that is going ahead in states like Arizona, to show that kind of experimentation, it is terrific to hear this kind of work. And, Dora, I have to say as a comment, I love the kind of work you are doing in having prisoners renew their own prescriptions and use alarm clocks. I did think, gee, we can use that on our own teenagers, have a side industry going here.

But, seriously, the kind of successful or we think successful models that are underway to give more attention to this kind of thing, I think legislators, Scott, would be fascinated to learn about that in other parts of the country and I would
love to get some of your reactions on that. Couldn't
people be excited about this kind of thing?

MR. HARSHBARGER: I will say that,
Laurie, in the last two years, and I have mentioned
this to several of you, I repeat, as somebody who is
in the justice system, cared about corrections even
in these other roles, I really think I learned so
much in the last two years and I, therefore, I look
at the public education gap. What I saw worked, the
things that you seeing now; how good, how established
the best practices are, how good some of the people
administering these systems are, how they find ways
to balance these issues that we deemed as impossible
to balance in secure settings and how they go about
doing this, and it strikes me as well this is a
worthy political discussion because it is one of
those times if you get people to understand this, to
see this, you will have success in building it. But
the problem, I think, is, and I know to Merrick's
point, with all due respect, I came out of the
sixties myself and believe all these things, the
social safety net is gone. I mean, we let government
walk away from so many responsibilities and this is a
part of the issue. We have let government advocate
on so many fronts and what's happened is the police
and corrections are willing to take these jobs on. I mean, we are mental health providers in corrections because nobody else is doing it. We are having problems with housing in the community on reentry because nobody is providing any kind of housing programs. It is that social safety net in every state that has sort of been eroded away is why this problem comes up.

If I were to talk about rebuilding alliances, we need to build an effective coalition because the interest of advocates, the interest of the communities, remembering that the vast majority of victims of crime are also poor and powerless and people of color as well, we can't go ahead and say gee, it is too bad. That's why this is a civil rights issue, that's why there's a coalition to build and support, but the question is going to be how are we, Leslie Walker, Mike Ashe and I, going to support those legislators or those political people who are willing to take this on and will we give them the kind of support they need.

I happen to think that the argument made on the basis of public safety, fiscal accountability, in the same way we did community policing, the same we did those other things, it won't happen overnight.
But, remember, we're still being governed in crime in this area by Willie Horton. Now some of us ought to be able to figure out other ways to counter that because we did in the other work, we saw simple solutions, simplistic solutions don't work. People will support complex solutions of the problems if they believe you are really trying to solve them, and I don't have any answer for it, but I think to come out of this without building a coalition from what you see and try to find players that haven't been a part of this would be a serious mistake.

MS. ROBINSON: It seems to me some of the experimentation going on, some of these new approaches cut through some of the ideology, that's what's exciting about it.

MS. SCHRIRO: I think first that in some ways I'm going to encourage us to strive for more than reducing recidivism. That's always been the traditional measure of success in corrections, what separates us from other social service organizations and how they may succeed. We set our standards really high and what we have asked of ourselves, the making a commitment to safety now and later, is that we look to the population to develop
the skills not only to be civil, which is to be law
abiding, but to be productive, and that's the part of
the conversation that grabs the public, that's what's
in it for them. It is not just whether or not they
may be affected negatively if this individual commits
a new crime, they can calculate the probability of
that happening, but that if all we do is succeed in
releasing the population that never got into trouble
anymore, we would still have a lot of things that
needed to be fixed because we have this burgeoning
population who have stopped doing bad things but that
doesn't mean they necessarily acquire the skills to
start doing good things. And what's in it for us is
if they aren't out there working and taking care of
themselves and their families, then what we have done
is perpetuate a welfare system that's out on the
street and we're still paying for it, so having
conversations about the urgency as well as the
necessity of the kinds of reforms and how it benefits
us not just in terms of our personal safety but our
fiscal solvency which is a little bit different than
the fiscal argument about running efficient and
effective prison systems I think is worthwhile.

The other thing that I would encourage is
if we could take this conversation and keep it real
and make it normal. If on a routine basis Time and Newsweek and the New York Times who episodically will feature reforming corrections did more in this area, covered it with the depth that a weekly could do, if there was more conversation on some of the public networks, not that anyone watches them but they have more time to deal with these things, these are not your three-minute or three-second news clips, it is not nearly enough to inform. And I guess if I could really wiggle my nose, it would be a wonderful for real T.V. program and it would be about all the people who come together in a correctional environment and how they struggle to be good people and how they struggle to be better people, whatever uniform they happen to be wearing that day.

MR. BRIGHT: We have many people that want to ask questions and three minutes in which to answer them so keep that in mind.

MR. KRONE: About reentry on public safety, we talked about quite a few things but we haven't addressed the physical health aspects of prisons and specifically the fact that our prisons are breeding grounds for a lot of contagious diseases. I would like to know what recommendations, policies and procedures that you would recommend as
to how we identify, treat, prevent this spread of
contagious diseases, not only in our prison to other
inmates, but also when they're released to the
public; HIV, AIDS and hepatitis.

MS. SCHRIRO: It starts with a good
intake process where there is a comprehensive battery
of physical examinations. There has to be increased
effort to provide health and education initiatives
and get the offender population more actively,
directly involved in their own health and healthy
habits. Our focus on leisure, development of leisure
time, as well as work skills, is really critical to
that. In fact, it is good sense for us as a system
to encourage that population to be physically active,
it is important to eat healthy, it is important to
have your routine checkups. From our perspective we
also need to rethink how we deliver health care. I
think there is positive value for the co-pay system
that many systems are adopting, but there's some
unanticipated consequences associated with that as
well. If an inmate is scarce on resources, are
straining their moneys and so waiting until the
situation is such that it is far more difficult to
treat, then those are perhaps practices that we need
to reconsider. So like everything else I've said, it
is really a partnership, but it is us enabling and
empowering them with better education and
opportunities to live that healthy lifestyle that's
necessary to live on the outside.

MR. HARSHBARGER: Let me just say from
the outside, the two pieces of our report, that's not
the bible, but it is not bad.

The two task force reports we did on female
offenders with the second, this last round which is
the shocking problem in Massachusetts because there's
such overcrowding, but the -- and the one on mental
health. And what was most interesting was the
correctional people, the first ones to identify a
whole range of issues with, for example, 65, 60
percent of the female offenders who present either
for jailhouse health, serious mental health or other
kinds of issues, they didn't get it at prison, they
came in with it, but then the issue is where are the
facilities that deal with that, the health care and
mental health issues in these secure custodial
institutions with limited care. I think it was
actually, it was to me, a revelation because it was
not an area that most of us had thought about even
being as serious of problem it was in terms of simply
having a safe and secure and healthy institution.
So what I was also impressed with again, I will repeat back from what I was hearing, there are many institutions, I was very impressed with them, who know how to do this, who do it very well through intake, who figure out systems to deal with this, but one of the cost factors in Massachusetts is that health care alone right now is 15 percent of the budget, programs are five percent. Health care is 15 percent, physical, the security just of the building alone is 50 percent, but then the largest issue is then the personnel cost is 80 percent and that's tied up very much in union contracts.

MR. KRONE: I was specifically concerned about the contagious diseases that come back to our communities, to our children and loved ones.

SENATOR ROMERO: Thank you for your presentation.

I'm looking especially at the development of coalitions. In California, to some extent, we're talking about corrections and rehabilitation to a large extent because we had the Terminator elected and not every state has a movie star running for governor of the state, thank God, but in California nobody can question him as being soft on crime. As
an elected official, it is real. I'll say I've had everything thrown at me; that I love rapists, sexual offenders, you name it, I am soft on crime.

The issue that I have found to work is just to accept it as a given, move forward, because to me I think that regardless of the policies we embrace, the most fundamental, important policy in any state is the budget, it reflects the priorities, and when you simply open up the books and you start looking at how the money is spent, I can get some of the most right-wing Republican dear colleagues to look at those and side with one of the most liberal Democrats in California saying there's something wrong here, coupled with commissions like the Little Hoover Commission who have labeled our parole system as a billion-dollar failure. So I think it is something we have to do because you have to -- I don't want to say go under cover because I think backbone is essential, but show me the money, show me the taxpayer accountability, and to a large extent I think some of the things we have heard about California is saying California is about law and order but it is not about being tough on crime, it is about being smart on crime, and I think it is something we really have to figure out how we work
with governors and state legislatures throughout the
nation who get every insult hurled at them and to
figure out how to make it work.

   Additionally, you talked about the media.

One thing that I think helps to explore that is media
access. To a large extent our prisons have been
closed. We hear about those places, we don't see
them, we don't open them up. We have tried getting
California, the sunshine state, to open it up, allow
media access. If we have nothing to hide, how do we
begin to provide access, and I think it is an issue
this commission needs to look at. Media access I
think is the big part of it. I think you are
absolutely right, we still live under the scepter of
Willie Horton and whether we see it in face of
Hurricane Katrina, to looking at corrections in
California, we cannot go to San Quentin, we cannot go
to Death Row in California and not see 40 percent of
the condemned African-American in a state where less
than seven percent are African-American. The face of
race, the question of race underlines to me criminal
justice corruption and, to a large extent, you cannot
talk about looking at conditions of confinement,
successful reentry, the whole process of how they get
into prison, how they're treated, race relations and
how they get out without examining to a large extent
the fundamentals of race in this nation, so I think
there's much that we can do. I look forward to
working with you. Those are some very real
challenges. To a large extent it begins with open up
the book, show me. We do it in every other
institution. We still seem to be very reticent and
closed in dealing with this which makes it harder for
elected officials then to take on an issue that we
send out, nobody should be looking at.

DR. GILLIGAN: I wanted to address some
of the issues that came up in this discussion and I
would like to direct this primarily to Mr.
Harshbarger, theoretically to all three of the panel
members.

We have been talking about what's missing,
what we don't have enough of. We don't have enough
resources, not enough money. Second, not enough
political support. Thirdly, not enough knowledge
ourselves as to how to do the work. I want to
address all these things and get your thoughts as to
whether we might also be able to come up with some
solutions to them.

Just to give a few examples, the Rand
Corporation here in California, research I have done,
research many other groups of individuals have done
have shown that there are rehabilitation programs and
violence prevention programs that do cost money put
into place, but when they are put into place save the
taxpayers money. A great number of us have shown
that the taxpayers can save $4, $5, $7 for every one
dollar spent on a wide variety of violence prevention
programs from the intensive rehabilitation programs
in prisons, to substance abuse treatment programs, to
programs for families in high-crime neighborhoods,
et cetera. So the question is not whether we can
afford these programs, the question is whether we can
afford not to have them because they reduce
recidivism, they reduce initial crime so much. On
the other hand, the public hasn't been educated about
this, so we need to think how can we educate the
public better and, finally, how can we educate
ourselves better.

One anecdote. When the sheriff of
San Francisco, Mike Hennessey, a few years ago
started an intensive program to replace retributive
justice with restorative justice what he did was to
get a grant to do research and evaluation of this
program which I conducted for him. What we found, we
were able to demonstrate an 83 percent reduction of
violent recidivism among inmates that had access to
this program compared to a control group that didn't
have access to it, that they were saving the
taxpayers four to $5 for every dollar spent on them,
but how to publicize this, how to get it across.

I would start with Mr. Harshbarger. The
advisory council members which includes many very
appropriate and remarkably capable people on it did
not include the people who actually educate the
people; the editor of the Boston Globe, the
presidents of the major universities, the leaders of
the major religious organizations, the catholic
cardinals, bishops, et cetera, et cetera. Is there
any reason we shouldn't include throughout the
country on advisory councils to departments of
corrections the major educators of the public so we
can get some public support and political support so
that the public can learn, in fact, that what we're
doing now is not only improving their safety, it is
actually also costing them more money compared to
what we could do if we had programs that work?

And finally to put an emphasis on the idea
that there's no point in doing any kind of innovative
programming in the correctional system unless it is
always accompanied by research, by an evaluation that
will show whether or not this is working without
which its usefulness and effectiveness, disappears
the next time a new governor is elected. I just
wanted your thoughts about these ideas.

MR. HARSHBARGER: They're terrific
observations and comments and since I suspect we have
a time limitation here, no one wants us to take the
rest of the day.

Let me just say three things about that.

One is there is absolutely no reason why those things
should not have been done. An example. Given
limited resources, the first major research that was
done about the recidivism issue is just beginning to
be done now in Massachusetts.

Secondly, I am still hopeful and optimistic
about our democracy but I'm also not convinced that
evidence alone carries the day. I have seen too much
even in areas in the last 10 years, I have watched
with real concern as we took things like, for
example, the Comprehensive Multidisciplinary Safe
Neighborhood Initiative and reduced urban crime in
Boston, and that could have been done in many cities,
but the trouble was we eroded away, a example, the
after school program, the conflict resolution program
which I watched solve major racial issues in high
school. I saw the intervention of mediators in conflict resolutions in jails. It was remarkable in teaching inmates and young people to understand how to understand problems without violence. But the question was evidence-based practices. The leaders here, that's all they talk about, but it doesn't seem to move yet the legislative process.

The third piece about the media, and this particular commission I think we set up for purposes that were somewhat limited, my only concern on advisory commissions, and maybe you want to think about this, all of you, is many people will agree to serve but will they serve. Will they go on just in name. One of the best things we have going for us, we happened to have two independent staff people who worked with the commission. They were terrific. I'm worried about who will actually commit themselves in this area to this kind of service. And I go to the academic institutions, there are remarkable people who could help here.

I don't know whether, to answer the senator's question, corrections departments are not uniquely open to allow others in to help, or if it is a chicken-and-egg situation; because we're not invited in we do all our studies separate from it, or
is it, frankly, that in many respects the trouble
with corrections work is it is nitty-gritty, in the
fray, it is hard, it doesn't always produce perfect
control environments and it is always day to day and
active, tough to deal with this. It is not appealing
for many people to come in and do that.

But my other thing about the media, the
media is the messenger here. We live by 15-second
soundbytes, we live by 30-second reports, the eleven
o'clock news. Even the situation in Los Angeles, I
believe, I noticed last night it wasn't a lead story
on the news. You go to Boston, it is very hard to
get people's attention, and you can have a great,
good news story one day in the paper but as many
students in high school programs used to say to me,
if there's a shooting in a high school, every media
outlet in town will be here. If we went through the
day in most urban schools with no crime whatsoever,
we will never get any focus on that side of it. So I
am concerned about the dollars and cents we need.

I think we demonstrated prevention,
meaningful, real prevention programs work and
therefore it is a political problem, I think it is
more a political problem in the best sense. This is
a democracy after all, we do act out our values, but
through the political process. If you are going to
make change, we have to all commit ours in getting
into that fray as well.

MR. BRIGHT: Thank you very much for a
very stimulating panel. Unfortunately we have run
out of time so we're going to take a break.