DR. DUDLEY: The subject of our next panel is the concept of transparency as it applies to correctional institutions. It is my pleasure to introduce three distinguished witnesses who will help us explore and illuminate this topic. They are Professor Walter Dickey, Ms. Gwendolyn Chunn, and Dr. Silvia Casale.

Our panelists will explain the importance for democratic societies in transparent government institutions, they will articulate the key components of the transparency, they will discuss the mechanisms and obstacles to achieving greater transparency in the context of corrections. The panel will also examine how our correctional agencies in the United States stand in comparison to other government bodies and to correctional agencies in other countries regarding issues of transparency and openness.

Professor Walter Dickey was the Secretary of Corrections for the State of Wisconsin in the 1980s, currently is the court-appointed monitor of the Wisconsin supermax facility, and the faculty director of the Remington Center for Research, Education and Service in Criminal Justice at the University of Wisconsin Law School.

Ms. Gwendolyn Chunn is the president of the
American Correctional Association and was formerly the Director of the Division of Youth Services of the North Carolina Department of Human Services.

Dr. Silvia Casale is the president of the Council of Europe's Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment.

We have asked, as in prior panels, for each of the panelists to speak for about five minutes and then we can then have an hour of exchange between them and then questions and discussions for about an hour following that, so I thank you all for participating in the examination of this important topic. We look forward to hearing your remarks.

We would like to begin with Professor Dickey.

MR. DICKEY: Thank you.

Rather than repeat my paper that I think you might have seen, I thought I would go at these questions in a slightly different way in the hope we might illuminate the questions before us.

I think if you ask most wardens of prisons what the purposes that they have were I think the first one they would say is the maintenance of order and I think they would be right. If you ask the
question how do you get it and why do you want it, I
think the reason you want order is it brings safety
and that's one of the primary things prison wardens
should want. How do you get it. I think in a broad
sort of sense it is a function of compliance with the
rules, and that leads to the question how do you get
compliance with the rules if that is what gives us
order.

I think the thing about prisons is it is
tempting to look at the bars and the handcuffs and
the technology and all that sort of stuff and assert
or believe that's the primary method for getting
compliance with the rules and that certainly plays a
role in getting compliance, but I think there are
other things that work that are very important and I
think they have everything to do with this question
of transparency.

I think first of all for all of us, and it
goes to prisoners too, we get compliance for the
rules mostly through agreement. We have all agreed
to play by the rules and comply by the rules, and I
think in Monaghan Prison one of the things that you
want more than anything is to have the prisoners
agree to play by the rules, abide by the rules,
because that's one way of getting compliance.
I think, secondly, compliance with the rules is a function of habit and prisons, of course, run on procedure and repetition and habit and the more of that we can get, the better. And obviously there are incentives, rewards for playing by the rules; disincentives, punishment for not playing by the rules, and incentives play a powerful role in ordinary life as well as in prisons in getting compliance with the rules.

Now I guess to sort of return to my question, if agreement to play by the rules is important, the question is how do you get people to agree. Again, I think the lessons of ordinary life often apply with respect to prisons. I think we agree to play by the rules because we think the rules are fairly and legitimately made, we understand them, we understand why playing by them is something that we ought to be doing, we think they're factually necessary for a civilized and civil sort of life. And I think without legitimacy, without that sort of agreement because they're fairly made and because they're factually based and well understood, it is very hard to expect people to comply because they agree. And, secondly, if you don't have programs, whether they're schools, jobs, factories, whatever
they are, the things again that make up the naturally occurring forces that bring compliance with your rules, you are much more likely to be relying on force and handcuffs and all that sort of stuff as a way of getting compliance because the less agreement and the less naturally occurring forces that are contributing to compliance, the more you are going to have to resort to those sorts of things. To put it another way, it seems to me the more legitimacy we have, the more compliance and the more desirable, that is a way of getting people to comply to the rules.

And I think this question of legitimacy goes to the very heart of what is called transparency. It has to do with visibility, it has to do with the fact that they are factually based, it has to do, I think, with accountability because if there's not factually-based rules, well understood, made in the ordinary course of things, fairly made, it is very unlikely that you are going to have, as I say, compliance. It is also very unlikely you are going to have accountability, and you need accountability and visibility in order to get compliance of the kind that I just described.

You need other things as well. I think in
business, for example, in this country today, if you
look at the sort of competitive environment that we
have, I think what you see are companies that are in
a sense constantly scanning the environment, trying
to figure out better ways to make money because the
environment is a competitive one that's changing and
therefore they have to be on top of their game in
order to be profitable.

Unfortunately, that competitive environment
doesn't exist in prisons, there is not that incentive
certainly to be reviewing what you do, yet I would
say because the facts and circumstances of life in
prison are also changing, that also needs to be
continually under review by leadership in those
institutions because I think without that sort of
continual review, you can't have rules and a way of
life that is, in a sense, legitimate and responsive
to the environment in which people live. All of
that, as I said, would require, I would say,
basically compliance with the rule of law because it
is through the rule of law that we get compliance,
accountability and visibility. The rules fairly made
are rules that are made according to the rule of law.
That requires legislative interest and oversight,
that requires some administrative process by which
these rules are made as they are in other areas of
government, and I think by in large when we don't
see the rule of law operating in the prisons in that
very ordinary sort of way, I think what we tend to
resort to is things like court oversight or oversight
of some other kind because the ordinary methods that
we use in the democratic society to bring visibility
and accountability and oversight really aren't
operating.

So I think if one of the questions here is
why would we want visibility, I think one of the
answers is because it lends legitimacy to this
endeavor and by lending legitimacy to this endeavor,
it brings compliance with the rules and order and
therefore safety.

Let me just say one or two more words about
this question of oversight here and also one thing
about gangs because I listened to the discussion this
morning and I didn't hear at all, but there was one
thing that I felt was absent from this that I thought
was very important in understanding this question of
gangs, and that is we tend to talk about intervention
and all that sort of stuff to try to deal with gang
problems. When I was running the Wisconsin prison
system and we looked at this problem and we thought a
lot about it and we tried to figure out what to do to
not have it, one of the things we quickly realized
was that gangs can find a foothold in any institution
when the institution isn't doing business the way it
should. That is to say, if the institution doesn't
have safety and protection of the people there, the
inmates are going to look for it somewhere and if it
comes from group activity, they're going to go to the
group activity. Now safety is one thing they may
look for but if you ask who has control of the jobs
in the institution, if it is the staff and you can
look to the staff making the job decisions in
legitimate and lawful sorts of ways, I don't think
you are going to go to trustees or other inmates to
try to influence those kind of decisions. But in a
sense when the institution abrogates its
responsibility, I think that is the moment at which
it is possible for the gangs to sort of take over.

Finally on this question of oversight, let
me just say this. I worked with a lot of people in
corrections and one of the things I have always
started out my work with, I think it has always been
confirmed in my work with the folks I work with, is
that the people want to do the right thing. You may
disagree with them about what the right thing is, you
may disagree with them about how to get there, but
they invariably want to do the right thing. And I
think if you enter into any sort of partnership in
which you are going to bring oversight or involvement
or engagement of any kind, I think to approach it in
any way other than on the assumption that they're
trying to do the right thing and that you are in a
partnership with them to find out what that is and
how best to get it, it is likely to end in failure.
Just think about it this way. Suppose it was you
that was going to be the subject of oversight and the
approach we took was we're going to assume you want
to do the wrong thing, we're going to assume your
motives are lousy, you want to hurt people, whatever
it is. If that was the assumption that one started
with, that is hardly the sort of engagement that is
going to bring any kind of a positive partnership,
and so I think oversight takes a lot of forms and a
lot of shapes. It really is circumstantial, whether
it is special masters as I currently am, or boards or
visitors or whatever the heck it is. But I think
unless it is entered in that spirit, it is likely to
turn out to be so contentious as to really end up
being largely ineffective and, quite honestly, run
the risk of making things worse rather than better.
And these are fragile sorts of endeavors and I don't think you should ever forget that interventions, well intentioned as they may be, have the risk not only of success, but also of failure.

DR. DUDLEY: Thank you.

MS. CHUNN: I submitted already some written remarks that speak largely to the role and the contributions that the American Correctional Association has played since 1870 in the professional growth and development of persons who work in this field. I thought my time might be better spent if I gave you a few reasons as to why it is difficult to cultivate a transparent system. I am particularly aware of the clock over here and I'm going to do my best to sort of move through this so I won't elaborate as much as I might. I will just urge you that if there are things that I don't cover that you would like to hear me talk more about, that you will feel free to do so during the question and answer.

Number 1. Corrections leaders are generally assumed to be guilty before any findings of fact, and what I mean by that is that generally we are assumed to be people who enjoy meting out harsh punishment and punitive sanctions. Nothing could be further from the truth. The reality is that prison
has been glamorized in this society for a number of
years. Even it will go back to George Rath in the
Big House and all of that. We are still doing it in
television today.

You get the resounding notion during prison
reform that let's not make it too comfortable for
these people, maybe they won't want to come back.
Well, certainly evidence would suggest that that is
not true. They're coming back faster than we can
take them in.

Number 2. The public generally lacks the
political will to get involved in prison reform and
to demand changes. As one legislator said to me,
"Corrections won't get you elected but it can
certainly keep you from being reelected." So we're
striking this balance between citizen concerns,
victim concerns, which are long overdue, and
treatment which often means providing education and
other resources that the general public has to pay
for and so there is this tension about that.

What offenders get in terms of dispositions
is often a function of who they are and what they're
able to pay. Truth in sentencing went a long way to
help improve that situation, but we still have had
work with disproportionate minority confinement for a
long time. To hear this morning that one out of three African-American males can expect to be a part of the system is one thing. When I started 20 some years ago, the ratio was not quite that high. And so we see a situation that is getting worse and worse and now including brown people as well, so that the problem is exacerbated and we still continue to say in so many words, "Ain't it awful," but we're not doing a lot to intervene in that process.

Number 4. Time in office I believe is a correlate with success. If you look across the country to those people who have been doing this work for a number of years, who built some trust, who have some political capital, then those people understand what it takes to make systems work and whether or not you moved around the country or whether you stayed in one place, it is important to recognize that that is important in setting a tone where people can be authentic with what they're doing and they're not afraid of what's going on.

You might also want to know that the average tenure for a director is only three years in adult corrections and less than that in juvenile corrections. The appointing authority, and I would like to sort of bring home to this point, none of us
actually volunteer for these jobs. Though we may
think that it would be a nice thing to do, somebody
has to believe that you are capable of doing it.
Usually it is the governor or county exec or somebody
like that or you are elected if you are a sheriff,
but somebody believes that you are able to do it.
What really needs to happen is those appointing
authorities need to begin to understand that this is
a profession. You cannot take people off the street
because they are great contributors to your campaign,
you have to have people who have the experience and
the wherewithal to make the difference.

Finally I would like to say that it is the
quality of the person that you get in the leadership
role in corrections, and I would like to say a few
words about the American Correctional Association
here.

Many people such as myself who came out of
a background that had nothing to do with corrections,
those folks after a point began to say somebody in
the country must be doing this better, let me find
out where the resources are that will help me to be a
better manager in terms of corrections. And so it is
important that you have a person of character, a
person who has commitment, a person who believes that
you are capable of change because the bottom line right now is there are no incentives for you to do a good job. If you don't hold it in your heart, nobody is saying to you you really need to go out and make sure that the system is transparent; that you have some integrity, it is authentic.

So one of the things that I would like to see this commission consider is the importance of providing some incentives. And, folks, that doesn't always mean money, but it doesn't also mean that we can't have money, it simply means that sometimes we need priority. We know, for example, that substance abuse problems, mental health problems, have plagued our systems for years. Most of us can't afford to buy those services. So if we could even get some priority from federal agencies and from state agencies, that could go a long way in making the difference.

I continue to applaud what we have done in the American Correctional Association because accreditation has been the only avenue for one to guarantee that what you see is what you get, and in that regard then I think we have gone the extra mile in making the difference.

DR. DUDLEY: Thank you.
Dr. Casale.

DR. CASALE: Thank you. It is a great pleasure to be here and to contribute to the commission which is obviously doing very important work.

DR. DUDLEY: Could you pull your microphone in a little?

DR. CASALE: Yes. Sorry. Is that better?

DR. DUDLEY: That's much better.

DR. CASALE: I want to speak briefly about a few things which I didn't mention in my written note which I hope people have had a chance to read.

I want to speak about prevention, negative and positive findings, cooperation and layers of oversight, publication, and the need for independent scrutiny, all in five minutes.

I start from the basis of a mandatory system. A mandate comes from the treaty which 46 European states have signed, and have by that signing conveyed exceptional powers of access to all persons deprived of liberty by the state to all places, to all information that the CPT might consider it was necessary to have in order to do its work. So
confidential information such as court files, police
files, you name it, whatever it is, secret files.

So this is a rather extraordinary mechanism
and it doesn't obviously translate to other settings.
However, there are some features which might be of
use in other settings to think about and to at least
consider, not least some of the misconceptions that
have arisen and some of the problems that we have
faced might also be faced in other settings.

The preventive approach is extremely
important. We are looking to the future, not to the
past. Some of the interlocutors; that is, ministers
of state or heads of prison systems or prison
governors or prison staff on the ground or prisoners,
some of the people we are working with, think that
we're trying to build cases in order to pursue
individuals who have been ill treated. That's not
so. We are building a dialogue basis, a basis of
dialogue for change. In prisons we speak to many
people, staff and prisoners, so it is not possible to
attribute what we report to any particular
individual. That's important. We cross-check, we
corroborate. We have forensic medical experts on our
team, we have forensic psychiatrists on our team and
lawyers and we assemble data from various sources.
We would never proceed to fact-finding without verification. And we do this not to, as I say, pursue cases, but in order to have a basis of fact to get over the first hurdle which is that people don't want to be inspected and the first reaction is defensive. If we can get over the defensiveness in order to demonstrate that we know that there are weaknesses in this system, we have found ill treatment, we know it exists, it often does in many systems. Even if it doesn't exist, we have found that there were gaps in the safeguards that protect persons.

When I say ill treatment, I don't necessarily mean physical ill treatment. We monitor police facilities also and there we do find torture, but in prisons we rarely do. What we find instead is basically conditions that are substandard and omissions. We give negative and positive feedback, we want to give credit where credit is due, and we find often that the positive examples are ones which are not pursued by the prison system so that where we have found good practice, it may depend on an individual whose initiative will cease to have effect when that individual moves on because the prison system doesn't recognize the practice necessarily,
and we as a monitoring body can help to point the way
to good factors and try to convince the managers to
apply that good practice elsewhere.

We work with layers of oversight and we
don't think that they are mutually exclusive. Layers
of oversight at monitoring board level, the oversight
prison services conduct for themselves internally are
not, they do not run counter to independent scrutiny.
Independent scrutiny is necessary in systems so that,
Europeans would say, because we are talking about
exceptional powers of the state; powers which have
been delegated by the people to the state in order to
carry out one of the most extreme uses of power
against the individual.

In Europe the most extreme power against
the individual is the deprivation of liberty since we
do not have the death penalty in our 46 countries.
And so we feel that if that delegated power is to be
exercised rightly, that it must be open to
independent scrutiny in the interest of the public,
the public which has delegated that power in the
first place, and we proceed on the basis of shared
values about which I have talked in my written
summary.

I have also in that talk highlighted a
number of issues which we may wish to return to in
discussion. That is independence, expertise,
impartiality, the powers of enforcement and
persuasion, cooperation and confidentiality, and the
values that underpin the European prison models.

Thank you.

DR. DUDLEY: Thank you.

Each of you had said in somewhat different
ways why having transparency may be important or not
be important. I'm wondering just as a starting point
for our discussion, I suppose, assuming that
transparency is something that's good or necessary,
if each of you could kind of summarize why, what you
think could be gained from having a transparent
correctional system.

MR. DICKEY: If transparency means
visibility in decision making in policies and
procedures, it is very hard to have accountability
without visibility and it seems to me accountability
is a highly desirable quality. Without visibility
and accountability, I don't think you have that
legitimacy I mentioned, and it seems to me in the
most utilitarian sort of way you want legitimacy
because it is going to make it easier to run the
institution the way it should be run, fairly and
effectively and the like.

The second thing about it is that all institutions require public support. Now prisons, people may not care, but one of the disincentives here is people don't seem to care that much. But the fact of the matter is if we're going to have any confidence in the stewardship of these places we have to know what's going on and I think when the public loses its confidence in its institutions that's a bad thing, so I would say legitimacy is important not only for the consent of the government, of the institution, but also because the people on the outside need to feel or have some level of confidence that this is being done in the right way and without visibility and accountability how can they have that belief; they have to take it on faith.

MS. CHUNN: I think it is a matter of integrity and morality. I really believe that this is one of the greatest countries on the face of the earth. I only say "one of" because of my esteemed colleague here. If she were not here I would say the greatest country in the world. She says I can say that, that's okay.

I think that we been founded on principles that speak to integrity, that speak to a quality of
life issue that has not been diminished over time. Even myself as a former, as a descendent of a slave family knows the importance of what can be done when we decide to make a difference. I see this as being no different. These people can be reclaimed, they can be reintegrated into communities, they can become part of the solution rather than part of the problem. Will that happen for everybody, no. Not everybody who goes in the hospital comes out alive; not everybody who goes into a university comes out educated; not everybody who does anything will ever get the absolute response, but can we do more than we're doing now? I believe that we can and I believe we have the know how.

I think what we have demonstrated already in the American Correctional Association speaks to a process where we can find some agreement among 50 states and six territories about what we collectively see as being responsible, professional behavior. And so with that in mind, I think it is a matter of integrity and it is a matter of reflecting what the society is all about.

DR. CASALE: I think transparency is part of the instrument that I use in order for a democratic society to reassure itself that it is
truly democratic in the modern sense of the word which is more than a matter of universal suffrage, it is about the public being able to perceive that what it wants to happen in its state is happening and this is something, therefore transparency, which is required in all public services, all organizations which perform public services. It is not something that is uniquely needed for prisons, but it is, perhaps, from my point of view especially vital in prisons because while the great majority of what happens is prisons is according to the rule of law, I know from my personal experience of work in 46 countries, and that's all I can speak about, I can't say for the United States, that sometimes it does go remarkably wrong and that is not a criticism of the system because all systems go wrong some of the time, and transparency is the instrument by which you try to minimize the degree to which things go wrong and to reassure the public that, in fact, the rule of law is what is happening.

DR. DUDLEY: Thank you.

MR. SCHWARZ: I want to actually take off from Ms. Chunn's comment about the greatest country. I suppose we aspire to being the greatest country, but I would like to ask the two other
First a specific one to you, Dr. Casale, and then a general one to you, Professor Dickey.

In the European Union where you've had in the past, at least, problems with terrorism in Ireland for the British and in Algeria for the French, did either of those two countries ever establish prisons which were secret and could not be visited; for example, by the Red Cross?

DR. CASALE: No.

MR. SCHWARZ: And then the general question of Professor Dickey. I saw in the little outline of your comments that you were worried about whether the United States stands as well as we would hope it to in terms of comparison with other nations on transparency and what did you have in mind?

MR. DICKEY: Well, I think, first of all, it is important to be mindful we have 51 jurisdictions and there's variation in practice and variation in visibility of transparency, whatever you want to call it, and there's also variation, therefore, in legitimacy and other things that I have mentioned. But I think by in large what you have to say about the American corrections systems is that they're more characterized by the absence of the rule
of law as we ordinarily know it. Now I don't mean to say there are lawless institutions, but if you look at the processes that we use for most governmental agencies or institutions, how they have to operate by way of information gathering about their practices, how they operate by the way of rule making, visibility, opportunity for public comment, what we do by way of accountability and the like, I think you have to say prisons really sort of stand out as places to which rule of law as we ordinarily think of it just doesn't apply.

Again, I think if you went and looked at the laws of the states of this country you would find, for example, just take administrative procedure records which is one of the usual ways that we do this, most prison systems are exempt from this and it has always been so, and they have sort of, and I don't want to hold the administrative rule making up as the be all and end all, I don't think there's any answer, but I think what you see is the hands-off doctrine, as we used to call it, with respect to the courts. Actually there's been a hands-off doctrine with respect to the legislature and actually there's been a hands-off doctrine respect to the governor.

In large, if we don't hear about it from a
politician's point of view, that's the best thing possible, right? Visibility is almost always going to bring this respect in the eyes of elected officials, and it may be because the people who are in institutions tend to be poor and of classes that are not the dominant classes in our society. There's also a willingness to sort of not pay attention to them, disregard them, not really attend to them the way I think we would expect our institutions to respond to people of greater wealth or a greater status in our society.

I guess the point that I would make is, granted, it is a little hard to generalize amongst the 51 jurisdictions, but I don't think you would see the rule of law applied the way we see it in other governmental agencies and institutions and I would say by in large you don't see it in the way you see it in Europe, at least not to the degree that we think it exists there, and I think the explanations for that are many and complex. That is to say, we don't apply the rule of law because we have chosen not to, we have chosen not to in a sense because it is them, that's one of the reasons we have chosen not to, and because of the political risks and all the disincentives that exist. Just think about the
press, right? If you are a corrections commissioner, I have sat in this position, and the idea is, well, the press is going to be paying attention to what we're doing in the institution. By in large, my experience with the press is it has not been very fair minded it its reporting of what goes on in correctional agencies. They tend to report crises, terrible things, and the like. In a sense, opening yourself up to that kind of visibility and accountability is a high risk sort of proposition, news is always going to be bad, and that's going to have profound effects on the commissioner, as well as a lot of other people and the politicians. The point I'm trying to make is you see all these disincentives operating to not bring to bear on these governmental institutions the level of visibility we claim to attach to lots of others.

One of the things, again, I just think about in coming from a state, I didn't grow up there but I lived there at one time, Wisconsin, the Department of Natural Resources, big deal; deer hunting, how many deer you can kill and fish you can catch and all that is a big deal. Do you know how much public interest, attention there is to that? The idea that the Department of Public Resources
would have visibility and accountability about how
they make those decisions? It is unthinkable, they
would never be able to get away with that. Compare
corrections. There's no comparison, right? There's
not anything like the public demand for visibility
and accountability in that area of life as opposed to
this other one. So if we're looking for reasons why,
one of the reasons we don't have what we're talking
about, is because at some level we don't want it.

MR. BRIGHT: I want to follow up on
that, but I want to ask a question of what we mean
exactly by transparency and accountability and I want
to say I'm a big supporter of the American Prison
Association, but it has not been my experience that
what you see is what you get. The American Prison
Association says you have to have a policy with
regard to fill in the blank, and the institution has
policy after policy after policy and you go to the
warden's office and they're all piled up in there and
then you go into the institution and none of those
policies are being followed, so my question is this.

When we talk about transparency and those
sorts of things, are we talking about the media? It
used to be that newspaper reporters and television
people and all that could come to these institutions,
see what was going on, interview inmates, take telephone calls from inmates. The prison in Louisiana printed a magazine, still does, uncensored prison magazine that won numerous journalism awards because the inmates there wrote stories that were of award-winning quality and all that. Today that magazine is censored. Most departments, as far as I know, do not let the media in, do not let the media in to interview inmates, so that's one of the guardians for a free society, is the media.

And the second is, I would ask is there anywhere in the United States where we have like in Europe where an independent watchdog agency has the ability to just show up any time and go through an institution solely for the purpose of seeing whether or not these various things are being complied with.

Go ahead.

MS. CHUNN: Thank you.

I ask you to remember what I said to you about the average tenure of a director of corrections; about three years. It takes the first year to understand where you are and what's really going on because invariably what the governor's office tells you and what is really going on are two different things. You have to then begin to build
some trust. In those places where facilities have 
been accredited and they have policy after policy, as 
you put it, stacked up, the problem --

MR. BRIGHT: They're good policies.

I'm not criticizing the policies, I'm just 
criticizing the failure to implement the policies.

MS. CHUNN: Please, I'm not suggesting 
that either.

I'm just saying that if you look at the 
person who's leading the agency, if they have been 
around for a number of years the chances are those 
policies have been implemented. If they have been 
around as in the case of California for only a couple 
of years, the chances are that they're still trying 
to figure out where are the problems in this system 
and where are the places that will get us in trouble. 
You learn quickly as a corrections administrator it 
isn't what you know, it is what you don't know that 
will get you in the press and get you eaten alive, 
and so you spend a lot of time trying to find out if 
what you think is going on is in fact going on.

I have seen a number of commissioners, both 
adult and juvenile, who have been relieved of their 
job primarily because they thought staying in the 
capitol, finding out what was going on in the
governor's office, was more important than knowing what their people are doing.

These places are out of sight and out of mind by design and if you have ever tried to build one you know how difficult it is because nobody wants one in their backyard. However, they want you to be tough on crime which means that it is very difficult to strike a balance between what the governor's office wants and what the political entities need in order for you to get the support, particularly before the legislature, and what you need to do in terms of what I call your mission and that is the rehabilitation of the people. So I would ask you to be thoughtful about those policies where they have been implemented and where they have got good leadership that's committed to this.

Running a 24/7 operation means that by definition somebody is out there Christmas, New Year's, Grandpa's birthday, Maxine's graduation, and it is going on all the time. And increasingly what you see in terms of commitment to the mission is a function not only of training, but also of pay, and we are beginning to see that we are retiring a number of people and we don't have people standing in line to work in corrections. That's going to be a very,
very serious problem in this coming decade. Already
we are beginning to see people running vacancies,
high vacancies because they can't find people clean
enough to work in them. When I say clean enough, I
mean who can pass the background investigation. And
so when you talk about a watchdog situation, the
problem is that many governors don't want that. As I
said, corrections won't get you elected but it can
get you unelected, and many directors are told keep
the lid on, do a good job over there, but there is
never any articulation of what does that mean, and so
there's a lot of space there where you can carve out
what it means.

For me when I was Director of Juvenile
Corrections it meant to me find a place where
somebody is actually doing something that works, but
I did that at my own volition. Most people that I
know do this because of their own commitment. We
want to be transparent, you want to feel like you
have done a good job, you don't want to do business
by suit.

In the late eighties the notion was get
sued. Well, it only takes a couple of getting sued
when you end up with a Cadillac and all you really
wanted was a good bicycle, and so you end up getting
a whole lot more trappings that generally begin to
close not only your time and effort, but also begin
to compromise what you are able to do somewhere else
because there are opportunity costs that go with
this.

MR. BRIGHT: And should the media be
available of that? Put aside the governor. You are
the commissioner of a system. Should there be media
access, should there be access by watchdog groups,
should there be access by citizens?

MS. CHUNN: I would like to see it
carefully thought through because the kinds of crimes
that you have now are not simple crimes anymore. You
have somebody that's there for armed robbery but they
also have a substance abuse problem, they also are
retarded, and there are other issues at play, so you
have to think very carefully about who do you want to
play that function. Not should the function be
played, certainly it should be played on some level,
but who plays it and do they play it forever, because
the politics surround this so much you begin to see
people who have their own political agenda about
doing this. When we get to that point where you have
an outside watchdog who also has a political agenda,
you begin to by definition compromise the integrity
of the whole thing. If we cannot make this --

MR. BRIGHT: Is that really true? I mean, is the legislature compromised because half of the people are Democrats and half the people are Republicans and they don't have the same agenda? I thought in a democracy that self-criticism was the secret weapon of making things better.

MS. CHUNN: I'm not suggesting that it isn't, but you have seen this Congress unable sometimes to perform because of those problems and so we know that there are times when it goes awry. I think rather it is thoughtful, that we need to be very thoughtful about these solutions because we don't want to do any harm. We don't want to make it worse than it is. We want to make sure that people understand the professional payoff, and I'm not talking about another job, I'm talking about the satisfaction that makes you continue to do this work because you believe it is an important piece in the quality of life for everybody in this country.

MR. DICKEY: Let me take inmate discipline, the transfer from one institution to another, who gets to visit, three matters that are of vital interest and importance with people in institutions. I guess it is hard for me to imagine
why we would say we don't want to make the rules
about those three things in ways that are consistent
with democratic society. Now I don't mean prisons
are a democracy, but why would we make those rules
and have them not be clear, have them be a secret?
Now that's the rules.

What about their application? If you are
going to be accountable, I don't see how you are
going to have it unless you know how things are being
administered. And so, again, stated that way, as a
matter of principle it is very hard to argue about
the idea that in a democratic society we should keep
all those things a secret. Now how do you develop
mechanisms that permit visibility, legitimacy and the
things that I was talking about and have, I think as
the other speakers have mentioned, responsible review
of how those are actually being operationalized.
Again, I don't want to be riding this horse too long,
but I think what we usually think is that's the job
of the legislature, that is what the oversight is
supposed to be, but I think, as I said, I don't see
very much of that. So now you are groping around,
trying to find ways that make for visibility and
accountability about those very important decisions,
in a sense a default position, because the way we
usually look to those sorts of reviews and oversight and so you get oversight, you get the other things that have been talked about this morning and now, and I guess the point that I would say is, and I think this is consistent with what the other speakers have said, it has to be done in a sensitive manner to the circumstances in which one finds one's self because, among other things, you are making things worse, not better, and in a sense you want to work in harness with those that are trying to do this as well as they can with the sort of capacity limitations that they may have; training, staff, and the like.

You know, I think the English system, and I have read the inspector general's reports with a lot of interest and I really want to compliment the folks that prepared them because it is pretty obvious that the degree of sensitivity that I alluded to is one that is brought to in many of those inspections and reports. It is not contentious, it is not you are bad and we are good, that sort of stuff, that tone, but I really think that is the spirit in which this sort of engagement has to come, because otherwise I think the first do-no-harm principle is very much at work here.
DR. GILLIGAN: I wanted to ask Dr. Casale if you could describe for us some of the details of the inspection process and procedures that the CPT follows in inspecting European prisons and then I would like to ask the other two panelists if they could describe how that compares with the inspection procedures we have in this country. I'm interested in whether we have procedures for discovering what actually is going on in our prisons that are as effective as the ones that you have in Europe.

DR. CASALE: I don't think Europe has any magic solution let me say, I think what we do is just hard work. Inspections are confidential, I think this is very important to note at the outset. Nothing becomes public at all until we have been through the dialogue and then the states, all of them voluntarily except for one, Russia, have agreed to publish all their reports. They don't have to but they always agree, and I think that's the measure that the inspection has somehow worked even though there are very critical things in it. What we do is we would arrive unexpectedly so you have to get over the first hurdle by having sort of a cook's tour, but -- you understand the concept cook's tour, it is
sort of -- I'm not sure what the -- it is not always
the same English in America. But while you are
having the cook's tour you are trying to figure out
the places that you are not being shown, obviously,
and after a while you get a nose for the things that
are being intentionally missed. And, of course, we
will have been armed by the ministry with a detailed
plan of the building. Obviously prison maps are
confidential and they're secure matters but we are
entitled to them and we will keep them confidential.
And so we know what's there and so you do your
subtraction and you figure out where some of the
people go while I as the president am talking with
the governor and, of course, we can go anywhere
because that's the mandate. And you don't barge in
but when you find the place that has got 40 people in
a room that doesn't allow them all to sleep at the
same time and 14 of them say that they've got active
T.B., then you know you found one of the places that
they didn't want you to find and that's just one
rather extreme example.

But what we do is we spend a lot of time
talking with staff because in that example I just
gave you that is a health risk for staff as well as
prisoners, and we need to know how the staff are
trying to deal with that. Why is it that they push
the food through the hole at the bottom of the door
and don't go in? Well, it is obvious why they do it,
because they're not sure what risk they're exposing
to. We will go in and spend a lot of
time talking to the 14 people even though the
temperature recorded by my thermometer, which goes
with me everywhere, is, say, 36 degrees. But it is a
process of demonstrating by what you do that you are
prepared to understand what's happening in the most
practical and concrete sort of way. And then we -- I
mean, if there's an issue that the prisoners seem
malnourished, we will look at the medical records to
see if any weighing has occurred, we will do timed
studies of what people weighed when they came in
because everybody gets weighed on admission and what
they are weighing now. We do surveys, we do in-depth
interviews, we do corroboration because if some
allegations are made we want to know whether they're
true or not and we will pursue to find out that
they're not as hard as we will pursue to find out
that they are and we will present conclusions without
giving names.

I mean, we have a lot of technical staff on
our teams, people who know how to deal with vermin
or -- I mean, the whole gamut, really, anything that 
puts the staff and the prisoners at risk in one way 
or another, and the best of all methods is to know 
how to interview, to let people tell their stories, 
and then afterwards, of course, as we all know, you 
go over and you check on the details until they 
either match or they don't and if they don't, then, 
of course, you start wondering and you pick the 
uncertainties and it is just standard police 
procedure, but I won't go any further because I'm 
taking up too much time.

Then we report in confidence and we have a 
dialogue with the staff and the management 
acknowledging that they've got problems, asking them 
in your best case scenario what would you like to see 
happen next, because we're looking to the future.

Documenting all of that, then going to the 
ministers and saying look, how can you expect these 
people to do X when you are giving them Y, and we can 
be a powerful pressure for change in that respect 
because, of course, if you are talking to the 
minister who is in charge, ultimately who is 
responsible, then they have a case to answer and they 
must answer because they're obliged to.

MS. CHUNN: That's an interesting
approach to doing it that I don't think would work in this country. Corrections has been born in the cradle of politics and I don't see how with an average tenure of three years we could ever build enough trust to get to that point. However, I do believe that it would be a very interesting internal mechanism and, as a matter of fact, when I was Director of Youth Services in North Carolina I used it, I used it with a group of my central office staff. We would hit unannounced every institution and before one could call another everybody was in different places, but you would know then we only talked to kids on those days. You were accompanied by a kid who would generally tell you what was happening or what, rather, wasn't happening.

I think it is an interesting idea for an internal procedure, but I think even then there has to be enough trust so that people believe that you are going to help them to remedy the problem rather than to point them out as incompetents which further then makes people close ranks because they feel under attack. I like to think of myself as the poster child of new corrections. I am all the wrong things; I am black, I am female, I spent my career in juvenile corrections, but I was elected by some
20,000 members to be the spokesperson of this organization. We are better educated that we have ever been before, and I think to do this externally would suggest that there is no confidence which we already feel because we have been marginalized. And so I believe that while it might have some usability for internal monitoring, I do not believe we are at a point yet where we could do that externally without feeling like we have been manipulated and misjudged and actually betrayed.

MR. DICKEY: It might be useful to pursue the health care point. My personal experience is dated but I have no doubt that things are still probably the same in corrections.

As a group inmates have not taken care of themselves, haven't seen doctors, haven't had medical insurance, had lousy diets and basically abused themselves. Their physical condition, despite all the weightlifting and stuff, is actually not very good. And if you look at their teeth, they have never been to a dentist.

Now we spent an enormous of money on health care in the prisons in Wisconsin, though look at the state of health care of the country and you see lots of people that have insurance don't get health care
either. We spent a lot of money on health care, but
I made decisions about what we were going to do and
not do, we're not going to perform those kind of
operations, and if it was me I would want it, let me
tell you, and the facts of life are we didn't have
the money or the capacity to do it. And we did a lot
with people, dental work and stuff like that as well
as we could but, again, were we providing the level
of dental care we would like for ourselves? Not
close.

Now if the inspector general came out --
people in corrections know this, this is not a big
secret -- but if the inspector general comes along
and now looks at that situation, I guess the sort of
interesting question is what would we expect to
happen. They would discover that, and it is not that
they want unhealthy inmates, they want healthy
inmates, but the facts of life are they don't have
any capacity to do any better than they're currently
doing, making some decisions you might agree with,
some you might disagree with. Now what happens. The
inspector general goes to the legislature, says give
us some more money so they can give more health care
to the inmates. Well, that would be nice. Is it
realistic? I think that's a way of trying to
approach things. There's visibility, right? There's accountability. I don't think the folks in corrections would be hiding that sort of stuff, it is not that they're deliberately denying people anything, those are what they are dealing with as well as they can. So what you really may be talking about is trying to generate support for different policies so that there's more adequate health care or, in a sense, let's have fewer people in prison so that we can do better by the ones we've got, right? That's an allocation of resources question. It might lead to that sort of thing. But, you know, I think, I understand that correctional associations worry about this. See, if it came out there they don't treat the inmates right when it comes to health care and sort of pointing the finger, they are awful and they're all cruel and that sort of stuff, I wouldn't be very happy with that. That's why I say it can be presented and approached in ways that are constructive, but there's also the possibility for destructiveness and I think the worry that corrections people have about this is an understandable worry. They felt that stuff has been used to sort of blame them for things over which they have no control. Again, it seems to me if it is part
of the momentum to make things better, then I think folks by in large would welcome that, but they're mindful of the risks.

MR. BRIGHT: Isn't the answer to that just to tell people this is all the money we have for health, this is all the money we have for dental care?

MR. DICKEY: We certainly hope that was the way it were read but, as I said, I think folks in corrections would say I can give you examples of situations in which the report certainly didn't read that way and sort of blamed us for a situation we had no control. You have to understand that that's --

MR. BRIGHT: But that's transparent, that produces a conversation, the democratic conversation about what ought to happen if you want to have that and not many public officials get to censor that by keeping them out of the public eye altogether.

MS. CHUNN: Let me give you a good example of what he is saying. North Carolina was one of the last states to have a sex offender program for juveniles. All the literature suggests how many people will be victimized by people who are not treated for sexual
offending. I asked for the program through the
proper channels. The governor's office said there
were other priorities. Somehow or another one of my
more aggressive staff people decided they would
inform the press. I end up on the editorial page.
The governor's office is angry with me because I'm
trying to make an end run with his budget. Now
nobody debates the merits of should we have a program
for sex offender, particularly juvenile sex
offenders, but sometimes you don't end up being able
to get what you know is the right thing because there
are other things beyond your control. And when we
end up in that situation, we will more often than
not -- remember now, we are appointed -- so we end up
then swallowing whatever the issue is, trying to put
a happy face on it, and you live, if you are lucky,
to fight another day. Well, it just so happened in
the end it did resolve itself but there were some
tense feelings about the whole thing and who told the
press and why did the press know this. And you can't
sit there when the press calls you and says, "Is it
true you've got 40 sex offenders?" "Yes." I can't
say no because I do. And so you end up in a
donnybrook in a lot of things and that's why we keep
saying we've got to be very thoughtful as to how we
implement these things. Not that we cannot benefit
from feedback that will help us to be more effective
and efficient, rather let us do it in a manner that
really predicts some forward motion.

DR. DUDLEY: Are you suggesting that
there's a particular risk in this regard for
corrections as compared to any other comparable
government entities; Child Protection, Social
Services? I mean, they would all run the same, the
example that you gave is the same sort of thing that
happens to --

MS. CHUNN: Well, yes, but I would say
that the consequences of error when you are talking
about corrections are greater because --

DR. DUDLEY: I'm not sure what you
mean.

MS. CHUNN: By that I mean that if you
don't take the appropriate action, because you have
these people confined they have fewer avenues that
they can exhaust to make a difference with this. And
so to me, it is a more difficult situation because
these people are out of sight, often out of mind,
don't have people who want to champion their cause.

DR. DUDLEY: But the mental health
commissioner would say the fact we don't have enough
money for outpatient mental health services and there
are people who are mentally ill on the street and
when one of those commits a crime I get all the
blame, I'm not quite sure what --

MS. CHUNN: But a mental health person
on the street --

DR. DUDLEY: I'm just picking it out.

I'm saying what is it about corrections that would
make the risk of transparency so much greater that it
should be excluded in a way that other governmental
organizations and entities are not, that's my
question.

MS. CHUNN: The stigma of having been
arrested. Even this morning the lady talked about
white collar crime. She didn't say what kind of
crime that was or whatever. If you are from a
certain socioeconomic background that makes a
difference, you don't want people to know you have
been in this system. There are others who see it as
a rite of passage; my brother, my father, my uncle,
everybody else. And so when you began to try to
program for two extremes and more on the low
socioeconomic group than on the high end and try to
be fair in terms of respecting people's humanity, it
is much more difficult because you generally have
more power over where they are, what they can do. I
think that's part of what's been implied here,
there's no denying that, that many facilities are out
of sight, out of mind, and many people are not that
sophisticated. Your average inmate is not reading
according to the level, nor does he understand often
the process that he has been through that got him
there. I mean, not only that, but the families don't
understand it either. It becomes a very difficult
ingredient when you are thinking about the
person, being the person in charge and trying to be
fair. And so to me, corrections then carries a
heavier burden than other agencies because often they
are seen as being more worth saving than this group.

DR. DUDLEY: I guess I picked the
mental health commissioner because they would say
their clients are stigmatized in the same sort of
way.

Professor Dickey.

MR. DICKEY: The way I feel about it, I
worry every day about the inmates and staff in our
institutions and about their safety. And I very much
believe in -- I don't know if "transparency" is the
word, visibility and accountability, and I think we
ought to be applying the democratic principles to
correctional institutions. But I will tell you, I'm very mindful of the dynamics of institutions, they're fragile places, you don't want disorder and chaos, and how things are explained, how inmates view them, how staff view them can start dynamics that can have very destructive consequences. So when I said before do no harm and these are fragile things, what I meant was what you worry about, whether rightly or not, is unleashing forces and dynamics in institutions that are going to lead people to get hurt, that's what I used to worry about. And so when I tried to manage the information that we revealed to others, that was my primary concern I like to think, right? I was worried about trying to make sure we didn't do or say something that was going make things worse in those places rather than better and that's there, that's a fact of life.

DR. DUDLEY: Saul.

MR. GREEN: Is part of what you were saying kind of an admonition to us in terms of what this commission comes up with, what we recommend, how we say it? Because one of the greatest challenges I think relates to something that you said earlier, Mr. Dickey, if I heard you correctly, concerning people don't really care and so we have the problem of
trying to move people who would rather not even see
or understand what's going on until we've got to do
it in a way that has impact, but the impact could
affect members of the profession in a way that
they -- is part of what the message is for us to be
very careful in how we communicate our findings and
recommendations? I actually wasn't going to ask that
question but I just kept listening to what I was
hearing, I was really worried.

And then I guess I wanted to ask Ms. Chunn
about the issue of leadership. You talked about how
important leadership is in effecting change and in
accomplishing the greatest good in institutions and
you talked about incentives.

MR. DICKEY: Let me just say when I was
at the prison system I had the luxury of tenure at
the University of Wisconsin Law School so getting
fired wasn't a big deal. You know, it would have
hurt my pride and all that sort of stuff, but in a
sense I had the luxury of being able to worry about
the inmates in the way that I just mentioned and not
have to worry about my job all that much.

Now that's a way of saying you need to be
sensitive to the people to whom you are going to be
speaking. If what you want is acceptance by people
in corrections, some of the ideas that we're talking about, the steps toward implementation, you need legitimacy, right? I mean, because one question is why the hell should we pay any attention to what you say, right? And I think the answer is because we have considered and reflected and we have heard a little bit about walking in your shoes and what that all amounts to and we have a kind of an understanding that we think can help us advance the endeavor. In that spirit it seems to me there would be far more acceptance of this than, as I said, if you approach it we're going to tell you what to do. So, yes, my point is, as with anything, one has to be careful and cautious about how one presents one's self if one wants to be effective because you don't want your report standing on a shelf somewhere, you want it to be effective; therefore, you've got to be careful about how you frame it and who it is addressed to and how you say it. It just seems to me that too is a fact of life.

MS. CHUNN: I don't think that implies that we only hear what we want to hear, that all of this is for nothing, that's not it. We want to hear what you think we can do to improve the system, we want to be able to dialogue about what the logical
next steps are because, as I said before, good
leadership wants to also, more than anything else,
have the satisfaction of knowing I made the
difference, I made some difference, at least. I
liken this to a relay race where you take it to a
certain point and somebody else picks it up, nobody
does it alone. But I believe that as members of this
commission you also want a feeling of having given
this some careful scrutiny, to have heard what we
have to say that explains, that also identifies some
of the problems that are perennial problems that have
always been there, and that you have made
recommendations and suggestions that can be used by
us in addition to what we are already doing to make a
difference.

Now I believe conscience leaders -- let me
drop back and say it this way. Most of the people
who have bristled with this whole notion of this
commission have done so because they have stabilized
their systems, they have tried to be good leaders,
and they routinely go out to make sure what the
quality of life is. Now those people who aren't
involved in any kind of accreditation process, any
kind of professional development process, will feel
like I must know it because the governor appointed
me. Those are the people that we're worried about. We are worried about Andy and Barney in Mayberry because they don't seem to ever talk to anybody else, so what we want here is some guidance that assists us in what we are already doing that begins to say to those people out there who are not involved; hey, there's a whole body of knowledge, there are all kinds of resources that can help you be more effective in what you do.

DR. DUDLEY: We have several more commissioners who have questions and we have about 10 minutes left so let's try to keep our questions brief and to the point and try to answer as quickly as you can.

MR. KRONE: Ms. Chunn, I need some clarification, some understanding. Something I heard earlier was really concerning to me. As you know, we're going to write a report. It is important to us to get to the facts, to get something that is useable, workable, and we've had numerous employees and prison officials that have told us you don't understand the problems that we face. We have to get to that point to know what to write and know whether it is available, and something you said really concerned me and that was a statement you said that
the duration, their average life expectancy, if you will, is three years. That means that some of them serve five years but some of them only serve one year which is in that area where you said they even don't know what they're doing yet. How are we going to implement policies, practices and stuff that we are going to have to deal with people in a revolving door, such a floating morass, how do we deal with that problem and why is this happening.

MS. CHUNN: You are going to have fun, aren't you, you really are.

Yeah, that's the perennial problem, it has been, and that's what I mean when I say we often don't acknowledge the role that politics play in this. What I would like to see you do is to also begin to make suggestions to appointing authorities; the National Governors' Association, district attorneys. There needs to be constituent bodies who also hear what the issues are, that unless you've got somebody that has been in this business for a while, the probability of your getting a transparent system is greatly diminished because it will take them a lot of time to build some credibility. You are not only building credibility with constituents on the outside, you also are building credibility with your
staff, because if they don't believe, and a lot of people will say to you, "Look, I have seen commissioners come and I have seen them go," if you can't get to the point where they think you can last, it won't make a difference at all, so I think you just need to keep that in mind.

MR. DICKEY: I think the answer has to be that you've got audiences beyond correctional commissioners. That is to say, you've got to be reaching to legislators and the like because they are the people that are going to implement this, they're going to have to pass something like that, so I would think you've got ultimate audiences for what you are going to do. Corrections commissioners are only one of them; legislators, governors, Governors' Conference and the like are the amongst the others, because they may have more staying power here and actually they're the political bodies that make the decisions here or they are going to take their cues from their commissioners, that's another real fact.

MR. RYAN: I would like to get your reaction to -- at the last hearing I gave a list of things and I want to kind of give you a list and see what your reaction to it is.

Set the stage with almost 25 years ago,
more than that, probably, there was a decision by the
Supreme Court, KQED versus Houchins, which is a
California case, which told the media that
correctional administrators could restrict the access
of the media to correctional facilities. Now I have
been working under that all my life, in essence, in
this business and so I thought how do I open it up,
how do I make it more transparent and yet still keep
my defenses where I needed to have more, felt more
comfortable so we can put things together.

We have a citizens academy which allows
citizens to volunteer, they have to come in every
Wednesday night for three hours for 13 weeks, and
they come and visit us. We have no restrictions on
who can come in there other than they can't be a
criminal. We have a T.V. program on the county
channel that comes on once a month for a half an hour
and at the end of that we ask a set of questions. We
say what would you like to know that we haven't told
you and they can send it to us, E-mail or otherwise,
and the next show or the next show we will talk about
those types of things.

Every new reporter that goes to the local
newspaper or, if we can, T.V. is a little struggle,
we invite them to come down without their pen and
paper in hand and talk to them about what we do for a
living and what they may want to find out about our
business.

With our staff, we have when they graduate
from the academy, on the fourth night after they have
graduated we invite the staff to come and meet the
bosses and bring their kids and their spouse,
significant other, to come in and visit where their
significant other is going to be working for the rest
of their career and say this is what we do for a
living.

We're building a new building and we're
going to give citizens an opportunity to come in and
visit, touchy-feely and so forth, the entire new
building before we get in there. We're going to have
families do that.

We have a volunteer orientation program
where we have over 700 people in the community that
have the opportunity to come through and see, they're
faith-based, normally, folks, but 700 of these people
do it. We have a program called the Orlando
Leadership Program and every six months they choose
70 bosses, the leaders of the community, to go
through the program and one day is spent at the jail
saying okay, this is what you are spending your money
Every new legislator that gets elected, I send them a letter and say by the way, I'm in your district, do you want to come and visit what's there. I had one in four years decide to do that.

I have been in the business 35 years and at this point, and bless all judges, I've had less than five of them that actually have come out to find out what happens when they sentence a guy to a year in the county jail, actually walk out there and see where they go. Now I know that's not in this room, but in my world out there, that's what happens.

I can go on with a list of other things that we do to expose our business to the community. The unfortunate part is my community doesn't necessarily want to find out about it. I have trouble getting people into my citizens academy. My new reporter only comes because the editor says you know what, you have the chance, go out and take a look. They don't want to be there either.

I recently had one of my T.V. reporters come out and sneak pictures of then jail when all he had to do is call my office; you want some pictures, come out and look. I guess reacting to that, I want to take baby steps. I'm not going to open up the big
sally port and let everybody in the world come in and
do whatever they want to do. It is a jail and we
have security.

What sort of baby steps aren't being taken
in that litany of things, what sort of things should
we be doing to open up where we feel comfortable, is
there a way to engage the community in something else
that I haven't talked about to say here we are, come
and see us; if you want to see what's going on,
please, let me invite you in to the extent I can.

MR. DICKEY: In a sense, though, the
discussion has been at the commissioner level so far
here until you made these points and so we have been
asking about transparency as made from the central
office. But I think in many ways when I used to go
around and visit our prisons, and I did it a lot, one
of things we always go through with the warden is
what he was doing with the community, and by in large
I think at the ground level you really see a lot of
warden willingness to involve the community and to be
transparent, at least about some of the things, and I
think in part that's because the wardens feel that
they need a certain amount of community support in
order to function. They're in a community, they have
got family members working there, concerned about
their safety and the like. And so another place at
which to come at this from is the one you are talking
about, though your experience, particularly with the
legislators and the judges, is pretty typical in my
experience, but that's coming at it from a, at a
different level, and I think an important one. I
would say this is a question that ought to be looked
at from many different levels and that's one, where
at the local level, the warden of the individual
institution is trying to do this in the circumstances
that he or she finds himself in and is trying to get
people involved in and engaged. Though, again, the
point I made earlier about people not caring and want
out of sight, out of mind, is very much at work here
and it is a terrible sort of challenge. You know,
the thought that judges want to prescribe this
medicine and then don't want to see what effect the
medicine has on the patient, irresponsible from my
point of view, but a pretty clear pattern. I don't
know that you find many wardens will say, yeah, I
have judges coming in all the time, want to see what
our programs are, what we do and the like, so they're
in a sense like so many others, they just don't
appear to care, at least by their actions.

DR. DUDLEY: Last question.
Judge Gibbons.

JUDGE GIBBONS: There's a suggestion that corrections institutions are fragile institutions and, therefore, maybe we can't have too much transparency. The question I have is are police departments similarly fragile, are public hospitals similarly fragile, and does it follow that they too should have some lesser degree of transparency because of their fragility?

MR. DICKEY: Well, let me answer your question.

You see, suppose, how would you feel if you said look, we're going to have lots of transparency, we're going to open it up and all that sort of stuff and you did what I said I worried about before, started a dynamic where you had a riot and some people got killed. Would you put that in the one column? Right? We had transparency and a bunch of people died. I don't think that's a win. And I'm not saying we shouldn't have transparency and I'm not suggesting that we shouldn't be exposing what goes on in institutions to the public view and to other kinds of oversight, and the other kind of oversight is probably more important. My point simply was one needs to be mindful that there are risks involved and
one has to be careful about how one goes about this because it is not a freebie, right? It is not all good as a result just because you open things up. And, again, that's, maybe I'm real risk adverse and I just worried about that more than I should have, but that was very much on my mind and I think that's on the mind of people who work in corrections and, therefore, it needs to be done in a considered and deliberate and careful sort of way. It is not no transparency or visibility; on the contrary. It is maybe as much a matter of how you go about it as anything, but it seems to me that's something that's a problem; you can't act as if it is not there.

MR. BRIGHT: If it turned out that you learned that people were being sexually abused in the prison, that would be one on the other side, wouldn't it?

MR. DICKEY: That's true. And so there's ambiguity --

MR. BRIGHT: More likely, actually, but that's what you are going to find.

DR. DUDLEY: I'm sorry, we're out of time, but thank you very much for taking your time to be with us this afternoon.

(Recess)