

Statement of Testimony:
Commission on Safety and Abuse in
America's Prisons

April 19, 2005

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Thank you for the opportunity to speak to you today on behalf of the thousands of correctional professionals who labor daily in our prisons and who are increasingly frustrated by the failure of the system to "correct." As reported in California's Hoover Commission report of 2003, "The enormous gap between how California's correctional system works and what communities need the correctional system to do imposes tremendous costs. . . . This is a fixable problem that needs to be fixed."¹ According to the September 2005 Bureau of Justice Statistics' report on criminal victimization for 2004, twenty-four million Americans over the age of twelve experienced a crime during that year.² I am, therefore, also representing the millions of future crime victims whose lives will be adversely affected by a failed prison system. I believe that we have for too long considered prisons as places to promote public safety by means of the incapacitation of offenders rather than places that promote public safety by releasing offenders who are less likely to re-offend. It is widely accepted that, nationally, approximately 67.5% of released offenders are arrested within three years of their release.³ It is my professional opinion, gained from my many years as a prison

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1. Michael E. Alpert, *Introduction* to LITTLE HOOVER COMMISSION, REPORT NO. 172, BACK TO THE COMMUNITY: SAFE & SOUND PAROLE POLICIES (2003).

2. SHANNON M. CATALANO, BUREAU OF JUSTICE STATISTICS, U.S. DEP'T OF JUSTICE, NCJ 210674, CRIMINAL VICTIMIZATION, 2004, at 1 (2005).

3. PATRICK A. LANGAN & DAVID J. LEVIN, BUREAU OF JUSTICE STATISTICS, U.S. DEP'T OF JUSTICE, NCJ 1943427, RECIDIVISM OF PRISONERS RELEASED IN 1994, at 1 (2002).

warden and continued work in the field, that this figure is higher than it needs to be; prisons, when used as tools of crime reduction, can be effective.

In America's prisons the vast majority of employees (local, state, federal, and private) desire to do the "right" things each day and night as they mingle with people who have demonstrated a lack of willingness to learn to live in our communities without breaking the law. It should be mentioned that the majority of offenders in our prisons are there for crimes of a non-violent nature.⁴ The essence of the incarceration practices in this country is that we lock up people with whom we are angry rather than only those people of whom we are afraid. Due, however, to the rate at which repeat offenders produce crime victims we can no longer simply allow our prison employees to *desire* to do the right thing. They must, in fact, *do* the right thing in order to ensure that the majority of released offenders will not re-offend.

Prisons can be unsafe and abusive. There are numerous reasons why this is so. When relating these reasons it more often than not sounds like excuses of a failed system:

- prisons are populated beyond capacity in most jurisdictions;
- the number of staff has not increased proportionately with the number of offenders;
- staff are not adequately screened or trained;
- prisons are increasingly filled with offenders experiencing mental health problems;
- the "worst of the worst" of our citizens are found in prisons; and
- offenders are staying longer in prisons and have given up hope.

The reality is that in the majority of prisons in this country life for both the inmates and staff is very difficult at best. The assumption of

4. PAIGE M. HARRISON & ALLEN J. BECK, BUREAU OF JUSTICE STATISTICS, U.S. DEP'T OF JUSTICE, NCJ 210677, PRISONERS IN 2004, at 9 (2005).

most correctional professionals is that the public expects offenders to be punished while in prison rather than viewing incarceration itself as the punishment. This belief about public expectations provides a backdrop of justification for the lack of individual concern staff members possess for inmates. Also, the knowledge that most inmates are repeat offenders and the belief that “they knew what they were getting into” gives the staff outlets to remove themselves from the daily conflicts which inmates endure. Prison staff experience many struggles in their personal lives due to their working conditions.⁵ The educational and experience requirements for correctional officers tend to be low and those who apply seek jobs rather than professions. Thus many correctional officers who are the first line of contact for inmates and who act as the “prison police officers” may blame inmates for their life condition.

Are there overt abuses by staff of inmates in prison? Yes, but my experience would indicate that these are rare and are committed by “rouge” staff. Many are not reported and are only whispered about among both staff and inmates. Staff members develop reputations behind the walls and, generally, inmates know from whom to stay away and whom to watch closely. It should be pointed out that the environments of most prisons are themselves abusive, a fact which springs from a prison culture of deliberate indifference, generated in part from the prison worldview held by taxpayers and employees of the system. There are daily struggles that must be managed by prison administrators: plumbing systems are overworked, electronics controlling the vital operations of the prison do not work, inmates must be fed on time, inmate clothing must be cleaned as scheduled, sick inmates must make their medical appointments both inside and outside of the facility, staff grievances must be addressed, and the like. All of these mandatory functions take place in environments filled with drama and tension. Both staff and inmates strive daily just to survive. It is not difficult to understand how in such operations a culture of abuse can develop. Inmates know that the warden is aware that the plumbing is backing up in their cells but remains unfixed. Food is rushed and is either served cold or undercooked. White

5. See Eric G. Lambert et al., *The Nature of Work-Family Conflict Among Correctional Staff: An Exploratory Examination*, 29 CRIM. JUST. REV. 145 (2004).

underwear that has been worn by a number of different inmates is once again re-issued and is now off-white in color. Inmates who complain of being sick time and time again leave the medical unit feeling worse rather than better. Many stories circulate of inmates dying in their bunks from lack of medical attention.

Staff members believe that inmates are receiving more attention than is actually the case. Those staff members receive little communication from the “front” office, and inmates know more than they do about what is going on in the facility. Staff are not supposed to be working overtime, but do all of the time. They are so inundated daily with unnatural sights that they soon begin to believe that what they are seeing is “normal.” They begin to make their jobs more bearable by overlooking things and by delegating to inmates “duties” that should be completed by staff. They begin to resent inmates and the inmates are aware of their attitudes. The prison soon becomes more abusive than not.

Let me give you an example: I arrived as Warden of the Joseph Harp Correction Center, a 900-bed, high-medium security, male facility in central Oklahoma and walked the yard in my jeans before anyone was really acquainted with me. On this particular day I decided to eat breakfast with the inmates. Food was delivered from a central kitchen and served on each living unit of approximately 160 inmates. The men would line up with their trays and I noticed that some would pick up a spoon while others had their own (which was against the rules). The food that morning was okay as I recall: pancakes, eggs, and sausage. I was one of the last to be served. As I carried my tray of food following the man in front of me, who, like myself, did not have his “personal” spoon; we walked over to the slop bucket where the trays were dumped. Beside the slop bucket was a small stainless steel pot in which those men who had completed their meal had deposited their dirty spoons. I watched with complete disgust as the man in front of me fished around in the cold, slimy mush until he found a spoon. I was ashamed that “we” would allow this to happen but at that moment I was more concerned about having to follow suit and reach my hand into the muck. I did and washed it the best I could in the “water” and preceded to my seat. I certainly did not want to use the spoon but greater was my desire to take what was given, as we expected the men to do. It was immediately

apparent to me why others had their personal spoon, which I later found could be “purchased” from one of the men who worked in the kitchen for several packs of smokes. I ate with the spoon knowing without doubt that the person who used it before me probably had some dreaded disease that I would surely pass along to my children! Question: did the staff observing the feeding process abuse the inmates by allowing such unsanitary conditions to exist? Suffice it to say they never ran out of clean spoons again! There are many such incidents which occur each day in our prisons. These are the conditions which perpetuate the failure of our system to “correct.” From an inmate’s point of view if the “state” would allow such things to happen why should they care themselves? And so, they just do their time the best way they can and never really think about what they are going to do once released. Life in prison just becomes days of survival. Most wardens, when questioned about occurrences such as the spoons in the dirty water, do not condone such activity. But remember, they are dealing each day with just managing “high priority” issues.

There is another incident which highlights life in prisons which was as overtly abusive but which encouraged an environment of abuse: as I was conducting an American Correctional Association (ACA) accreditation audit in Florida (the first such audit of the prison) an older inmate asked if I was from the “Feds.” I told him no. He said, “Well can you help me anyway?” I said I would try, “What’s the problem?” He related that he had been in the same cell for seven years without a pair of shoes. I actually laughed and then noticed that the stately older gentleman was not kidding. I told him that I would see what I could do. Upon leaving the facility, almost as a second thought, I light-heartedly reported to the warden that this particular inmate had not had a pair of shoes on in seven years! The warden looked me in the eye and said, “Well, I wouldn’t doubt it, as he never goes outside anyway. Why would we need to provide him shoes?” If we do not provide prison environments which are conducive to change inmates will not succeed once released, even if we provide the most progressive programs to assist them. This is what we are seeing in most prisons in the country. Many have programs of all types, but men and women leave with odds in favor of their return within three years.

What can we do to enable the system to work in such a way that more inmates stay out of prison than return? First, the public should be educated that the penal system *can* reduce recidivism. Correctional professionals have for too long communicated that inmates who want to make a success of prisons can, but most do not. The truth is that most inmates do not want to return to prison. Generally, at some point in their incarceration they are amenable to change. The problem is that no one in the prison system is held accountable for the prison's failure to correct. Accordingly, prisons have, in essence, become only warehouses in which a minority of inmates possessing the internal discipline and external support to stay above the fray may succeed in the prison system.

It must be noted that what happens to inmates once they are released, in terms of their re-offending, is perhaps more critical than what happened to them during their incarceration. An inmate may avail himself of every program a prison system has to offer. He may not succumb to the "convict sub-culture" while confined. He may learn how to think differently in order to control his life-controlling addictions. He may not leave prison with a chip on his shoulder, but with an eagerness to be a normal, ordinary, responsible person. Yet, in many cases, he returns to the same environment that he left, in which very little has changed other than the fact that he is older and finds himself to be even less marketable. He finds his over-burdened parole officer is more apt to be a person who just calls foul rather than a coach who offers support. He has no driver's license, at best a minimal job, poor living conditions (as he cannot sign a lease for an apartment), mandatory meetings he must make each week, parole fees to pay, and a family which wants to hold him to his monetary obligations. He has no role models of what a "successful" life even looks like. After some time passes he begins to think that even prison was not all that bad. He returns to his old addictions and, within three years, returns to prison with another innocent person being added to the list of crime victims.

Sadly, the simple fact of the matter is that the "free world," both in word and deed, does not welcome offenders back into the fold once released. Given the specifics of their particular crimes, the list of prohibitions varies but, inevitably, the list is not conducive to re-acclimation into society. The "collateral consequences" of criminal

felony convictions has been perpetuated by the courts, employers, and society.⁶ It has been my experience that there exists for the most part a collective defect (and that may be stating the obvious) in the approach taken to deal with offenders from beginning to end. Society wants offenders dealt with firmly and district attorneys' offices are reluctant to entertain any treatment that may be viewed as "touchy-feely." More and more felony filings are approved each year, a large portion of these based on predicate offenses, naturally leading to more and more individuals being incarcerated, typically for substance abuse. For instance, in the state of Oklahoma, where I have spent many years in the system, the first driving under the influence (DUI) charge filed in the state district court is a misdemeanor.⁷ If an offender pleads to or is found guilty of that crime and is charged in district court within the next ten years with another DUI, a felony is filed.⁸ It is the same for possession of marijuana⁹ and for petit larceny.¹⁰ I know of a man who pled to misdemeanor petit larceny in Tulsa County several years ago and subsequently found himself faced with a felony for stealing a can of bean dip. He purchased his chips and beer; he neglected to purchase his bean dip. As a result of the felony filing, he lost his job and was forced to spend what money he had navigating the system. District attorneys struggle to deal with societal pressure to "lock these people up and throw away the key" and much too often the "revolving door" spins with individuals, who while convicted felons they may be, could have been dealt with in a much more productive manner, *providing* the goal is to curb recidivism. Felons are, upon conviction, a member of a disenfranchised group; the prison experience compounds this disenfranchisement.

There are a few programs within prisons that support faith-based volunteerism in which the volunteer assists the ex-inmate upon his release. In fact, in many mentoring relationships of this nature the volunteer is waiting at the gate for the ex-inmate. The system,

6. See *Spencer v. Kemna*, 523 U.S. 1 (1998); *Barrett v. United States*, 432 U.S. 212 (1976); *Richardson v. Ramirez*, 418 U.S. 24 (1974); *Baldwin v. New York*, 399 U.S. 66 (1970).

7. OKLA. STAT. tit. 47, § 11-902(C)(1) (2005).

8. *Id.* § 11-902(C)(2).

9. OKLA. STAT. tit. 63, § 2-402 (2005).

10. OKLA. STAT. tit. 21, § 51.1 (2005).

however, as a whole has many policies in place that discourage these type of programs from succeeding. Although most prisons have a full array of volunteer programs the wardens will privately admit that they do very little to reduce recidivism once the inmate is released. In some respect, most ex-inmates who do *not* return to prison after release do so despite their prison experiences.

Consider what the system would look like if directors of corrections, wardens, and parole supervisors truly were held accountable for public safety by being held responsible for reducing the state correctional system's recidivism rate. If this were the case, we would certainly see vast changes in the way prison systems in this country are managed. Overnight we would begin dialogues between wardens and their staff about what could be done to keep inmates from returning to prison. Parole supervisors would be asking what they could do to support the successful transition into society rather than how best to catch a parolee in technical violations. They would begin to demand operational changes in the state's policies and procedures. For example: currently, in most states, a prison volunteer can not have contact with an inmate's family members nor can the volunteer associate with the offender once he is released. A major study on prisoner re-entry was recently completed that reported a vast reduction in recidivism for inmates who completed an intensive program prior to release. It was found that mentoring relationships created during an inmate's incarceration and continued upon his release played the major role in his success. In this case the prison changed the rule and allowed volunteers to associate with families and released offenders. Most states have not made this change and, frankly, they do not intend to do so. That is until directors, wardens, and parole supervisors are held accountable for their failures and successes.

Our citizens deserve to be as safe as possible. We in corrections can do a much better job of meeting this obligation but, in order to do so, we must all change the way in which we view the criminal justice system. It can no longer be viewed as a system in which little can be done in allowing inmates the opportunity to positively modify their behavior. I want to thank the Commission for being what may be a first step in this process of change. I am very encouraged by your questions and look forward to your recommendations.