

1 Los Angeles, California: Wednesday, February 8, 2006

2 9:00 a.m.

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4

5 JUDGE GIBBONS: Good morning.

6 Professor Levenson.

7 MS. LEVENSON: Thank you, your Honor.

8 Good morning, Commissioners, ladies and  
9 gentlemen. My name is Laurie Levenson. I'm a  
10 Professor of Law and the Director for the Center of  
11 Ethical Advocacy at Loyola Law School, and it is my  
12 privilege to welcome the commission on behalf of the  
13 entire Loyola Marymount University community. We are  
14 indeed proud to host you for the important work you  
15 do.

16 This is a university that is committed to  
17 social justice and we share your concerns about the  
18 conditions of our prison system. In fact, these  
19 hearings could not be timelier; this past week 2,000  
20 inmates in our California jails here in Los Angeles  
21 County rioting, leaving one man dead and scores  
22 injured. Our sheriff has called an emergency  
23 situation and segregated the inmates, something the  
24 Supreme Court decided last year should not be done  
25 except for an emergency circumstances. Well, indeed

1 it seems like almost every day it is an emergency  
2 circumstance given the condition of our prisons.  
3 These riots and the abuses are only the tip of the  
4 iceberg for prisons throughout the nation.

5           Loyola Marymount University firmly believes  
6 in a commitment to all our fellow human beings.  
7 Before these hearings I had an opportunity to talk to  
8 Commissioner Green and as he so aptly put it, all  
9 people have value, including those who are sitting in  
10 our prison institutions. This is especially  
11 important when we recognize that one out of every  
12 three young African-American men in our country is in  
13 our criminal justice system. This issue takes on new  
14 importance. We indeed recognize the enormity of the  
15 task, your task.

16           There are 2.2 million people incarcerated  
17 in American prisons, 13.5 million spend some time in  
18 jail, the financial investment is 60 billion,  
19 although that's probably not nearly enough.  
20 California alone has 33 state prisons and 40 camps.  
21 We are the third largest penal system in the country.  
22 Our budget is 7.4 billion, with a B, and our prison  
23 population is approaching 200,000, yet some of our  
24 institutions, San Quentin and Folsom, opened in the  
25 1800s. San Quentin opened in 1852 and Folsom in

1 1880. And, of course, it is not just the condition  
2 of the physical facilities that poses a challenge, it  
3 is the hiring, training and policies for those who  
4 work in the institutions and those who make policies  
5 regarding them. It is critical that we have the type  
6 of examination you are providing; oversight and, most  
7 importantly, reform.

8           Last year our governor declared our prison  
9 system as, quote, "dysfunctional" and called for a  
10 major rehaul in our criminal justice system. Through  
11 the work of your commission, we hope that our state  
12 will be able to do that, as well as prisons  
13 throughout the country.

14           I know that you have assembled the best of  
15 the best for the task. It has been my honor to work  
16 with Commissioner Judge John Gibbons when I was a  
17 clerk for the Third Circuit. I experienced firsthand  
18 his dedication and expertise in everything that he  
19 touches, and I know that the other commissioners also  
20 bring those types of qualifications.

21           While we work here we will lend you some of  
22 our best and brightest, including Merrick Bobb, our  
23 court-appointed monitor for the L.A. County Sheriff's  
24 Department, and they, of course, will be joined by  
25 experts from around the world.

1                   I want to simply thank you for honoring us  
2 by allowing us to host this commission and your work.  
3 With all the people incarcerated in America, who do  
4 not have a voice but have a stake, we all have a  
5 stake through our community in what happens in our  
6 institution, in the human dignity, in the lives, and  
7 the safety and the future.

8                   On behalf of President Robert Lawton and  
9 the entire university, we thank you for your work and  
10 we welcome you, welcome to Loyola University.

11                               JUDGE GIBBONS: Thank you, Professor  
12 Levenson.

13                               And good morning, everyone. I'm John  
14 Gibbons, the co-chair of the Commission on Safety and  
15 Abuse in America's Prisons, and I welcome you to the  
16 commission's hearing and express our thanks to Loyola  
17 Marymount University for hosting us and to Professor  
18 Levenson for welcoming us.

19                               We're a national commission looking across  
20 the country at both problems and potential solutions,  
21 and it is fortunate that we are here in the enormous  
22 State of California where people managing penal  
23 institutions are grappling with enormous, tough  
24 problems. This is the commission's fourth and final  
25 hearing and the focus of our work over the next two

1 days is on oversight and accountability.

2           As my friend and co-chair of the  
3 commission, former Attorney General Nicholas  
4 Katzenbach, said recently, "The questions 'Who is  
5 watching' and 'Who is responsible' underlie  
6 everything else this commission has discussed since  
7 we began our work last March." They are the  
8 beginning and end of dealing with all of the problems  
9 we have examined. Nick would tell you that himself  
10 if he were here, but an illness in his family at the  
11 last minute prevented him from making the trip to Los  
12 Angeles.

13           Let me tell you just a little bit about  
14 what we're going to hear today and tomorrow. There  
15 will be a great deal of conversation about what  
16 correctional systems are doing to overcome or to,  
17 rather, to oversee their own institutions beginning  
18 in just a few minutes with testimony by Roderick  
19 Hickman, Secretary of the California Department of  
20 Corrections and Rehabilitation. Over the course of  
21 the hearing you will hear from several other senior  
22 corrections administrators. You will also hear from  
23 individuals who are overseeing corrections from the  
24 outside, from California's Inspector General Matthew  
25 Cate to Judge Myron Thompson, who serves on the

1 United States District Court for the Middle District  
2 of Alabama, and there will be moments over the next  
3 two days when "ultimately at stake" will become  
4 crystal clear.

5 I'm thinking particularly of Victoria  
6 Wright who later this morning will tell you about her  
7 husband of 33 years, Jay, who was convicted of a  
8 white collar crime and died last August in a  
9 California state prison just three months into his  
10 sentence, perhaps because he did not receive the  
11 medication he needed. I'm also thinking of the  
12 troubling events of this past weekend in two jails  
13 here in Los Angeles of which Professor Levenson spoke  
14 about.

15 We should all remember that prison walls  
16 don't separate the incarcerated from society. Every  
17 corrections officer goes home at the end of the  
18 shift, nearly all prisoners are released at some  
19 point, and we hear this morning that even prison  
20 gangs are not just a prison problem. Gang activity  
21 inside the jails and prisons both feeds off and fuels  
22 gang violence in the community.

23 This should be a fascinating hearing, and  
24 now we will hear from Secretary Hickman.

MR. HICKMAN: Good morning and welcome

1 to California. I hope this meeting will be  
2 productive and informative for the commission.

3 I'm very grateful to have the opportunity  
4 to address this group today. Quite frankly, no one  
5 denies that violence occurs in prisons and jails in  
6 this country. As you alluded to earlier, just  
7 looking at this past week in newspapers here in Los  
8 Angeles, you can see there is a very serious issue in  
9 this country. In an ideal world we can eliminate  
10 violence in prisons and jails but just as we  
11 acknowledge that it is not possible to eliminate  
12 crime in society, it is not possible to completely  
13 eliminate violence in prisons. By the very nature of  
14 prisons, many of the environments and circumstances  
15 and offenders that are sent to prison have a greater  
16 tendency to be violent than most of the general  
17 public. Therefore, it is the responsibility of the  
18 people like myself and those of us who run the  
19 prisons and detention facilities to ensure violence  
20 is kept at a minimum.

21 What allows us to minimize violence is an  
22 understanding of how often violate acts occur, where  
23 they occur, and why. It is important to acknowledge  
24 that stories about isolated incidents have limited  
25 value when it comes to managing the entire facility

1 or the entire correctional system. The California  
2 Department of Corrections and Rehabilitation has had  
3 some difficulties relating to staff to offender  
4 violence in the past.

5           Take the Madrid case out of Pelican Bay  
6 State Prison. In January of 1995 the federal court  
7 concluded that, among other things, the use of force  
8 against prisoners of Pelican Bay violated the  
9 prisoners' constitutional rights. The courts ordered  
10 California to remedy the problem and appointed a  
11 special master, John Hegar, to monitor the  
12 implementation and compliance with a remedial plan.

13           In 2001 the court concluded that the use of  
14 force policy in California, the application of that  
15 policy, the training and evaluation and executive  
16 monitoring of that policy, was constitutionally  
17 sufficient.

18           It is important to acknowledge that Pelican  
19 Bay is not representative of a typical state prison.  
20 In the classification process of prisoners in  
21 California, Pelican Bay is a security housing  
22 unit is essentially, as defined in other parts of  
23 country, a super maximum-security prison. Its prison  
24 population is comprised of some of the most difficult  
25 to manage prisoners that we have in the California

1 penal system.

2           However, as a result of the systemic  
3 problems with investigations in California and  
4 employee discipline identified by the Madrid special  
5 master in April of 2005, the California Department of  
6 Corrections and Rehabilitation implemented statewide  
7 employee disciplinary measures and revised our  
8 discipline procedures and investigative processes  
9 which I imagine Matt Cate will talk about when he is  
10 here in his oversight role.

11           Also in 2005 we implemented ethics and code  
12 of silence training for all employees in California.  
13 The training outlines our expectations regarding  
14 employee behavior, performance standards, and a  
15 requirement that in the culture of corrections staff  
16 come forward and report.

17           The Bureau of Independent Review which is  
18 in the Office the Inspector General was created to  
19 provide an external process and realtime oversight of  
20 investigations in employee discipline in California.  
21 The court recognized our efforts to the point where  
22 Judge Henderson has acknowledged the cooperation and  
23 support of this administration and very well, very  
24 soon, I believe, and this is one of the dangerous  
25 things you do as secretary, predict the future, I

1 believe that he is going to report very positively  
2 about the Department of Corrections role in that and  
3 move towards eliminating all oversight from the  
4 federal court and move into the oversight of the  
5 process that rests now with the Inspector General's  
6 Office.

7           So despite our history in California, I  
8 urge the commission not to generalize that past and  
9 to presume that it is the same everywhere else. We  
10 have significant challenges in California. As  
11 Michael Jacobson, the Director of the Vera Institute,  
12 has observed, California somewhat skews its  
13 statistics. Despite the numerous challenges facing  
14 us in Pelican Bay and elsewhere, as well as the  
15 complexity of reorganizing the largest correctional  
16 system and the largest organization in California, we  
17 have made progress in cutting violence in our  
18 prisons. Violence in the state prisons in California  
19 is an ongoing issue. In 2004 there were 7,170  
20 incidents of offender-on-offender violence in  
21 California in the adult system. While there's no  
22 hard data available concerning the causes of that  
23 violence, the following are some of the most commonly  
24 recognized, contributing factors to that.

25           Overcrowding in California is a significant

1 contributing factor. In our juvenile justice arena,  
2 even though our population is not as significant, the  
3 staff-offender ward ratio and patterns do not allow  
4 the staff the time that we believe is necessary to  
5 interact with youth and to provide direct  
6 supervision, instructional activities which we  
7 believe would reduce violence and cut down on  
8 provocative and potentially volatile situations.

9           As you alluded to earlier in your opening  
10 comments, prison gangs, street gangs and security  
11 threat groups are an issue; the introduction of  
12 alcohol and substance abuse. And, of course, as you  
13 talked about in Los Angeles, you can't ignore and we  
14 have to be able to be big enough to talk about race  
15 and the issue of race in prisons in this country.  
16 Those are some of the contributing factors that lead  
17 to institutional violence.

18           There's a cultural issue and a code of  
19 ethics that we have to talk about within the systems  
20 of California. As you alluded to, one of the things  
21 that I do as a secretary on an ongoing basis is work  
22 very, very diligently with my staff so that they  
23 understand that their culture, their ethics, their  
24 values are one of the most important things they  
25 bring with them each and every day that they walk in

1 the prisons of California and supervise offenders,  
2 and that we have a responsibility to provide  
3 direction and model social behavior to the offender  
4 in our charge and not to move into another code of  
5 ethics as a result of your environment that you work  
6 in. Mental illness is a significant issue in  
7 California, as is sexual misconduct.

8           We recognize that inmate and staff safety  
9 is a top priority to us and we are working towards  
10 developing evidence-based mechanisms and programs  
11 that can address that. Some of the things that we  
12 have done in our department to reduce, and we hope to  
13 see the results soon, is we have started changing our  
14 classification system to classify people differently  
15 to improve upon safety. We have looked at pilot  
16 programs that can allow for step-down and  
17 programmatic changes in the areas of security housing  
18 units where people are coming out of lockup  
19 environments and moving into the general population.  
20 We're working towards racially integrating and moving  
21 toward a policy that will have us racially integrated  
22 in our reception centers as people come in.

23           I had a chance to talk to Sheriff Baca this  
24 weekend about the significant number of prisoners  
25 that come from Los Angeles County into the California

1 system and how one of the most important things I  
2 think we can do across the country and within the  
3 state is to have better communication and better  
4 understanding from a programmatic standpoint in  
5 California on what we're doing when people come into  
6 the system and what we're doing with communities when  
7 people go out of the system. We have pilot programs  
8 in San Diego to do just that, to talk about that  
9 process upon receipt into the institution and talk  
10 about that process and the community's responsibility  
11 upon return. So there are numerous things that we're  
12 doing in California that I think are systemic and can  
13 be used as a model. The model that we currently have  
14 in California is not the model that we want to leave;  
15 the situation that we currently have in California is  
16 not the situation that we want to maintain. I think  
17 that Governor Schwarzenegger has made it very clear  
18 in his direction to me that corrections are supposed  
19 to correct and we have a responsibility to improve  
20 upon the services that we provide here in California.

21           So with that I welcome you here, I thank  
22 you for taking the time to look into a very sensitive  
23 issue, I ask you for objectivity, and I ask you for  
24 an opportunity to continue to participate in the  
25 process as you go forward. So thank you very much

1 and welcome to California.

2 JUDGE GIBBONS: Thank you.

3 MR. HICKMAN: Any questions?

4 JUDGE GIBBONS: Do members of the  
5 commission have any questions of Mr. Hickman?

6 MR. HICKMAN: Good. Thank you very much.