

1 ARIZONA STATE ADVISORY COMMITTEE
2 to the
3 UNITED STATES COMMISSION ON CIVIL RIGHTS

4
5 Open Hearing
6 on the
7 ARIZONA STATE PRISONS
8 March 14-15, 1974

9 THOSE PRESENT:

10 DR. MORRISON F. WARREN, Acting Chairman

11 COMMITTEE MEMBERS:

12 Mr. Peterson Zah Rep. Diane B. McCarthy
13 Dr. John Glass Ms. Grace McCullah
14 Rep. Edward Guerrero Ms. Cathrine A. Palmquist
15 Ms. Maria E. Leon Mr. Theodore E. Williams

16 STAFF MEMBERS:

17 Mr. Joseph Muskrat Ms. Esther Johnson
18 Ms. Grace Buckley Ms. Anita Espinosa-Larsen
19 Ms. Lou Ann DeVargas Mr. William H. Levis

20 Mr. Donald Goff, Prison Consultant
21

22 THE ABOVE ENTITLED hearing was held in the Phoenix
23 City Council Chambers, Phoenix, Arizona, on the 14th day
24 of March, 1974, and the following proceedings were had,
25 to wit:

1 Civil Rights Commission

2 March 14, 1974

3 Volume I

4

I N D E X

5

SPEAKER

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Exhibits - Arizona Advisory Committee Informal Hearings - March 14-15, 1974

- 1 Corrections, National Advisory Commission Criminal Justice Standards and Goals, January 23, 1973.
- 2 Material prepared by Arizona Department of Corrections for Arizona State Advisory Committee, March 12, 1974 including response to Goff's model baseline, mail regulations, cellblock regs for ASP, ASP Inmate Reference Manual, legislative history of Dept of Corrections and preliminary plan of Arizona Correctional Training Facility
- 3 Ellis McDougall Report on Arizona Dept of Corrections
- 4 Goff's model baseline
- 5 Testimony of David C. Tierney.
- 6 U.S. Commission Civil Rights prisoner letters - Burnell.
- 7 History of Arizona Citizens' Committee on Prisons
- 8 ACCP Newsletter
- 9 Geisenhoff response to inmate allegations
- 10 Letter from G.H. Tegedine refusing to appear as witness
- 11 Menu of Safford meals
- 12 Safford newest regs
- 13 Ft. Grant Rules & regs
- 14 Ft. Grant Menu
- 15 Ft. Grant Training Center Stats
- 16 Ariz Dept of Correction Stats for institutions other than Ft. Grant
- 17 Mail Regs
- 18 Memo from R.C. Camacho refusing to appear at hearing
- 19 Kummerlove statement on mail and visiting
- 20 Approve flag list
- 21 Regs censored
- 22 Visiting Regs
- 23 Renewal motion for appointment of counsel - front
- 24 Inmate legal assistance memo from Cardwell

Exhibits - cont'd

- 25 Post-conviction Legal Assistance Clinic Questionnaire
- 26 Dale memo on Cople rules - July 25, 1973
- 27 Front memo on Cople rules - July 25, 1973
- 28 August Cople order - Aug 23, 1973
- 29 ASP given definitions on inmate confinement
- 30 Dept of Corrections disciplinary action report
- 31 Disciplinary hearing appeals
- 32 Content list - commissary items
- 33 Inmate store procedures

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PROCEEDINGS

THE CHAIRMAN: May I have your attention, please?

Ladies and Gentlemen, this open hearing of the Arizona State Advisory Committee to the U.S. Civil Rights Commission will come to order.

I am Dr. Morrison Warren, Acting Chairman of the Arizona Advisory Committee to the U.S. Civil Rights Commission. The other members of this Committee are, on my right, my far right, Mr. Peterson Zah, and on my left, if you'll raise your hand please, Mr. Edward Guerrero.

Other members of the Committee who are not present, but we expect them later on today is Ms. Rita Madrid, Dr. Rudolph J. Gerber, Dr. John Glass, Ms. Maria E. Leon, Ms. Diane B. McCarthy, Ms. Grace McCullah, Mr. Manuelity Pena, and Mr. Theodore E. Williams.

Also appearing with me today are Mr. Joe Muskrat, who is the Director of the Mountain States Regional Office, Ms. Anita Espinosa-Larsen, Mr. William Levis, Ms. Lou Ann DeVargas, Ms. Esther Johnson, from the Denver office. And Mr. Don Goff, who is the prison consultant.

This hearing is being held pursuant to rules applicable to state advisory committees and other requirements promulgated by the U.S. Commission on Civil Rights. The Commission on Civil Rights is an independent, bipartisan

1 agency of the U.S. Government established by Congress in
2 1957, '60 and '64, to, one, investigate complaints alleging
3 that citizens are being deprived of their right to vote
4 by reason of their race, color, sex, religion or national
5 origin.

6 Two, collect and study information concerning legal
7 developments which constitute a denial of equal protection
8 of the laws under the constitution.

9 Three, appraise federal laws and policies with re-
10 spect to denials of equal protection of the laws.

11 Four, serve as a national clearing house for civil
12 rights information.

13 And five, investigate allegations of vote fraud
14 in federal elections.

15 The Commission has constituted state advisory
16 committees to advise the Commission of all relevant informa-
17 tion concerning their respective states on matters within
18 the jurisdiction of the Commission; to advise the Com-
19 mission on matters of mutual concern in the preparation
20 of reports of the Commission to the President and Congress;
21 to receive reports, suggestions and recommendations from
22 individuals, public and private organizations and public
23 officials upon matters and inquiries conducted by the
24 State Committees; and to attend, as observers, any open
25 hearings or conferences which the Commission may hold within

1 the state.

2 This is an informal hearing and not an adversary
3 proceeding or court of law. Individuals have been in-
4 vited to share with the Committee information relating to
5 the adult corrections system in Arizona. Each person who
6 will participate has voluntarily agreed to meet with the
7 Committee.

8 Every effort has been made to invite persons who
9 are knowledgeable about the problems and progress in the
10 area to be dealt with here today, and tomorrow.

11 In an effort to get a well-balanced picture of the
12 prison conditions in Arizona, we have invited state
13 officials, prison officials, inmates, former inmates and
14 community organizations representatives.

15 Since this is a public hearing, the press, radio
16 and television stations as well as individuals are welcome.
17 However, no witness shall be televised, filmed or photo-
18 graphed during a hearing, nor shall testimony be broadcast
19 or recorded for broadcasting if a witness objects.

20 We are very concerned that we bring out all of the
21 information relating to the matters under inquiry. We're
22 also concerned, however, that no individual be the
23 victim of slander or libelous statements. And as a pre-
24 caution against this happening, each person making a state-
25 ment here today or answering questions has been interviewed

1 prior to this meeting.

2 However, in the unlikely event that such a situation
3 should develop, it will be necessary for me to call this to
4 the attention of the person making the statement and re-
5 quest that he desist in his action. If the testimony the
6 person is offering, however, is of sufficient importance, it
7 may be necessary for the Committee to hear the information
8 in a closed session. The person against whom the allega-
9 tions are being made also will have ample opportunity to make
10 a statement in closed session before the Committee if he
11 so desires.

12 In any event, prior to the time that the Committee
13 submits its reports to the Commission, every effort will
14 be made to obtain a complete picture of the situation as
15 it exists in Arizona today.

16 During these two days of hearings, the Committee
17 will examine conditions existing within each of Arizona's
18 adult correction facilities, ranging from physical sur-
19 roundings to such areas as health and medical care, disci-
20 plinary procedures, inmates jobs and the extent of education
21 and vocational training programs.

22 We hope to develop information here on the need for
23 a uniform set of guidelines to establish basic rights of
24 inmates and what those guidelines should contain.

25 For this purpose a consultant to the Commission has

1 developed model guidelines for minimum standards of treat-
2 ment to be used as a natural instrument to elicit response
3 and ideas.

4 In addition, we will examine whether differences in
5 treatment exist because of race, ethnic group or sex. This
6 meeting will provide the basis for a written report by
7 this Committee containing findings and recommendations con-
8 cerning Arizona's adult correctional system.

9 It is also part of a nationwide study undertaken by
10 the Civil Rights Commission, and the information gathered
11 will be part of a statutory Commission report to the
12 President and Congress on prison conditions nationally.

13 We have two other members of the Committee who are
14 arriving, the first is Ms. Grace McCullah and the second
15 is Dr. John Glass.

16 A representative from the governor's office has not
17 arrived and the next item on the agenda will be the reading
18 of the demographic materials by Ms. Grace Buckley.

19 MS BUCKLEY: This will be just a brief summary of
20 demographic statistics on Arizona and a very little bit of
21 background on the department of corrections.

22 Arizona's population in 1970 was one million seven
23 hundred seventy thousand nine hundred people according to
24 the U.S. Census. Over the past 20 years it has increased
25 tremendously, by 36% between 1960 and 1970 and by an

1 overall 136% since 1950. Nearly 80% of Arizona's population
2 now lives inside urbanized areas and nearly 50% inside
3 central cities.

4 Twenty years ago only 55% of Arizona's population
5 was urban. The largest ethnic minority group in Arizona
6 consists of persons of Spanish language or Spanish sur-
7 name who comprise almost 20% of the state's populations
8 according to the U.S. Census.

9 Native Americans make up between 5% and 6% of the
10 population and Blacks, 3%.

11 The majority of persons of Spanish speaking back-
12 ground, 80%, and of Blacks, 90%, live in urbanized areas,
13 whereas the majority of Native Americans, 82%, reside in
14 the rural areas.

15 Crimes rates relate to the incidence of crime and
16 population and are based on crimes reported to the police.
17 It should be noted that not all crimes are reported, if
18 they were, according to F.B.I. data, the rate would be
19 from 3% to 30% higher. The total crime index as reported
20 in uniform crimes rates is a combination of violent and
21 property crime.

22 In 1972, with a population of one million nine
23 hundred forty-five thousand, Arizona's total index was
24 72,800 crimes, 8,700 violent crimes, and 65,120 property
25 crimes. This breaks down to a rate of 3,746 crimes per

1 100,000 persons.

2 Arizona's total crime rate is lower than that for
3 the western region as a whole, whose rate is about 4,000
4 per 100,000 people. And higher than the crime rate for the
5 total U.S., which is about 2,830 per 100,000 people.

6 The State of Arizona established the Department of
7 Corrections in 1968, prior to that time Arizona State
8 Prison and the state juvenile facilities and the adult and
9 juvenile parole services functioned as completely separate
10 entities.

11 The first director of the department of corrections,
12 Alan Cook, held that office from 1968 to 1973. He and one
13 deputy supervised the department staff and all institutions
14 under the department's jurisdiction.

15 In 1973, Cook was succeeded by John Moran, the
16 present director.

17 The new director reorganized the structure of the
18 department, creating four deputy director positions and
19 a special office for inmate education and staff training
20 programs. The deputy directors head offices for adminis-
21 tration, community services, institutions and research
22 program planning and education.

23 Of Arizona's adult correctional institutions, since
24 1968, the Arizona State Prison has remained essentially the
25 same type of institution, with a men's and a women's division.

1 In 1970, Safford Conservation Center, an adult
2 minimum security facility in eastern Arizona, was set up,
3 in 1971, first adult community treatment center or Halfway
4 House was established in Phoenix. Since then, two other
5 state-operated adult Halfway Houses have been opened, another
6 in Phoenix and one in Tucson.

7 In November, 1973, the department phased out Fort
8 Grant Industrial School for Boys as a juvenile facility
9 and created in its place an adult minimum security facility.
10 When fully operational, this facility can house 300 to 400
11 people.

12 The department of corrections is presently engaged
13 in preparing a five-year plan with specific goals to be
14 fulfilled and changes to be made in the state corrections
15 system.

16 At this point, much of this plan is only in the
17 idea stage, however, there are several concrete areas
18 where the department has plans.

19 In 1970 the Arizona Legislature passed a law author-
20 izing the department to establish a new minimum security
21 facility. The department began preliminary planning for
22 a 500-man facility to be located in the Phoenix area.
23 During the planning period it was determined that two
24 smaller facilities should be constructed instead, one in
25 Phoenix and one in Tucson.

1 In 1973, the legislature appropriated 5.1 million
2 dollars for the construction of the first of the two
3 facilities to house 240 to 300 men and to be located in
4 the Phoenix area near South Mountain. The new South Mountain
5 facility will be for the younger adult offender and will
6 emphasize vocational training and intensive social and
7 psychological counsel and treatment.

8 As of November, 1973, it was anticipated that con-
9 struction of the facility would be completed in the late
10 fall of 1975. Hopefully, the creation of these new
11 facilities will alleviate the extreme overcrowding of the
12 Florence facility which, though built to house about 800
13 inmates now houses more than 1,300.

14 Another recent undertaking has been the effort to
15 have an education division established within the depart-
16 ment of corrections. Senate Bill 1033 introduced in
17 November, 1973, would create such an educational district
18 and would require mandatory full time school attendance by
19 those persons committed to the department who have not
20 finished common school, that is grades one through eight,
21 it would also provide for high school classes and vocational
22 training and would be eligible for the state funds for
23 programs such as special education and bilingual education.

24 Undoubtedly, its establishment would allow the
25 corrections institution to greatly improve and expand their

1 educational programs.

2 Thank you.

3 THE CHAIRMAN: Mr. Gary Nelson is the Attorney
4 General of the State of Arizona, and a member of the
5 National Advisory Commission on Criminal Justice Standards
6 and Goals, and this commission recently published a book
7 on corrections which listed 18 standards, which should
8 be afforded to inmates.

9 Will you come forward, Mr. Attorney General?
10

11

12

GARY NELSON

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THE CHAIRMAN: For the record, will you please state
your name, occupation, please?

16

A. (By Mr. Nelson.) Yes, Dr. Warren, thank you.

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My name's Gary Nelson, I'm the Attorney General of
Arizona. At least until January of 1975. Depending on
other situations and not counting for potential inter-
vening problems.

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THE CHAIRMAN: Mr. Nelson, you are a member of the
National Commission on Criminal Justice Standards and Goals.
And could you please outline the proposals concerning inmate
rights made by the commission?

25

A. Yes, I'd be happy to. Perhaps I can catch you up on

1 time, too.

2 Ford Smith is the head of my Civil Rights Division
3 and apparently he has had some work and I can welcome you
4 on behalf of the governor, if you'd like.

5 THE CHAIRMAN: We appreciate that.

6 A. That would make us right on the money then.

7 I'm sure Ford will be here later.

8 Mr. Chairman, Members of the Committee: I have here
9 a book that's five inches thick that the corrections task
10 force of the National Commission on Criminal Justice
11 Standards and Goals drafted, one of the chapters provides
12 for rights of the individuals who are incarcerated as well
13 as rights of the individuals who may not be incarcerated,
14 but under control and I would think perhaps it would be
15 a little redundant to read them all.

16 Let me briefly outline the matters that are covered.
17 And I might say I have read, studied with some care, the
18 standards or suggested standards that have been already
19 prepared for the U.S. Civil Rights Commission, as well as
20 the extent to which the Department of Corrections of the
21 State of Arizona is currently implementing standards that
22 are either comparable or in line to some degree, with these
23 standards.

24 Now, the Rights of the Offenders is the title, it's
25 chapter 2 and I would recommend that all of you, at some point

1 in your deliberations, and I think the printing and paper
2 shortage notwithstanding that these booklets are becoming
3 increasingly available and hopefully the U.S. Civil Rights
4 Commission, with all its authority, would be able to
5 get you each a copy. Because there is an awful lot of
6 material in here.

7 Now, the standards are substantially 18 in number.
8 And they address the following subject matter: Access to
9 courts, access to legal services, access to legal materials,
10 protection against personal abuse, healthful surroundings,
11 medical care, searches, nondiscriminatory treatment, re-
12 habilitation, retention and restoration of rights, rules
13 of conduct, disciplinary procedures, procedures for nondisci-
14 plinary changes of status, grievance procedures, free ex-
15 pression and association, exercise of religious beliefs
16 and practices, access to the public, and I think in there
17 my independent recollection serves me right, it also access
18 to the media as an important part of the public.

19 And remedies for violation of an offender's rights.

20 Now, that's in the chapter on the Rights of Offenders.

21 Now, it's my belief that sprinkled throughout the re-
22 maining chapters there are additional standards that bear
23 upon what we would call civil rights or the rights of the
24 offender, there is a standard on classification of
25 offenders, which is a concern of both the department of

1 corrections and the inmates themselves, that their classi-
2 fications be handled in a proper way.

3 There are additional standards on the management
4 of adult institutions, major institutions, parole, pro-
5 bation services, so I think in order to fully glean from
6 the report of the National Commission on Criminal Justice
7 Standards and Goals, all of the impacts on individual
8 rights, you would have to go into this in some detail.

9 But I think the fundamental principles that are con-
10 tained in this report are the same as those that are con-
11 tained in the draft report for the U.S. Civil Rights
12 Commission as well as those that are contained in the
13 policy memorandums and programs and ideas of the depart-
14 ment of corrections.

15 And I think it's important, and rather than discuss
16 standard by standard which would take a lot more than 20
17 minutes that's allotted, let me give you some overviews of
18 what I think is critical.

19 I think it's very important that we, and I say that
20 collectively, as members of the public, are finally coming
21 to the basic conclusion that seems to be fundamental in
22 announcing all of these standards, and that is that
23 people that we place in institutions, because they have
24 violated laws, nevertheless remain people.

25 Now, that seems like a very fundamental kind of

1 judgment, but that isn't the way it's been, folks.

2 You know, anyone who tells you to the contrary is not,
3 is not being fully candid. And of course, the easy thing to
4 do would be blame it on the nasty, evil, lockup people that
5 we hire to do this job for us, but think, historically
6 speaking, if you look at them and talk to them, it was not
7 their wish to handle these problems in the way they handled
8 it, they mirrored, for many years, most of the time re-
9 luctantly, so, what you and I, that is to say the citizens
10 of these fine communities, really wanted and that is to
11 say get them out of here, forget them, they're nasty,
12 evil people.

13 And take care of them but don't bother us about it.
14 Oh, and by the way, we won't spend any money. Except,
15 of course the basic kinds of bricks and mortars to try and
16 keep them in as opposed to letting them out.

17 And I think with this kind of a handicap, corrections
18 authorities did a pretty good job. It's only been recently
19 that the community has plugged into this and it still isn't
20 totally plugged in, I think if you wouldn't get some testi-
21 mony any other way, at least you'll get some now.

22 You heard the outline of the department of cor-
23 rections' program, the location of a minimum security insti-
24 tution near South Mountain. Well, I happen to live out
25 there, and the community out there is still a little bit

1 two-faced in a sense, they're coming around to wanting to
2 do better in the area of reform, rehabilitation and assis-
3 tance, except, man, we really would rather you locate the
4 place somewhere else, was the word of the community.

5 Because when it comes to things like property values
6 and our own personal safety, or what they believe to be
7 their own personal safety, we're not quite as interested
8 in supporting you as we are by words of mouth and deeds.

9 And if the media is anywhere accurate, and they're
10 of course, very accurate in this community, I believe
11 they're having a little problem with their next suggested
12 location of the minimum security prison.

13 So, the community is still not fully supportive of
14 this really vital area of the criminal justice system.

15 Now, part of that's our fault, and by our, now, I'm
16 talking about public officials, in informing, informing
17 these people. But I think what the Arizona Legislature has
18 done and what the Department of Corrections of the State
19 of Arizona has done, what this Commission is doing, what
20 the National Commission on Criminal Justice Standards and
21 Goals has done, is starting to reflect the necessary aware-
22 ness, that in fact the first premise really is true, that
23 the people who become offenders, whether they're incarcerated
24 or not, that's the ones we're primarily talking about,
25 are human beings, and must be treated that way to the maximum

1 extent possible consistent with where they are and why
2 they are there.

3 And while this may, to us, in 1974, seem to be a
4 very clear, simple, understandable thing, it hasn't always
5 been that way. But I think that's the basis on which all
6 of these other standards are based, and it's logical.

7 How can we expect them to come back into society
8 as people, as civilized, rational human beings, if
9 they're not treated that way? Well, we can't, and they don't
10 and they haven't.

11 Now, some of them won't anyway. And of course, we
12 hope to minimize the numbers of those that come out at
13 all which I think is a perfectly reasonable course for
14 civilization to take, still considering them human beings
15 but giving them some kind of different treatment for pro-
16 tection of society but as we approach this problem of
17 individual and civil rights, I think the biggest problem
18 is not the discrimination against men or women or Blacks
19 or Mexican-Americans or Chinese or Japanese, that has gone
20 on, I think the biggest discrimination that has to be
21 overcome and it's starting to be overcome, is just the
22 discrimination against the offender. Period.

23 Now, I'm sure you're going to have incidences of
24 potential and actual discrimination based on these other
25 normal kinds of discrimination, I use the word normal

1 advisedly, that human beings are familiar with based upon
2 their own prejudices and biases and hate, and those we're
3 working on much better, I think, than at any time before in
4 our history.

5 But I don't think we ought to ever get away from
6 the focus that the discrimination, if that's the right
7 word and perhaps it's not, against the offender himself,
8 just because he's an offender is what we have got to address
9 ourselves and then we've got to break it down further into
10 the areas of where we have a right to treat him differently
11 because he behaved differently and where we have a right
12 or an absolute obligation not to.

13 Primarily aimed, I suppose, if we're talking just
14 about government and not about human reasons, primarily
15 aimed at him in the context that when he gets out, he will
16 behave like a civilized, rational human being.

17 Of course, the other reason and perhaps the reason
18 that if that's the motivation is more likely to result in the
19 end product, would be that we ought to treat him like a
20 human being because he is one and he's a fellow man of
21 ours and we ought to approach it that way from the stand-
22 point of love and understanding and assistance but that
23 I believe is the main thing that we're concerned about.

24 And I am excited, personally, about the progress that
25 has been made across the country. Unfortunately it's taken

1 some tragic, ungodly, unbelievable situations in some of
2 our states to bring it to the attention of the public.

3 That's the weakness of a democracy, I guess you
4 need a crisis situation before the public really cares.
5 Well, the public cares, and once the public cares probably
6 70% of your battle is over. Because at least then the
7 communication comes from the bottom up, and I've been
8 involved in both kinds of communications, and I guarantee
9 you, especially in this kind of a situation in our society
10 that's more aware, top-down communication is received with
11 a very skeptical, jaundiced eye these days.

12 But communication that comes from the bottom up is
13 much more likely to be productive. I'm sure we have a long
14 ways to go in Arizona, and you can read our standard, that
15 is the standards of the National Commission and the standards
16 that are potentially proposed for the commission and you
17 can see what our department of corrections is already doing
18 and you find some discrepancies, there's no question about
19 it, but I think if you read the documents carefully and you
20 listen to the witnesses that appear before you very care-
21 fully, you will find that the motivational impact of the
22 State of Arizona is to do it as well as can be done.

23 Aiming towards these standards, disagreeing in
24 principle with some, primarily being unable to put some of
25 them into effect at this point in time, simply because of

1 facilities, money and people. And time for training.

2 But I think clearly we're on the right road. And
3 I believe very strongly that if in fact in the next ten
4 years, which is the program that the National Commission
5 on Criminal Justice Standards and Goals talked about in
6 terms of time frames, trying to push people to do some-
7 thing within some foreseeable future time, rather than,
8 you know, down the road 150 years.

9 If these standards as well as the proposed standards
10 of your Commission, and if the direction that the depart-
11 ment of corrections is already a way ahead of many other
12 states in, continues, I think you're going to see a re-
13 markable success in this area, totally unrelated to any
14 of the programs.

15 Now, how statisticians, and I'm inherently leery of
16 them, will place the blame or the credit for the success,
17 I don't know, but a lot of the success will simply be
18 because we have treated these people not as they have
19 treated us, but as we would like them to treat us.

20 And I think that will result in as much progress or
21 certainly a great deal of progress as the other programs,
22 so I think what we're doing here and what you're doing,
23 what I've been privileged to participate in doing, what
24 John Moran and his staff have been working hard at, are
25 aimed in the correct direction, and I'd be happy to answer

1 any questions, if I could, Dr. Warren.

2 THE CHAIRMAN: Yes. I think, Mr. Nelson, you probably
3 have alluded to answers to most of the questions that we had.

4 However, and they may appear somewhat redundant in
5 view of what you have said, but there are a couple of
6 specific ones that I would wish that you would speak to.

7 And the first one is, in effect, in your view, how
8 do the proposals of the commission compare with the rights
9 of inmates operationally in Arizona, in your view?

10 A Well, I think they compare very favorably. I think
11 there are some differences, whether they are great or
12 small, I don't know, because I am not that familiar with
13 the area but I know there are some differences concerning,
14 oh, the handling of mail, if my recollection, and visitation,
15 although those are being changed, there are some differences
16 concerning radio-television, but there again minimal.

17 I did not notice what I believe to be, and maybe
18 it was because I was looking at them with the point of hoping
19 and praying that they were mostly in conformance, I didn't
20 notice any great differences, and what is more important
21 to me I noticed. And of course, I had to read into the
22 documentation what I know from knowing the people that are
23 involved, that there is a tremendous effort to bring into
24 line, if not necessarily with the proposed standards for
25 the commission, but the concepts generally enunciated by the

1 National Commission and this proposal and the American
2 Correctional Institution and other people who studied the
3 problem, the governors' subcommittee of the governors'
4 conference, to bring our program into substantial com-
5 pliance to the best of the ability.

6 Now, I'm sure they can give you a better idea as
7 to where they think numbers and things like, toh, I think
8 there's some limitation on a visitor list or mail list,
9 my recollection may be wrong, but I think the differences
10 are minor, quite frankly, and I think that in the next
11 nine months, 18 months, the differences will be almost
12 infinitesimal.

13 THE CHAIRMAN: I have one other question, and you
14 spoke to the issue of public awareness. And are there
15 mechanisms being developed so that the public does become
16 knowledgeable and understanding of the--

17 A Yes, sir, there are and there need to be more, we
18 need to get more cooperation at every level of government.
19 I know that the director, Mr. Moran, either has now or
20 will have in the future at least one and perhaps more,
21 what I would call PSE men, I don't know if he might figure
22 that's a little too direct for the legislature's under-
23 standing and they may be public information officers, I
24 think would be the more, but information-type people who
25 can educate the public. And I think we have to do that,

1 not just through the department of corrections but I think
2 again at the justice planning agency which both Mr. Moran
3 and I serve on, I think we should encourage grants to
4 cities and counties and to maybe nonprofit corporations
5 to educate people as to what happens to the offender and
6 how, in many respects, you know they, we tend to categorize
7 the offender as a, "they", you know, when we're thinking
8 of groups we don't like or can't understand or -- we
9 always think of "they" or "them" and I think most people think
10 of the offender in this category as opposed to their
11 neighbors' son or their brother-in-law's uncle or some, you
12 know, an honest-to-God name-face-type that's pretty normal
13 and could have happened to them.

14 I think we need this kind of education, plus I think
15 we need this concept that most of the people who go in come
16 out again and live next door and walk up and down the
17 street and they don't wear brands and striped clothes and
18 you're going to be living with them and working with them,
19 this type of education.

20 What they're trying to do in the way of employment,
21 work release, well, for example, the one we shall -- I
22 don't know that I would categorize that we're failing,
23 but the simple, at least what ought to be the simple place-
24 ment of a medium security institution near a major city to
25 further implement the concept of community corrections

1 facilities and community crime prevention, is having a
2 tough way to go with the community.

3 But there are plans in the department and outside
4 the department in support of agencies to improve this.

5 THE CHAIRMAN: One other related question, Mr. Nelson.

6 In your overview, and perhaps it was an oversight,
7 you did not indicate rehabilitation or protection against
8 personal abuse. Was there any reason or is that just an
9 over --

10 A. No, I believe I mentioned both of them, standard
11 2.9, I think I read it is rehabilitation and standard 2.4
12 is protection against personal abuse. Both of those are
13 supercritical in my mind for the obvious reasons.

14 First of all, we've got to give some hope at the
15 end of the tunnel when they get out and rehabilitation,
16 work training, social, whatever it is, whatever you want
17 to call it, whatever -- we use these big words, but enable
18 these people to exist in the normal civilized society.

19 I think the rehabilitation concept and the protection
20 against personal abuse go hand in hand. If we can not
21 protect the inmates against each other and themselves or
22 from the staff or make -- and I question at this point in
23 time whether it's protection against themselves they need
24 probably more than the staff, but this involves working, if
25 we can't do that, if we can't guarantee that atmosphere within

1 a controlled, carefully regulated society, then they're
2 going to be pretty skeptical that society can protect them
3 outside either, so I think these two are very important and
4 if I did underemphasize them it was not intentional over-
5 sight.

6 THE CHAIRMAN: We have a copy of the report and it
7 will be entered as a part of the record.

8 Are there any other questions by any other --

9 DR. GLASS: Mr. Chairman, I'd like to ask Mr. Nelson
10 a question.

11 In reference to many of these job placements in
12 the state, what can be done to make available jobs to these
13 exconvicts in state jobs, in city jobs, this type of thing?
14 This is one area that I know has been neglected a great
15 deal, I'd like to hear your comments on this.

16 A. Mr. Chairman, Dr. Glass, I think what we need to do,
17 here again, is working through the personnel commission,
18 through our civil rights division, and ultimately through
19 the legislature. And I would think maybe this year is not
20 a good year, probably for all kinds of reasons, not the
21 least of which is a political year and the public still has
22 a little lack of understanding in this area. But there
23 needs to be legislative enactments concerning the impact
24 of a felony conviction.

25 And there needs to be a review of rules and regulations

1 of hiring agencies and state government, county government,
2 city government, where this is a -- whether this is an
3 absolute qualifying factor.

4 Now, I'm not one to do like they do in Russia,
5 eliminate history, I think the first time you talk about
6 being able to say no when the answer in, you know, in
7 God's truth is yes, you're in trouble. But I think from
8 the standpoint of availability of information and the
9 absolute disqualification, it's just asinine and we've
10 crossed that bridge and it's just not worked.

11 It hasn't been effective either, as a protection
12 of the public, it certainly just wiped out many of the
13 hopes and dreams of somebody who's made a mistake and who's
14 come out and wants a job but he can't be a doctor, lawyer,
15 janitor, he can't work for the state, the county, the city,
16 the federal government, he can't work for anybody except
17 the local burglary ring.

18 Well, that's what he's going to do. But I think we
19 need higher education and impact on the legislature from
20 the community and then an education at all stratas, we
21 need education in the high schools, we need education in
22 the colleges, we need an educational program in business
23 organizations, because it's the businessman and he's going
24 to be afraid, there's no way you can stamp out fear.
25 Except by, you know, experience and the businessman who hires

1 the excon., some of them are going to be afraid and
2 nervous, and watch a little more carefully, be a little
3 more suspicious, well that's humanness, no way to wipe out
4 that, but we certainly can wipe out the statutory and
5 regulation barriers and there's still plenty that exist.

6 There is a subcommittee, I believe, both of the state
7 bar association, I know that's true for sure, there may
8 well be a committee also, a subcommittee of the state legis-
9 lature that's got this project in mind.

10 THE CHAIRMAN: If there are no other questions, we
11 wish to thank you very much, Mr. Nelson.

12 A. Thank you, my pleasure.

13 THE CHAIRMAN: Mr. J. Ford Smith, the Director of
14 the Civil Rights Commission, is in the audience and will
15 bring greetings from Governor Jack Williams.

16
17
18 J. FORD SMITH

19
20 A. (By Mr. Smith.) Dr. Warren, Members of the Arizona
21 Committee for the -- Arizona Advisory Committee on the
22 United States Commission on Civil Rights and the regional
23 staff members, I bring you greetings from the Honorable
24 Jack Williams, Governor of the State of Arizona.

25 Due to prior commitments, the governor was unable

1 to attend, but he did ask me to express the full cooperation
2 of his office and staff during your two-day hearings.

3 The governor is also concerned about all citizens,
4 be they incarcerated or not, and he further instructed me
5 to request of you, the Arizona Advisory Committee, at your
6 convenience, a total report on this hearing, and to you,
7 Dr. Warren, and members of the staff, I'd like to apologize
8 for being late, I'm very sorry.

9 THE CHAIRMAN: Thank you, thank you very much.

10 Is Senator William Jacquin in the audience? And
11 Mr. William DeGraw?

12 Will you both, for the record, state your name,
13 occupation and address, please?

14 SENATOR JACQUIN: William C. Jacquin, President of
15 the Arizona State Senate, Nine-month address, State
16 Capitol, Phoenix, Arizona. Residential address, 5202 East
17 Alhambra Place, Tucson, Arizona.

18 MR. DEGRAW: Richard DeGraw, Legislative Research
19 Analyst, for the President's Office, Arizona State Legis-
20 lature, 1700 West Washington.

21 THE CHAIRMAN: We understand, Mr. Jacquin, that you
22 will give brief statements regarding the legislature and
23 its overhaul of the state prison system?
24
25

1 SENATOR WILLIAM C. JACQUIN

2
3 A. (By Senator Jacquin.) Well, Dr., and Members of the
4 Commission, I think we ought to put in perspective, perhaps,
5 a little bit of ten-year history in the State of Arizona
6 in the field of corrections.

7 Few people look at the field of corrections as some-
8 thing with great public furor and encouragement and interest,
9 certainly we saw in the last, late '60's, early '70's,
10 in the cry of the law and order and the campaigns and the
11 movement of the public, some concern which brought about in
12 public opinion some dicotomies that certainly need to be
13 answered.

14 I think in terms of the State of Arizona, a young
15 state, the state has had a great opportunity to do several
16 things, we've made several strides and I'd like to touch on
17 a few of those points because I think they're pertinent.

18 Number one, starting back in the mid '60's, shooting
19 towards '67, '68, with a correctional system that was ex-
20 traordinarily scattered, handled each facet of person by a
21 different agency, a different system.

22 We moved to establish, in this state for the first
23 time, a consolidated department, department that could
24 handle the correctional problem as a problem in itself,
25 handle people as people, we then moved on, because corrections

1 problems are not exclusive unto that title, to consolidate
2 and move towards the development of combined and composite
3 resources towards human nature and human problems in the
4 development of the department of economic security which has
5 been implemented only one year as of March, '73.

6 Combining that with recent enactment of health
7 services.

8 I would suggest to you that the purpose of this is
9 to combine the total resources towards the attack of human
10 problems, social problems, social crimes, more serious
11 offenses, to the effort of attacking a combined resource
12 center from the state point of view and giving that allied
13 support to a local point of view.

14 To go after the causal effects, the problems, and
15 to work with the environmental effects, problems of law
16 enforcement, people, correction, why people get in trouble,
17 why offenses are committed, we have attacked this in other
18 fashions.

19 Not only have we tried to combine those resources,
20 but through LEAA, our own justice planning agency, we've
21 tried to make the general movement towards looking at the
22 grant programs through that resource, both nationally and
23 stateside, to develop pilot projects at the local level to again
24 attack human resources.

25 To move towards the combination of looking towards

1 people, their problems, most important, their environment.
2 I think we have to look at one great human cry that seems
3 to crop up in the public sector over the years and that's
4 the cry of protection of the public.

5 I have to suggest to you the question has to be
6 answered publicly, with some sophistication and knowledge
7 and that is what is protection of the public?

8 The protection of the public is simply that you
9 give a human being the opportunity to be an honest member
10 of society. Protection of the public is not a recycling
11 of human nature through institutions. It's an attacking of
12 his problems, his environment and his whole entourage that
13 he finds himself in whether it's his family, his business,
14 his social problems or whatnot.

15 And I think from a legislative point of view, that
16 this has been the general approach and the general attack
17 at 1700 West Washington.

18 I would like to echo, however, the attorney general's
19 comments in terms of public support and public appeal.
20 It's only been probably in the last few years that we have
21 seen citizen support come forth in this state, the educational
22 process is not easy. You must go out and encourage it, you
23 must try to excite people about the problems of dealing with
24 social problems, whether they're welfare, whether they're
25 correctional, whether they're health. Anyone who sits back

1 and foolishly suggests that they're unrelated is sitting
2 somewhat in a vacuum in my personal opinion. So, I think
3 we have tried to do that, we have tried to make some
4 awareness, we do have some citizens committees functioning
5 in this respect and working in cooperation to move in
6 directions that would be helpful to in fact gain maximum pro-
7 tection of the public and most important, maximum ~~advantage~~
8 advantage to the rehabilitative nature of those who have
9 gotten into trouble through an offense or through social
10 error or whatever, you may call it.

11 To that extent, that effort will continue and
12 I see some rising tide, further hope for further enactments,
13 further movement.

14 The attorney general alluded to another problem and
15 that is statutory problems. You may go around and revise
16 and redo bricks and mortars and personnel, but you run head
17 on, eventually, as you do in all 50 states, into problems
18 called statutory law.

19 What does the statutory law allow you to do? How
20 may projects that maybe have some innovativeness, some
21 method of getting a handle on individuals to help problems
22 to correct, to protect the public, to put them on the
23 street as a member of society.

24 How does statutory law react on these kinds of people
25 and in light of that, two years ago we were fortunate in

1 securing an LEAA grant to go into the State of Arizona's
2 criminal code and come up, a project that's geared towards
3 the end of this year and mid next year, with a criminal
4 code revision, having just finished our procedural rules
5 by the court, we are following suit with our criminal
6 code review, which is Title XIII in this state, to take
7 a hard look at that whole area.

8 That whole long code which has been composited
9 over several years, compounded on, has been enacted by the
10 rise of public opinion, as public opinion has presented it-
11 self, whether it was in 1950, whatever was important that
12 year, versus 1955 or '60, but to try to look at it as
13 a composite of a total body of law that attacks a total
14 problem and allows the state and the people and those people
15 within the correctional and the rehabilitative and the
16 manpower training programs to attack the problem of service
17 to the public and minimize the offenses and maximize pro-
18 tection of the public.

19 I think in this sense, that the attitude of the
20 legislative body, that the attitude of our new agencies and
21 that personnel, is moving very strongly in that direction.
22 We have enacted laws in terms of development of meaningful
23 job-type programs within the prison system, and the correc-
24 tional system, so we're not, even though we may still be
25 doing some traditional things like stamping license plates,

1 which, you know, that's a marvelous thing, but you can't
2 go out and find a job to do that later, probably.

3 But we're trying to find meaningful occupation and
4 vocational training.

5 We have a key bill in the legislature today which
6 we've just passed last week, which establishes the depart-
7 ment of corrections as an entity, as a district of education
8 putting the full force and effect of the educational
9 system within the correctional system.

10 A key piece of legislation that will pass this
11 session.

12 To again give the same full advantage in helping
13 trying to move offenders towards society.

14 It seems to me that our movement in urban, multi-
15 phasic-type institutions, one we have appropriated last
16 year and are basically committed to a second institution,
17 to do what? To develop within the urban allied resources
18 correctional facilities that can be meaningful in terms of
19 working with the offender, with the support services of
20 urban areas, combined with the ability of the system to
21 work with the environment.

22 For the recycling process is of no advantage if we're
23 just recycling and throwing an individual back to the
24 environment that only created the problem to start with.
25 So it seems to us that we're moving down that direction, we

1 do have some legislative support in that direction, nothing
2 happens overnight, unfortunately, as many times many of us
3 would like to see done.

4 But I think we've made significant progress in that
5 respect and I am sure that that will continue with the sup-
6 port we have now built up in the state.

7 I am hopeful that that support will continue legis-
8 latively, I am hopeful and I feel that the attitude publicly
9 in the State of Arizona has become more aware and more
10 interested in providing these types of services, and doing
11 these types of things, recognizing full well as we did in
12 the last '50's, under other federal commissions and re-
13 ports, that the old recycling process doesn't work.

14 So, simply, I think that in quick, very simplified,
15 oversimplified, I probably should add, perspective to
16 where we've been in the last few years, I think that's the
17 general attitude and attack of the correctional problem
18 and more importantly, the human nature problem which we're
19 dealing with, and I think there are some great things for
20 the future and I think that there's some great movement
21 in the future, and we have been interested and very energetic
22 getically looking for new ideas, better ideas,

23 We have brought some good pilot programs into this
24 state, most of them are new but they're working and they're
25 giving us a track record to further develop and expand those

1 areas.

2 To that extent, Mr. Chairman, let me conclude my
3 remarks, because perhaps what's most important is what you
4 might like to ask me.

5 THE CHAIRMAN: Fine.

6 Do you have a statement, Mr. DeGraw?

7 MR. DEGRAW: No, I have no statement.

8 THE CHAIRMAN: Are there any questions by Committee
9 members of Senator Jacquin?

10 DR. GLASS: I'd like to ask Senator Jacquin a ques-
11 tion, please?

12 Q (By Dr. Glass.) On this, I understand, Senator
13 Jacquin, you're chairman of that interim committee --

14 A (By Senator Jacquin.) Which one?

15 Q Well, this is the -- corrections, is that right?

16 A Well, no. I'm not sure which one you're dealing
17 with. We had a continuing committee in the senate on
18 corrections, the actual chairman has been Senator Corbett,
19 our chairman of the judiciary, who unfortunately is in
20 Washington and New York for the next three days. He could
21 not be here but yes, Doctor, I'm familiar with that com-
22 mittee and some of its actions, if you want to proceed
23 with the questions?

24 Q On this legislation to create an educational district,
25 would you briefly give us, summarize just what that bill's

1 all about?

2 A Let me let my staff research answer the question,
3 he can probably recite the bill verbatim backwards to you.
4

5
6 RICHARD DEGRAW
7

8 A (By Mr. DeGraw.) Thank you, Dr. Glass, Mr. Chairman.
9 Senate Bill 1039 which passed the senate last week
10 and is now in the house, would create for the department of
11 corrections, an educational district run by a board of
12 education, this board would be -- would consist of the
13 department, director of the department of corrections, the
14 director of the department of economic security the super-
15 intendent of public instruction, and two public members
16 knowledgeable in the field appointed by the governor for
17 two-year periods.

18 This board would be responsible for clearing with
19 the state board of education any type of education provided
20 to any institutionalized person or person under the control
21 of the department of corrections, on parole, in community
22 halfway houses, etcetera. Senate

23 Senate Bill 1039 would mandate education for everyone
24 under 16 or below the eighth grade level. This is what
25 present state law says now. It would allow optional -- it

1 would allow options for the department of corrections and
2 the board to educate any other persons, no matter what
3 their age, up to the senior high school level, so that any
4 other person would have available to him GED, vocational
5 training, or a normal high school program.

6 The state would fund this school district in the
7 same way that they fund normal public school districts, so
8 that a school district on the outside receiving, say
9 \$1,000.00 per child, under a certain formula, the depart-
10 ment of corrections would actually receive about \$1,200.00
11 a child because they would be running a year-round school
12 district.

13 And presently we have only nine-month school dis-
14 tricts or at least only nine-month attendance by a child
15 on the outside.

16 The department of corrections would be able to
17 apply for special education funds, bilingual funds, voca-
18 tional training funds, other federal funds that they can
19 not get now without the creation of a school district.

20 The department of corrections would be able to use
21 community facilities where available, would be able to
22 transport students between schools and would be able to
23 set up special individualized classes and training for
24 persons irrespective of age. This is a very large step
25 forward in our state.

1 If, in the department and the board's opinion, they
2 did not have enough money to run the district under the
3 normal funding process, the money that a normal school
4 district would get they still have the option to go to the
5 legislature with supplementary budget to get additional
6 funds for special projects.

7 In essence, I believe that is what Senate Bill 1039
8 does.

9 DR. GLASS: Sounds quite a step forward to me.

10 Senator Jacquin, I'd like to ask you one other
11 question here, if I may, about, we've established two
12 Halfway Houses here in Phoenix. I happen to have visited
13 at these places. I've been very much impressed with them
14 and they have gotten, they have -- the results throughout
15 the country on these, results of these Halfway Houses,
16 rehabilitation has been tremendous.

17 I was wondering, is it because we don't have more
18 money in the budget to allow to set up more of these
19 Halfway Houses in the community or satellite Halfway Houses
20 or just what is the --

21 A. (By Senator Jacquin.) Well, Doctor, there's -- you
22 know, there's no question that there is legislative restraint
23 when it comes to budgets. Certainly this year alone, you
24 know we've just gone through a special session moving 171
25 million dollars from local level to state level. We're

1 facing what we do not know what the impact will be on an
2 energy crisis, for instance, in terms of budgetary impacts
3 and revenue impacts.

4 So, certainly there are monetary restraints which
5 you have to live with.

6 From the standpoint of the Halfway House program, I
7 think legislatively and I think appropriations-wise, I
8 think the attitude is positive in terms of trying to
9 supply the funds. I think again the legislature feels
10 strongly the best dollars we spend are the community-type
11 dollars which Halfway Houses fall into.

12 So, I think there's a positive attitude but I would
13 suggest to you, don't overlook the problem of public
14 education. I think the problem that is currently developed
15 in trying to place the multiphasic urban institution is a
16 beautiful example of a typical community educational pro-
17 gram. Halfway Houses are not different.

18 I remember the throes we went through in establishing
19 the initial Halfway Houses. Because everybody is for it
20 until it plops on the corner of their block. I think we have
21 to recognize that. I think we have to educate people about
22 what a Halfway House does, who's going to be there, how it's
23 supervised, what the people are going to do, what the re-
24 sponsibilities are. I think you run into some more problems
25 there sometimes, than you do in terms of the sheer monetary

1 considerations. I'm sure the Director of the department
2 can speak to that to a greater extent.

3 But from the standpoint of, I think the legislature
4 and the appropriations process, I think we're reasonably
5 favorable and have been supportive of the Halfway House
6 and the other types of community-based programs and the
7 establishment thereof.

8 I think once we resolve the multiphasic institution
9 in terms of the current problem in getting the land location
10 or site location, you will see a move very rapidly within
11 the next year or whatever, to move forward on the second
12 institution, again the main purpose is to bring those
13 offenders within the capability of the service delivery
14 systems of a community and the state resources, there's
15 another allied obvious reason for it and that is to lower
16 the population of what is now currently the prison at
17 Florence to a manageable, workable, human institution.

18 You can not put too many people in a hotel without
19 having some discomfort when the hotel is overcrowded and all
20 of you have done that because you've gone to a hotel and
21 find out it's packed in the rooms and try to go, do this.

22 Well, any institution is no different when it's
23 crowded and so certainly we're trying to move in that direc-
24 tion and lessen the problem so we can further develop the
25 Florence institution to provide and do a better job with a

1 reasonable, workable population.

2 Q (By Dr. Glass.) Thank you.

3 I'd like to ask Mr. DeGraw a question.

4 Or rather to have him, if he will, review this
5 House Bill 1255, or Senate Bill, I guess, Senate Bill.

6 A (By Mr. DeGraw.) I'm sorry, Dr. Glass, you'll have
7 to give me a short title at least on that.

8 Q Repayment of victim's bill --

9 A Oh, the victims of violent crimes compensation fund,
10 is that what you're referring to?

11 Q Yes.

12 A The victims of violent crimes compensation fund is
13 a bill sponsored by Senator Corbett and several others,
14 with the initial idea that there is one group of people
15 that are basically forgotten in the entire criminal justice
16 area and that is the person that is injured.

17 The person who was there, had nothing to do with the
18 crime or was injured by a direct action during the crime.
19 These people are generally forgotten, have no one that they
20 can sue and have no other recourse except through civil
21 courts to attempt to sue someone who generally would not
22 have money in the first place.

23 Now, with the victims of violent crimes bill we're
24 looking at the states such as New Jersey which created a
25 victims of violent crimes compensation board, we would hope

1 that the state could put together some information so that
2 if someone were physically injured and were forced to be out
3 of work for, I believe it's over two weeks, or were injured
4 or lost personal property that could not be replaced over
5 \$100.00, the state would pay that victim up to \$10,000.00
6 per incident, so that if someone were on the streets and a
7 man robbing a bank came running out of the bank, knocked him
8 over and he hit his head on a telephone pole as he fell
9 and was seriously injured, did not have any insurance to
10 cover it, and was put in the hospital for five or six
11 weeks, or longer.

12 The state would attempt to help this person. This
13 would be something in addition to any insurance the person
14 has because it's specifically spelled out in there, that
15 other insurance, medical insurance, injury insurance, etcetera,
16 would come before the state compensation fund, but the
17 person could apply to the state, you would not have to prove
18 that someone committed the crime, just that there was a
19 crime committed.

20 Therefore you don't have to prove or find the man
21 that robbed the bank, you just have to know the bank was
22 robbed and that this man was knocked over in the commission
23 of that crime.

24 Now, it would not pay anyone actually involved in
25 the commission of the crime or the family of anyone involved

1 in the commission of a crime. In fact, anyone within the
2 immediatē family of anyone involved in the commission of
3 a crime.

4 DR. GLASS: Thank you.

5 THE CHAIRMAN: Any other questions?

6 I have, perhaps one, it has to do with the 1972
7 report of Mr. Ellis McDougall, to the Commission, the Depart-
8 ment of Offender Rehabilitation in Georgia, he made approxi-
9 mately 30 recommendations as to what to do to improve
10 Arizona State Prison, could you speak very briefly about
11 the credibility of those recommendations and if they were,
12 what has been done to implement them?

13 A. (By Senator Jacquin.) Well, Doctor, again basically
14 I'm going to defer to Mr. Moran or director at the time when
15 he comes on, because I think he speaks specifically in
16 terms of the Ellis McDougall report at the time, as all of
17 you know, probably Ellis McDougall has had quite a repu-
18 tation throughout the country in Connecticut, Carolina and
19 Georgia and where he was when we asked him to come and
20 do a quick survey and look at it.

21 That report was initiated legislatively, and we had
22 him go through, come up with those recommendations, those,
23 at the same time, really and span of time was about the time
24 we moved with the hiring of our current director and those
25 recommendations, some were implemented at that time, some have

1 been implemented since, the status I think if you want to
2 go through a detailed report, would be much easier for
3 Mr. Moran rather than I go through a report --

4 THE CHAIRMAN: Fine.

5 If there are no other questions by the Committee,
6 we certainly want to thank you, Senator, and Mr. DeGraw
7 for your very fine testimony.

8 SENATOR JACQUIN: Thank you.

9 THE CHAIRMAN: Is Mr. Thompson, Representative
10 Thompson in the audience?

11 If not, Mr. John J. Moran, who's the Director of the
12 Arizona State Department of Institutions, would you come
13 forward, please?

14 And Mr. John McFarland and Mr. John Schuster, if you
15 wish you may also come forward.

16 MR. MORAN: Mr. Chairman --

17 THE CHAIRMAN: We'll need your name, sir, your
18 address and occupation, actually from each of you, for the
19 record, please.

20 MR. MORAN: My name is John J. Moran, Director,
21 Arizona State Department of Corrections, with offices
22 located at 1601 West Jefferson, Phoenix, Arizona.

23 THE CHAIRMAN: Mr. McFarland, sir, your name?

24 MR. MCFARLAND: My name is John R. McFarland, I'm
25 Deputy Director for Community Services, Department of

1 Corrections.

2 MR. SCHUSTER: I'm John R. Schuster, Deputy Director
3 for Institutions, the same address.

4 THE CHAIRMAN: Fine.

5 It's our understanding, Mr. Moran, that you will
6 give a statement describing programs of the department of
7 corrections since you've become director? And with the
8 assistance of Mr. Schuster and Mr. McFarland?

9

10

11

JOHN J. MORAN

12

13 A. (By Mr. Moran.) Yes, Mr. Chairman, our overall plan
14 is for me to do precisely what you've just indicated and
15 then certainly with whatever time the Commission has avail-
16 able and with the assistance of Mr. Schuster and Mr. McFarland,
17 to respond to any questions, some of which have already
18 come up with respect to the McDougall report.

19 I'd like to make just a few rather general, and it's
20 very bad to speak in generalities at a hearing like this
21 since the, it's to everyone's advantage to speak very
22 specifically but I would like to put in a sense the attitude
23 and the position of the department of corrections in proper
24 perspective.

25

We have, without question, had some natural human

1 apprehensions about this activity, we're very busily
2 engaged every day in many, many other things. We're being
3 pulled in many, many different directions, and I think
4 probably that apprehension resulted primarily from what
5 we considered to be a very obvious increased work load as
6 a result of it.

7 But I would like to say right in the very beginning
8 that we've entered into this thing in a spirit of cooperative-
9 ness, with a very positive attitude, we have literally
10 made available to your staff every scrap of information that
11 we could reasonably put together, given the availability
12 of staff and time, and the deadlines for the hearings
13 and so on.

14 As evidence of that, and I say this mindful of
15 recent problems in the White House, we hope that you've
16 seen all the material that we've given to your staff people.

17 I can tell you without any reservation that these
18 documents are accurate as we know the facts to be, we did
19 not, under any circumstances, deliberately withhold any-
20 thing.

21 In addition to that, we have provided this, which I
22 assume all the Commission members received yesterday, it
23 was only off the press so to speak, yesterday, and this
24 represents our full and factual and honest position with
25 respect to the minimum standards that are now serving as a

1 baseline for the purposes of the study and at this time, I
2 would like to officially, if this is the proper way to do
3 it, request that this document be entered as part of the
4 record.

5 Also, by way of preliminary remarks, I'd like to
6 say that we come before this Commission in a very positive
7 and frankly in the strongest possible fashion. Hopefully
8 that will not be interpreted as obstructionistic activity
9 or belligerism, we feel that we're in pretty good shape,
10 frankly, with respect to the basic purposes of this
11 study and with regard to the need to understand and to
12 respect and -- the basic civil human and legal rights
13 of people.

14 Generally, with some few exceptions, we certainly
15 totally support the need for minimum standards with re-
16 spect to the care and treatment of offenders and inmates.

17 It might be assumed that as a result of the recent
18 activity in the history and developments in Arizona that
19 the so-called Copple (Phonetic) decision, which is of
20 paramount importance, with respect to the area of concern
21 here today, was jammed down the throat of the department
22 of corrections.

23 While it is true that the activities with respect
24 to that class action suit were underway before this present
25 administration was put together and got into operation, I

1 think I can say without question that even had the suit not
2 been active that we would have proceeded on our own to
3 have developed the basic philosophy and operational pro-
4 cedures and the safeguard and requirements that are
5 inherent in the Cople decision, so we come here today with
6 some few exceptions totally in support of the need for
7 minimum standard for the care of offenders and inmates.

8 I would respectfully also like to attempt to put
9 the hearings in proper perspective and again respectfully
10 remind the Committee we're talking about a hearing now in
11 Arizona. We're talking about an administration that has
12 been in operation only one year.

13 I'm indebted to Ms. McCarthy for the earlier
14 history with respect to the agency. I think the history
15 is important, this is a rather young department of cor-
16 rections, it's been in operation less than six years.

17 So, we are in fact talking about 1973, 1974 in
18 Arizona. I hope we're not talking about 1968 or 1969. I
19 think that as testimony is presented, either by myself or my
20 staff or by inmates or whomever that it's of critical im-
21 portance that events, circumstances and impressions and
22 allegations and assumptions or whatever, be properly
23 dated.

24 I'd respectfully remind the Committee as well, that
25 we're not talking about New York State or Attica or California

1 or Mississippi or Alaska, or Hawaii, we're talking about
2 Arizona. We would, again, respectfully request that the
3 members of the Commission very, very carefully, despite
4 your very busy schedules and other responsibilities,
5 thoroughly go into every detail as presented either by
6 myself, my staff or by inmates or exinmates.

7 While we understand very well that your two days
8 here represent perhaps a relatively small portion of your
9 overall responsibilities to your community, these two days
10 are of critical importance to the people of Arizona, the
11 inmates and the continuing development of corrections here
12 in Arizona.

13 So, during the next two days, we are prepared to
14 discuss with you what we consider to be matters of critical
15 concern to the staff of the department of corrections,
16 certainly members of your Commission, inmates and exinmates
17 of our institutions and the people of Arizona.

18 We approach these hearings in a most serious manner
19 with frankness and openness and consider this event, if
20 the hearings proceed as we expect, as being a significant
21 opportunity to present the current state of affairs of the
22 Arizona State Department of Corrections with respect to
23 our commitment to the success of the criminal justice
24 system and also with respect to the basic human rights of
25 the many who are committed to our care.

1 As I said earlier, despite some natural apprehensions
2 during the course of our preparing for these hearings, as
3 a result of the great volume of work involved, we, that is
4 the entire administration and staff of the department of
5 corrections come here today with a constructive and positive
6 posture with respect to the serious considerations at hand.

7 Now, while it is clear that these hearings are not
8 intended to provide a forum for philosophical debate around
9 the problems of crime and punishment, I feel that it is
10 important, at least to me, that I briefly state what the
11 current philosophy is of the Arizona State Department of
12 Corrections and how it is reflected in our planning and
13 daily operation. And in our attitude in terms of our ful-
14 fillment of the responsibilities and in meeting the needs
15 of prisoners.

16 We actively and clearly accept as our basic re-
17 sponsibility, with the many other agencies which share in
18 the administration of the criminal justice system here in
19 the State of Arizona as our basic responsibility the pro-
20 tection of the public.

21 It certainly, as part of that responsibility we have
22 at the moment committed to us, some 5,000 individuals,
23 including juveniles and adults, in various institutions and
24 in community programs. Therefore, our basic responsibility,
25 and in our view, is to the nearly two million Arizona citizens

1 who, just as inmates, or prisoners have rights, have
2 rights also to a safe and orderly community.

3 Free from fear of attack from that small minority who
4 for many, many complex reasons have demonstrated that they
5 are unable to conform to what is required for the common
6 good and consequently are committed to the department.

7 We are, therefore, committed to the organization,
8 development and expansion of a variety of quality programs
9 that can best provide an increased measure of protection
10 to the public.

11 Now, the argument of the philosophical difference
12 of the difference of opinion in correction, correctional
13 management oftentimes comes in this area. We are convicted
14 without question and are dedicated to the fact that we can
15 best protect the public by having decent humane, quality
16 programs of sufficient variety that inmates have an oppor-
17 tunity to do something with themselves while they're in
18 our care.

19 So that when they leave the institution and these
20 are cliches, I know, that they have a better self image,
21 they're better educated, they've had some help with,
22 particularly critical problems in the area of drug abuse
23 and alcoholism and emotional instability and whatever, so
24 that they're better able to go out, take their places as
25 human beings along with everybody else, support themselves

1 and their family and to respect the rights and property of
2 others.

3 Now, some of the confusing things about an operation
4 like this. Please be sure that we fully recognize the
5 seriousness and the extreme deprivation involved in the
6 removal of an individual from his community and family,
7 and while this is to be sure somewhat of an old cliché,
8 again, we accept the fact that removal and confinement to
9 an institution and the necessary restrictions resulting
10 thereof, are in and of themselves sufficient punishment.

11 Lots of people give speeches about that, but we
12 believe it. We believe that it is a severe deprivation, it
13 is a severe punishment to remove him from the community and
14 put him in the institution, from our standpoint, that's
15 enough. We're not out abusing people beyond that.

16 While those who are under our care are of necessity
17 under varying degrees of restrictions governing their move-
18 ment, behavior and program, further disciplinary type restric-
19 tions and punishments, if you will, are imposed only upon a
20 relative few who continue to demonstrate that they're
21 unable to accept their responsibilities and continue and
22 repeatedly violate the rights or property of others while
23 confined in our prisons or institutions.

24 I can categorically state, without reservation, there
25 is absolutely no deliberate conscious plan or even implied

1 attitude or action which is intended to harass, degrade,
2 the human dignity of the individual inmate. Or interfere
3 with or eliminate his basic civil rights.

4 Now, to be sure, not all prisoners under commitment
5 to this department are fully satisfied with their present
6 state of affairs, that's very clear to all of us. The
7 simplest and most basic fact is that they don't want to
8 be there. But I would suggest that it's only natural that
9 there is some dissatisfaction, disagreement, hostility,
10 feeling of unfairness, in any group of human beings.

11 Whether it be a civil rights commission, a prison,
12 a university, a military group, a community or even a
13 family. I don't know of any group where everyone really
14 feels that they're being treated 100% equally and fairly.

15 In our philosophy, planning and program development
16 we readily and clearly understand and accept the uniqueness
17 of each human being. That each has his own strengths and
18 weaknesses, his assets and liabilities, level of intelli-
19 gence, level of motivation, areas of interest and an every-
20 changing potential for change.

21 We are, therefore, committed to the development of
22 a sufficient variety of institutional services and programs
23 and also community-based programs designed within reason
24 and the resources available to meet these specific and
25 unique needs. And in simple language, in our view, no two

1 human beings are alike. And as confusing as it may seem,
2 herein lies one of the dilemmas that are faced daily in the
3 operation of a department of corrections or an institution.
4 In that ~~while~~ certain basic conditions applicable to all
5 do prevail, there are also differences. It's really as a
6 result of our recognition of the differences within human
7 beings that these differences occur. So there truly is a
8 difference and some variance in the way that individual
9 inmates are classified, programmed, transferred from one
10 housing unit to another or from one program to another,
11 disciplined and released.

12 We do not in fact treat all of the people that are
13 committed to our care precisely the same. And again this
14 may sound like kindergarten language, but it's because they're
15 not the same.

16 Now, some of the differences that are particularly re-
17 lated to the basic concerns of this Commission and which
18 may have been reflected in whatever written material and
19 information which has been provided or conveyed to you by
20 your staff, occur because of our recognition of the indi-
21 vidual person.

22 And not at all under any circumstances because the
23 individual is or is not a member of a particular ethnic or
24 minority group.

25 Incidentally, if I may digress for a moment, the

1 apprehension to which I referred earlier, concerning the
2 entire process, has arisen primarily as a result of our
3 concern over what we consider to be a rather immature,
4 amateurish and incredible process whereby problems have been
5 pinpointed and allegations presented to you solely based
6 upon a very few incorroborated statements, either by staff,
7 or by inmates who may or may not have been sincere. But
8 who in our judgment, are just not aware of all the facts
9 in a given situation.

10 We are further convinced, without question, that some
11 of the considerations that may have been presented as
12 critical problem areas and as infringing upon the civil
13 and human rights of inmates do not at all reflect the
14 attitude or the position of the majority of our inmates.

15 In this process and in many other related activities,
16 I think it's fair to say that we had a 100% open door
17 policy, people were permitted to go wherever they wanted,
18 to talk to whomever they wanted, inmates, staff, with only
19 one minor restriction, I believe, in that we had a murder
20 trial going on and we didn't want to get into that for
21 obvious reasons.

22 So, -- with that one exception, people were per-
23 mitted to go wherever they want and so on and talk with
24 whomever they wanted and again we've got 5,000 people in
25 the system.

1 In addition to our recognition of the uniqueness and
2 inherent worth of the individual, we also recognize, under-
3 stand and respect the uniqueness of each minority group.

4 We understand that all -- that not all groups of
5 people are alike, that there is not truly one culture in
6 America, that there are racial, ethnic, cultural, religious
7 and traditional differences among ethnic or racial groups
8 and individuals.

9 Give us credit for being smart enough to know that.
10 We recognize also that we are operating and attempting to
11 meet basic human needs in a community which is rapidly
12 changing socially, economically and geographically. We
13 recognize also that the causes and the solutions of the
14 problems of delinquency, crimes and correction are many and
15 complex, we recognize that prisons and correctional pro-
16 grams can not be operated as they were 20 or even ten or
17 perhaps even five years ago.

18 We are committed as you heard other speakers already
19 mention, to the recognition that the days of distant, iso-
20 lated, quiet, closed institutions are gone.

21 We have taken a very firm stand with respect to needs,
22 with respect to the need to locate new or more specialized
23 and higher quality programs in the major metropolitan
24 area, I might say at some risk. So we're not intending to
25 operate closed, isolated, degrading, brutal, distant, destruc-

1 tive institutions.

2 We recognize also, certainly, that all inmates and
3 all staff, let's not forget them, they're human beings too,
4 you know, have certain basic civil constitutional and human
5 rights, even though removed from society. Confined. We
6 do not, however, subscribe to the theory that inmates
7 fully retain all such rights. Of necessity or common sense
8 or for the welfare of the majority of those who are in these
9 institutions, some rights have to be lessened in some areas.

10 We recognize also, that the most important and basic
11 human right of both inmates and staff and the public for
12 that matter, is to be able to live in fundamental safety,
13 free from intimidation, free from threat, free from
14 extortion, free from the theft of his property, freedom
15 from attack, and yes, even freedom from rape and murder.

16 Now, we begin to get into the realities of a prison
17 or a correctional department. Certainly the people that
18 are involved in these activities are without question, in
19 our judgment, a minority, so we recognize all the very
20 broad and generalized civil, legal, basic human rights of
21 people we think that the most basic right of any individual
22 is to be able to live safely. Without being threatened and
23 intimidated as I've already mentioned.

24 Therefore, in the reorganization of the policies and
25 the procedures and the program of the Arizona State Prison,

1 our primary goal was to develop a safe, orderly, consistent
2 and just environment. Where inmates and staff alike could
3 live and function safely.

4 Now, I think most members of the Commission are some-
5 what aware of what conditions prevailed a year or 18
6 months or two years ago, there isn't any sense in going
7 into ancient history. We had a brutal chaotic jungle wherein
8 inmates were being cut and raped and intimidated on a daily
9 basis. So our primary responsibility is to the basic
10 human need of the individual inmate to have a safe environ-
11 ment.

12 I think I can report to you today, this has been
13 accomplished. It's not 100%, nothing we do is 100%. I
14 think I can tell you today that we have inmates walking
15 the yard, as they call it, during what was called protective
16 lockup, sometimes for years, out of what would happen to
17 them. We've cut down that number from a 100 a year ago
18 to somewhere in the area of 30 now, so that some inmates can
19 now begin to get themselves together as they call it. To
20 get interested in programs, and to move about without fear.

21 We've done this, and -- we've done this in a due
22 process fashion. So that the attackers and the extortionists
23 and the robbers and the rapists are no longer marauding
24 around the institution preying upon their victims at will.

25 Now, we're only talking again, perhaps of about 35 out

1 of 1,450 in the prison.

2 The average inmate no longer has to carry a weapon
3 for selfprotection.

4 Now, I mention all this so that as we proceed through
5 these hearings, we put everything in proper context and we
6 understand what the realities of life were then and are
7 today, and that we examine the evidence and the testimony
8 and the allegations in that light.

9 Now, look at the system as a whole, the history has
10 already been given, we accept also the fact that we need
11 a balanced system, we do not at all think that all offenders
12 need to be in a maximum custody institution, our every
13 action has been devoted to the development of a variety of
14 programs and a balanced system. With substantial differ-
15 ences in security and supervision and individual freedom and
16 responsibility, this is why in early preliminary discussions
17 with your staff we were quite insistent that we look
18 at the total adult system. We do not look only at the
19 prison, we look at the Halfway House program and we look
20 at the Safford conservation Center and the development of
21 Fort Grant that's already been referred to that frankly
22 we're very proud of.

23 We have 150 men that have been taken out of the main
24 institution at Florence and now living in minimum custody
25 in a full time quality education and training program,

1 preparation for their release.

2 It's obvious I talk too much.

3 We have presented in this document where we think
4 we stand now, there has been significant progress in the
5 area of due process, we do have written rules and regulations
6 that are available to everyone, they do get written notifica-
7 tion of violation of the rules of the institution, they do
8 have a right to a hearing, they do have a right to witnesses,
9 they have a right to counsel, they do have an appeal
10 ability beyond the institutional disciplinary committee.

11 We've done many things in the area of mail, and
12 visits, the only thing that hangs us up at the moment with
13 regard to visits, is lack of appropriate space.

14 I hope you know that we do have a warehouse that's
15 immediately adjacent out front of the institution which
16 because of the bureaucratic problems is long overdue which
17 is now being remodeled as an open family-type visiting,
18 decent visiting area.

19 Classification, we think, is more legitimate today
20 than ever before, no longer is there favored treatment,
21 no longer do certain more sophisticated inmates control
22 where people will live and where they'll work. We have truly
23 introduced a committee process for that area.

24 The staff now really makes the decision with respect
25 to who will be moved to the outside trustee area and so on,

1 rather than what I mentioned before. Safford, Fort Grant
2 I've already mentioned, medical services. You have docu-
3 ments in hand that outline where we are, I can tell you
4 a year ago we had one part time medical doctor. Today
5 we have a full time dentist, we have a full time psychiatrist,
6 and for the women of the Committee, it's a woman, who
7 walks about the institution without fear, working with the
8 inmates.

9 In addition to that we have two other M.D's,
10 we have a vacancy now that we're trying to fill that would
11 serve as medical director for the prison.

12 Beyond that we transport inmates all over the state,
13 here to Phoenix, Maricopa County, for all kinds of out
14 patient, inpatient specialized care and so on.

15 But we're going to talk about basic human needs of
16 inmates, I don't think we can, simple as it is, forget
17 cleanliness. We have cleaned up the institution. It is
18 clean, it is sanitary. Inmates do have the opportunity for
19 the basics in terms of clothing and showers and so on.

20 Now, we're not at all trying to tell you we're doing
21 a 100% job, we're not at all satisfied with where we are with
22 regard to the development of our program, much more action
23 is required, we are very proud of what we characterize as
24 an outstanding beginning with much more to be done and
25 certainly the earlier references to the education district

1 are most important since we recognize that all of our
2 people are not now able to get involved in appropriate
3 education and training programs but certainly an increased
4 number will be as a result of that legislation.

5 Now, while I understand very well that the primary
6 concern of this Commission is the adult offender, we also
7 have been doing a few things on the juvenile level and I'll
8 not really mention too many of them.

9 We have, as you heard earlier, phased out a distant,
10 remote, inaccessible, boys' training school, which is some
11 250 miles from Phoenix, we have taken these young boys and
12 placed them in other programs and expanded and upgraded foster
13 home program which went from 40 to 100 foster homes.

14 We were getting a higher quality of foster parent,
15 where we're working with other agencies in that regard,
16 where we have a training program for foster parents, and I
17 don't know that you should put this in the record, don't think
18 this is a snow job, it's just a fact, we had a group called
19 Doberman's Coalition out of Tucson, Model Cities, inner
20 city, minority group of citizens that were very concerned
21 a year ago about practices at our boys' training school
22 who came forward, we met with them, we discussed the situ-
23 ation, they visited the school.

24 To make a long story short, yesterday I signed a
25 contract with that group who have now, with the assistance of

1 out staff, put together a Halfway House program in the
2 inner city in Tucson and to which we will provide continuing
3 consultant services and to which we will contract and
4 place minority young men.

5 We have deliberately supported the active involvement
6 of citizen groups, groups that have particular areas of
7 interest, we have such activities in the institution,
8 and it's very clear where we stand in that regard.

9 I think probably it would be of more value to all
10 concerned if I concluded now and, with your indulgence and
11 help of Mr. Schuster and McFarland, attempt to answer any
12 questions that you might have.

13 THE CHAIRMAN: Thank you very much, Mr. Moran,
14 and there will be some questions.

15 However, before we begin the questioning, I think
16 it's important that press and television understand some of
17 the ground rules that we've established.

18 I'd like to quote a statement that was read earlier
19 at the beginning of the session, "Since this is a public
20 hearing, the press, radio and television stations as well
21 as individuals are welcome.

22 "However, no witness shall be televised, filmed or
23 photographed during a hearing nor shall testimony be broad-
24 cast or recorded for broadcasting if a witness objects."

25 That is a statement from the hearings of the U.S.

1 Civil Rights Commission and certainly apply to the state
2 advisory committee, so from time to time through the
3 session, I will affirm that statement and if necessary
4 we'll have to establish some kinds of constraints.

5 But hopefully, we can live by that statement.

6 Mr. Guerrero?

7 MR. GUERRERO: Mr. Chairman, Mr. Moran, could you
8 please describe your duties as director, when you were
9 hired and your past experience in corrections?

10 A (By Mr. Moran.) Yes, sir.

11 I officially was appointed Director of the Arizona
12 State Department of Corrections on March 1, 1973, a little
13 over one year now.

14 In that capacity, it's very clear that, and within
15 the existing statutes, that I have the full authority, re-
16 sponsibility for the coordination and development of
17 correctional programs which involve both juveniles and
18 adults in the areas of community prevention programs,
19 juvenile detention, inspection service, after care or
20 parole for juveniles, parole for adults, both instate parole
21 as well as interstate cases that are transferred from other
22 states, we also have the responsibility on both the juvenile
23 and adult level, for the development of programs for those
24 transferred in under probation.

25 We maintain, at the present time, four major juvenile

1 institutions, one of which is called the Arizona Youth
2 Center now in Tucson, that functions as a reception,
3 diagnostic and continuing program for quite a while for
4 generally younger boys, more recently the small, separate
5 unit and program has been set up to handle the more dis-
6 turbed and difficult juvenile offender that had prior to
7 that time been programmed at Fort Grant.

8 We also have a Conservation Center in Alpine up in
9 the White Mountains that has 80-some boys where the
10 primary emphasis until recently had been on a work effort
11 in the forests and where more recently we've been involved
12 in upgrading and expanding the education and prevocational
13 and counseling programs.

14 We also have a coeducation institution for juveniles
15 north of the city here, we have about 60 girls there and
16 30 boys.

17 We have also a, within our division of community
18 services, seven Halfway Houses, four for adults, three for
19 juveniles, we maintain the Arizona State Prison, Safford
20 Conservation Center, Fort Grant Correctional Training
21 Facility, so we have, my office that is, and I, have the
22 responsibility virtually for all state level correctional
23 programs.

24 I've been in the correctional business 19 years, be-
25 ginning in Massachusetts. I have a bachelor's degree in

1 sociology, a master's degree in psychiatric social work.
2 I served in Massachusetts as a street corner worker with
3 inner city teenage gangs, I've worked in a juvenile deten-
4 tion home, I was assistant superintendent of a security
5 institution for older delinquent boys. I served as executive
6 director of a private United Fund correctional, which in the
7 old days had been called Prisoner Aid Agency, involved in
8 working directly with inmates, parolees and their families,
9 job finding, legislative activity and believe it or not,
10 the development of standards in those early days when it
11 was not nearly as popular as it is today.

12 I served also in the State of Vermont as Deputy
13 Warden at Vermont State Prison and Superintendent of the
14 boys', Youthful Offender Diagnostic and Treatment program,
15 Director of Juvenile and Adult Corrections in the State of
16 Delaware before I came here.

17 Sorry to bore you, but that's the whole story.

18 Q (By Mr. Guerrero.) Mr. Chairman, Mr. Moran, recently
19 you opened a new adult facility at Fort Grant, formerly
20 it was a school for juveniles. I wonder if you could please
21 give us a brief description of this program and your plans
22 for new facilities in the future and we also understand
23 that the department has a five-year plan.

24 I wonder if you could indicate to us how this, what
25 the five-year plan is and how this facility fits into that

1 five-year plan?

2 A Yes, sir.

3 Further on in the agenda I'm sure you'll get into
4 a much more detailed look at Fort Grant. Fort Grant
5 is located in a very scenic spot, it has outstanding
6 physical facilities, that probably in today's market, could
7 not be duplicated for 15 million dollars.

8 In years gone by it had as many as 400 to 500 juvenile
9 boys there. As a result of expanded community programs under
10 the aegis of the various juvenile courts as well as also
11 the expansion and diversification of our program, the popu-
12 lation at Fort Grant in the one-year period went down from
13 in excess of about 250 down to about 50 boys, those boys
14 were relocated in foster homes, specialized private
15 institutions, other kinds of community programs and insti-
16 tutions.

17 So, at the other end of this consideration we had a
18 prison that was overcrowded, we always had in excess of
19 200 inmates that were within six months of being released.
20 We have many inmates that did not need to be in maximum
21 custody institution so we worked this switch so to speak,
22 and we've gone ahead and that now is minimum open custody,
23 educational training center.

24 We have about 150 men there now, we have 20, kind of
25 permanent long term men that are involved in operating the

1 institution, maintenance and food service and whatnot.
2 All others are involved in education and training programs.

3 This is done cooperatively with the local community
4 college, it's done deliberately for that purpose so that
5 we have the flexibility and quality and input from an
6 outside quality agency. We intend to expand that program.

7 We haven't had any problems at all in the operation
8 of that facility.

9 With regard to the five-year plan, we don't have it,
10 we're overdue in having it. Someone said earlier, it's
11 more, at least from our point of view, in the idea stage,
12 we have some of the basics together, what we intend to do,
13 and we've been diverted from that task by other pressing
14 responsibilities to put together, one, the philosophy of
15 the department of corrections, number two, the long term
16 priorities with respect to program, institutions, staff,
17 put price tags on it, operating budgets, needed legis-
18 lation, needed activity and cooperation with other public
19 and private agencies.

20 This will chart the future for the department over
21 the next five years.

22 Q. Mr. Chairman, I had another question.

23 THE CHAIRMAN: Are there any other questions by
24 any of the Committee members?

25 Mr. Zah?

1 MR. GUERRERO: I had just one more, Mr. Chairman.

2 THE CHAIRMAN: I'm sorry.

3 Q (By Mr. Guerrero.) Mr. Chairman, Mr. Moran, I have
4 a copy of the McDougall report before me, are you familiar
5 with this report?

6 A (By Mr. Moran.) Yes, I have one too.

7 Q Mr. Chairman, Mr. Moran, the Commissioner of Federal
8 Rehabilitation, Mr. McDougall, made a survey of the Arizona
9 State Penitentiary in 1972 during the fall. He made 30
10 recommendations, including the closing of the Arizona
11 State Prison.

12 What has been done, or should be done, or what is
13 being done, to implement these proposals?

14 A I would say the majority of the proposals, let's say
15 with respect to the organization of the department, the
16 administrative structure of the department, the breakdown
17 in terms of services and the attention that each area of
18 service needs, the need, for example, for additional
19 deputy directors, increased emphasis on the establishment of
20 the new institution, and many of the other things have
21 already been implemented.

22 I would disagree that it's at all realistic that the
23 Florence prison could be totally abandoned, we have taken a
24 different tack and we have said as I indicated directly
25 earlier, that we want to reduce that population over a five-

1 year period from its 1,450 to 800 through the development
2 of alternatives that I mentioned. One being Fort Grant,

3 Secondly, the expansion of our Halfway House program,
4 more specialized parole services, and then, also, the es-
5 tablishment of two youthful offender institutions.

6 Our plan, then, is to continue the operation of
7 Florence for about 800 men that need to be in that degree
8 of supervision and program. Realistically, you just can
9 not abandon it.

10 Now, we've cleaned a lot of it up, we've repaired
11 it and we think that there are sufficient basic services
12 now there or are already funded which will allow us to
13 have a decent operation. For example, we're already
14 funded for a new infirmary, we're already funded for a new
15 dining room, we have this visiting thing underway that I
16 mentioned. We got the administration building complete,
17 which will allow us to develop areas that are more appropriate
18 for people to visit the institution, groups to visit, the
19 institution, family groups and also for professional people
20 such as attorneys and clergymen.

21 So I think that we can have a decent operation at
22 Florence.

23 THE CHAIRMAN: Are there any other questions by the
24 Committee?

25 Ms. McCullah?

1 MS. McCULLAH: Mr. Chairman, Mr. Moran, what has been
2 done since you became director to insure the inmates are
3 afforded their lawful civil rights, and what is your opinion
4 on the feasibility of implementing the model baseline of
5 inmate rights proposed by the Commission consultant, Donald
6 Goff?

7 A. There's been an awful lot done to insure the basic
8 human rights of both inmates and staff. I think probably
9 the one area of major importance is the establishment of due
10 process in keeping with the Copple order that I referred
11 to earlier.

12 There has been much activity in the mail and visiting
13 area, the institution has been virtually opened up to the
14 point where it's at a degree that we're in this. Another
15 dilemma that you have with an agency like this, while on
16 the one hand you want the public to be aware and to see and
17 to be knowledgeable and visit, you don't want to make a zoo
18 out of the place, either, so we've opened up the institution.

19 I dare say we've had more legislators and other
20 agency and public people in that institution in the last
21 year than perhaps walked through there the previous ten
22 years.

23 The media has had free access to the institution
24 with one exception, they have developed, again without any
25 controls, without any wraps, all kinds of newspaper material.

1 TV documentaries and so on, that's been opened up,
2 I might just say that I receive copy of every disciplinary
3 report that's written in the entire department of correc-
4 tions, it's screened by other people before I get it, inmates
5 again clearly have the ability to write sealed letters to
6 me and to -- they have free access through the mails to news-
7 papers, reporters, elected officials, virtually anyone.

8 I've never received a letter from an inmate, there's
9 been one exception to that, who alleged that he was at all
10 being brutalized. I think in keeping with the interest of
11 this Commission as I said earlier, it is now a safe inst-
12 tution for the majority of decent people that want to do
13 their time.

14 We have actively gone out to work and solicited
15 special interest groups as I said, to work with them.

16 Perhaps you'd have something more specific you'd
17 want me to respond to. I think we've opened the institution,
18 we have people in there, I think we have an atmosphere
19 where inmates, I say this not because I'm involved but I
20 think it's important, I have walked the yard of that prison,
21 always have, day and night, any inmate may speak to me or
22 any other staff person in a gentlemanly fashion and get an
23 answer.

24 MR. GUERRERO: Mr. Chairman?

25 THE CHAIRMAN: Yes, before other question, I think our

1 staff attorney needs to make a statement.

2 MR. LEVIS: Mr. Chairman, I would just like to
3 introduce into the record some of the documents that Mr.
4 Moran has referred to, as Exhibit 2, the documents that Mr.
5 Moran has submitted to staff and to the State Advisory
6 Committee members, which includes his response to the ques-
7 tions on the model baseline, plus the mail regulations,
8 and the inmate reference manual of the Arizona State
9 Prison.

10 In addition to the cell block regulations and the
11 preliminary plan of the Arizona Correctional Training facility,
12 Arizona Department of Corrections, and that would be
13 entered as Exhibit 2.

14 A. These fellows are never that quiet, I wish you'd
15 get on them.

16 MR. LEVIS: There are two more exhibits, Exhibit 3
17 would be the McDougall report, which has been referred to,
18 which was submitted by Mr. McDougall in October of 1972,
19 and Exhibit 4 would be the minimum civil and human rights
20 baseline prepared by Donald H. Goff, Consultant for the
21 U.S. Commission on Civil Rights, which has also been
22 referred to.

23 THE CHAIRMAN: Are there other questions by any member
24 of the Committee?

25 MR. GUERRERO: Mr. Chairman, I didn't get right into

1 the revision, if there's been a revision on mailing privi-
 2 leges of inmates, but I did want to ask Mr. Moran a
 3 question. at this point, in relation to the point that the
 4 lady took over here. (By Mr. Guerrero.) Mr. Chairman, Mr. Moran, presently
 5 is mail leaving the penitentiary from inmates, is it
 6 censored?
 7

8 A No, it's not censored. We -- within the court --
 9 it's not routinely censored.

10 However, in simple language, when there's, and I'm
 11 not an attorney, but when there's good grounds to feel that
 12 something significant involving let's say the safety of the
 13 institution or whatever, there is a provision which allows
 14 us to look at a certain percentage, but routinely, no,
 15 it's not censored.

16 Q Mr. Chairman --

17 A Let me just say quickly, sir, from my point of view,
 18 censoring inmate mail really does nothing for us but take
 19 someone's time.

20 Q But, Mr. Chairman, Mr. Moran, but the mail is opened
 21 before it leaves the penitentiary, is that correct?

22 A Not all mail, mail, you got to look into fine details
 23 of the rules. Mail is submitted to the mail room generally,
 24 let's say routine mail to family or friends or whatever,
 25 unsealed. The man opens the envelope to make sure that

1 nothing in there, just looks at it and seals it.

2 Letters to attorneys, public officials, legislators,
3 judges and whatnot, are brought personally by the inmate
4 to the mail room officer. The mail room officer inspects
5 that in the inmate's presence and seals it in his presence.
6 The letters to me come unsealed.

7 What am I saying? ~~Unsealed~~. The inmate seals it in
8 the cell, puts it in the mail box, nobody touches it.

9 Q Well, Mr. Chairman, Mr. Moran, does a person who
10 this mail is given to to inspect, does he in any way read
11 that mail before he inserts it in the envelope?

12 A Not routinely, he's not required to, but for me to
13 say that any human being might not be a little nosy would
14 be ridiculous. But he's not required to and does not do it
15 as a policy or a practice.

16 He may look and see it's to Ms. Jones or something
17 like that, I don't know, but no, he doesn't.

18 Q Mr. Chairman, Mr. Moran, I understood that at a
19 point in time just recently, that any mail to legislators
20 would be sealed and not opened, it would be mailed directly
21 from the penitentiary --

22 A Oh, yes.

23 Q -- can they seal it? Does it have to be opened before
24 it's brought to the person inspecting it, can he just give
25 it to him sealed?

1 A. He brings it up to the mail room, now there will
2 be other people again, later on, in your agenda, that know
3 the precise mechanics better than I do, he brings it to
4 the mail room unsealed, the mail room staff person makes
5 sure that there isn't a \$100.00 bill in there, or whatever,
6 seals it and that's it.

7 Now, the inmate is right there. And I'm sure if
8 they were reading that stuff, I would know about it.

9 MR. GUERRERO: Thank you, sir.

10 THE CHAIRMAN: Do you have a question, Mr. Zah?

11 MR. ZAH: Yes.

12 Q (By Mr. Zah.) Mr. Chairman, Mr. Moran, in your
13 statement, you know, in the beginning, I was somewhat sur-
14 prised on your comment about the Cople decision. You know,
15 it having been thrown down your throat while you weren't
16 ready for that.

17 I just thought you might want to elaborate on that?

18 A. Yes.

19 I think I was concerned that this Commission might
20 feel that we are now doing these things only because we
21 have been ordered to do so by the court. Now, the fact of
22 life is that these proceeding were underway, decisions were
23 nearly completed by the time I got here.

24 Had there never ever been a Cople order, adminis-
25 tratively on our own we would have proceeded to implement the

1 procedures that are required by the Copple order.

2 That's what I'm saying. So, we're not in disagree-
3 ment with them. And the record is clear, and I've done
4 this before in another jurisdiction.

5 We would have changed the visiting and the mail and
6 the due process in discipline whether the court told us to
7 do it or not.

8 Q I think I also have a somewhat related question,
9 you know, regarding the complaints, you know, that you
10 might receive, let's say at Arizona State Prison.

11 I don't really know what the procedure is now.

12 A An inmate may write to me directly in a sealed
13 letter. I can tell you that the nature, seriousness and
14 volume of complaints from inmates has dwindled down to a
15 degree that's not at all comparable to what it had been
16 six, eight months, a year ago.

17 I do not get, for example, mail from inmates that
18 reflects let's say what I would characterize as a general
19 concern of the inmate population as a whole. Now, what I'm
20 getting, which might have been the case sometime ago.

21 Now, what I get are specific problems involving
22 individual inmates. For example, a fellow, oh, now this is
23 a -- this is a fact, the rule says apparently you can't
24 have boots higher than nine inches above the ankles, so he
25 had a pair of boots ten and a half inches and he wanted me to

1 intercede so he could wear the boots, as he takes care of
2 the pigs.

3 You get letters about wanting interstate transfers.
4 You get letters of complaint, particularly lately, around
5 two for one, which is a major item. The loss of two for one.

6 There was a time and a practice whereby all inmates
7 generally, except those that are clearly in disciplinary
8 status, received two for one reductions on their sentence.
9 Now the law says very clearly on the other hand, that only
10 those that are involved in a position of trust and con-
11 fidential may be given two for one, so we have people, for
12 example, 30-some inmates in protective lockup that write
13 to me saying that this is illegal. That this is contrary
14 to the Copple decision, wanting two for one. You get that
15 sort of thing.

16 You get a man writing and saying that he needs dentures
17 or he needs glasses and he doesn't seem to be able to get
18 anywhere. But we don't get letters now, again, that re-
19 flect concerns of general and major importance to the inmate
20 body as a whole.

21 Q I have one more sort of similarly related question.
22 In that when you do receive, let's say an individual complaint
23 from one of the inmates it still goes to, let's say employees
24 of that particular facility, would you be opposed to, let's
25 say appointing somebody that's independent of that agency or

1 that facility so that he can take a look at the complaint
2 on its merit and monitor it in some fashion, if possible?

3 A You may say, and I'll understand if this is the way
4 you react that what I'm about to say is a lot of gobbledegook,
5 very misleading. I can not say that I'm unalterably opposed
6 to an ombudsman, on the other hand, we think that we can
7 develop, again we're not talking about Attica or the prison
8 at Parchman (Phonetic), Mississippi or the Cook County Jail,
9 we're convinced that we can develop an atmosphere wherein
10 there is communication, where there is mutual respect,
11 where there is an interest in both directions, so that an
12 inmate can communicate appropriately with any staff person
13 and get a legitimate answer.

14 I think it's only when you have that lack of communi-
15 cation and lack of the other things I have mentioned, that
16 you truly need a third party to objectively look at these
17 things. And I can assure you these things are not ignored.

18 Now, they're not always answered to the satisfaction
19 of the inmate. So I believe we have that kind of an atmos-
20 phere. I tell you this not because it's me but I walk
21 the yard of that institution. I've never refused to talk
22 to an inmate yet, unless because of the pressures of time
23 I had to go somewhere else. I deliberately go alone. So,
24 I think we've made progress in that regard.

25 DR. GLASS: Mr. Chairman, I'd like to make a rebuttal

1 to that statement.

2 THE CHAIRMAN: Before the rebuttal is made, I'd like
3 to ask the staff, is this in order? In the hearing, is
4 rebuttal in order?

5 MR. LEVIS: Mr. Chairman --

6 MR. MUSKRAT: Mr. Chairman, I certainly, you know,
7 would hope that the ~~Committee~~ members, of course a Committee
8 member can say anything they want to, however what we're
9 here to do is to obtain information from Mr. Moran and we
10 certainly wouldn't want to get in a public debate with him
11 at this time?

12 THE CHAIRMAN: It's within my franchise, if it's okay
13 with Dr. Glass, may I declare that out of order and proceed?

14 DR. GLASS: Well, it was more of an informative thing,
15 statement I was going to make rather than a rebuttal to --

16 THE CHAIRMAN: If it's a misclassification and then
17 I would suspect it's in order.

18 MR. GUERRERO: Mr. Chairman, if it's in the form of
19 a question, form of a question.

20 DR. GLASS: No, it was merely a comment about the
21 fact regarding this ombudsman's bill, we did have a group
22 here that did go before the legislature to try and get an
23 ombudsman's bill, under the circumstances of the way the
24 department is changed, we personally didn't feel as though
25 this was necessary. That's the only comment I had.

1 A Mr. Chairman, just quickly, we have probably a
2 thousand ombudsmen, they're not officially on the payroll,
3 but there are all kinds of people that have free and
4 private contact with inmates, and nothing that can happen
5 anyplace today that isn't known by a wide range of people.

6 THE CHAIRMAN: Fine.

7 Are there other questions of Mr. Moran?

8 If not, I have one brief one, sir. And it's some-
9 what related to statements made by attorney general
10 as well as you in your philosophical statements.

11 And that is the whole area of public awareness,
12 public sophistication about the realities of the criminal
13 justice system. And do you feel that you have a responsi-
14 bility, and if so, I'm interested in the mechanism, the
15 device, as feedback into the system that creates the
16 problems that finally, in the way of a person one, two,
17 three, ends up in the criminal justice system, call it what
18 you may, racism, discrimination, poverty or whatever, do
19 you feel, philosophically, that your department has a
20 responsibility?

21 A Absolutely. And a very active one and I never make
22 a presentation anywhere that I don't conclude by saying that
23 we will succeed or not. Now, these are the wide range of
24 groups whether they be PTA groups or high school students or
25 college students or League of Women Voters, republicans,

1 democrats or whatever, without saying we will succeed or
2 not, directly in proportion to the degree of public under-
3 standing and support we get from you.

4 We also always make the point more recently around
5 the difficulties that we've had in trying to locate the
6 new institution of saying that, these are the, whatever you
7 want to call them, the criminals, the offenders, the unfor-
8 tunates, the inadequates of your community, it's your
9 responsibility, the total community has got to get involved
10 in this thing.

11 We also say that even if we had unlimited funds,
12 we couldn't do the job alone, we wouldn't want to do the
13 job alone, so we have an active public education program on
14 the way. We have a full time staff person funded with a
15 federal grant, we have had more attention through the media
16 in recent months than ever before. We have a speakers
17 bureau lined up, just about two weeks ago we had a beginning
18 meeting right in this very room in an attempt to get civic
19 and religious and community leaders involved in a volunteer
20 fashion.

21 We have an active program, again with a need to keep
22 some balance so that the institutions don't become a zoo,
23 to involve citizens to visit.

24 We actively encourage it. I dare say half the people
25 that are here this morning are here because we asked them to

1 come.

2 THE CHAIRMAN: Now, from my view as an educator,
3 it appears to me that we're talking about, you know, a
4 pretty needed, powerful intervention process to develop
5 knowledge and understanding, and my question was, you know,
6 the mechanism, the device for this kind of powerful
7 intervention, you know, do you feel -- you referred to a
8 federal project, will this become institutionalized do
9 you feel, and become a regular part?

10 A We hope so.

11 I know you don't want the mechanics but yes, we're
12 committed to that. And we're doing it in a lot of other
13 very subtle ways, we're reaching out more with all kinds
14 of groups.

15 THE CHAIRMAN: Now, is this concept a new order of
16 things in the whole criminal justice system process?

17 A Well, I -- people often say to me, you know, where
18 is there a good system? You know, in corrections? I just
19 have to say there's good and bad in all systems, so I think
20 some jurisdictions do better at that than some of them, and
21 I recognize the problem that Attorney General Nelson had
22 in using public relations, some have only public relations,
23 see, you go out and tell everybody what a good job they're
24 doing.

25 Well, we don't have public relations, we think we

1 have public education. And we'll talk about the good and
2 the bad, so to speak, we don't tell everybody everything's
3 rosy.

4 THE CHAIRMAN: Thank you so very much, sir.

5 MR. GUERRERO: Mr. Chairman, one further question?

6 THE CHAIRMAN: Yes.

7 Q (By Mr. Guerrero.) Mr. Chairman, I don't know
8 whether I should direct this question to you or maybe Mr.
9 Schuster or McFarland may be better able to respond, but I
10 wonder if you could supply us the ethnic breakdown of
11 employees in the department of corrections and also at the
12 Arizona State Prison?

13
14 A (By Mr. Moran.) I can't give you off the top of
15 my head, we're woefully weak in that area, it varies from
16 one part of the department to another.

17 ~~Does~~ Does anybody know?

18 Tom, can you put your finger right on that? See

19 We have a disproportionate percentage of minority
20 employees. In the negative. In the negative.

21 Q Both in the department of corrections and at the
22 penitentiary?

23 A All -- yes.

24 Now, you know, I don't want you, to bore you with some
25 of the reasons for that, but part of it's the location of the

1 given program. If we get down where we have two major
2 operations down in the Graham County area, namely Fort
3 Grant and Safford, I don't believe we have one Black staff
4 person there.

5 Now, I'm told there are only 400 Blacks in that
6 area, period, to begin with. I can honestly tell you this,
7 that we're actively pursuing minority staff, but we're
8 nowhere near in our patterns comparable to how the community
9 and population would break down.

10 Q Mr. Chairman, Mr. Moran, how is this personnel being
11 pursued, is it being pursued publicly or what kind of
12 procedure are you using to try to secure?

13 A We work through and within the state personnel
14 commission ground rules on some occasions we've asked for
15 a selective, what's called a selective certification list,
16 which is deliberately intended to zero in on a particular
17 individual, with a certain background.

18 These are the figures for the prison. We have gone
19 out actively after particular individuals. We've worked
20 through some community groups in an attempt to get minority
21 staff. I'm not sure I can even read this.

22 Suppose I just give you this, rather than try to
23 waste your time and figure it out.

24 Oh, just quickly, as I look here we got like 286
25 correctional officers, 245 are White, 34 are Mexican-American,

1 four are Black, one's an Asian-American and two are American
2 Indians.

3 Total, department-wide, 86.7% White, 9% Mexican-
4 American, 2% Black, point five percent American Indian.
5 Point three percent, as it's termed here, Oriental. So,
6 clearly the vast percentage is White.

7 THE CHAIRMAN: There's one other question of staff,
8 Mr. Moran.

9 Q (By Mr. Levis.) Mr. Moran and Mr. Schuster and
10 McFarland, as deputy directors for community services in
11 institutions, how do your positions relate to the director
12 and the various institutions which we will be discussing
13 in the next two days? Does the institutions report to either
14 of you or how's that set up?

15
16
17 JOHN R. SCHUSTER

18
19 A (By Mr. Schuster.) I'm responsible for the six
20 institutions and directly responsible to the director.

21 THE CHAIRMAN: So, left on the superintendents,
22 administrators or wardens of the institutions, report
23 directly to you?

24 A The chain of command is a direct line between Mr.
25 Moran, myself and the superintendents.

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THE CHAIRMAN: And your job is supervising those various institutions?

A And coordinating the activities to move the inmates into the community program which is the thrust of the department.

THE CHAIRMAN: And Mr. McFarland, do you have any direct supervision?

JOHN R. McFARLAND

A (By Mr. McFarland.) My responsibility involves programs outside the institutions which includes the state-wide parole systems, the Halfway House, the resources, the purchase services, under the direction of the director.

THE CHAIRMAN: So, the supervisors of the Halfway Houses would report to you?

A Parole officers, supervisors, Halfway Houses.

MR. LEVIS: I have no further questions.

THE CHAIRMAN: Fine, if there are no other questions we certainly want to thank you gentlemen for your very fine testimony.

A Thank you very much, we look forward to a fruitful hearing.

THE CHAIRMAN: And thank you for your cooperation.

1 Are those persons who were expected from the womens'
2 division of the Arizona State Prison in the audience?

3 MR. SCHUSTER: Yes, they are.

4 THE CHAIRMAN: We expect to have an executive
5 session arranged.

6 One of the procedures in a hearing entails in some
7 cases the possibility of defaming and degrading, and the
8 procedure is to hear those who will testify in executive
9 session, so that's what we are in the process of determining,
10 how we'll go about it.

11 In the meantime, we will continue with the hearing,
12 and the next persons involved will be Mr. David C. Tierney
13 and Mr. Flint Anderson, who will speak to outside community
14 groups.

15 Will you come forward, Mr. Tierney and Mr. Anderson?
16 You may either stand or sit.

17 And may I ask of each of you to state your name and
18 your occupation and your address, please?

19 MR. TIERNEY: Mr. Chairman, my name is David C.
20 Tierney, formerly a member of your Committee. I have a
21 written account of my testimony, and I am an attorney by
22 profession. I have my office here in Phoenix.

23 May I come forward and give this to you, Mr.
24 Chairman?

25 THE CHAIRMAN: Certainly.

1 MR. ANDERSON: Mr. Chairman, according to your
2 March 1st letter, I have put my testimony in written form,
3 and let me pass over it briefly so that the people --

4 THE CHAIRMAN: May I interrupt, did you say Mr. Moran
5 left the --

6 MR. ANDERSON: No, I said Dr. Burréll, who used to
7 be chairman of your Committee, left with me a file and I
8 think you might want that.

9
10
11 DAVID TIERNEY
12

13 A (By Mr. Tierney.) You've asked me to testify
14 this morning concerning outside groups, and their interest
15 and actions concerning corrections in Arizona. I think
16 what you mean by outside groups is probably any groups
17 not connected with the state officially.

18 I am chairman of the state bar special committee on
19 corrections and rehabilitation, my report for the state bar
20 has just been prepared and I have attached it to my written
21 testimony so that you know what they know.

22 Let me pass over that written report to the state
23 bar just quickly.

24 During the last year, which is the first year of our
25 committee's existence, we have done three concrete things.

1 We have worked with the members of the department
2 of corrections, and the attorney general's office in pre-
3 paring a means, a vehicle whereby people who are up for
4 parole revocation may obtain counsel if they are indigent.
5 We've got a series of volunteer counsel, we've got a list
6 prepared, we set up the procedure whereby people who are
7 going through such revocation hearing could obtain counsel
8 if they could not afford counsel, they're entitled to it.

9 Secondly, we prepared a survey of the restrictions
10 of exoffenders' employment, it's a document which is about
11 two or three inches thick. It has some 80 boards and com-
12 mittees that are under state control represented.

13 Those are boards which license professions or which
14 control licensing boards in professions, for example, bar-
15 bering, cosmetology and so on.

16 What we did was to obtain the services of an Arizona
17 State University law student who, for a sum, paid by the
18 state bar, prepared the glossary by talking with the boards
19 that administer, say the licensing of barbers.

20 We have their regulations and the relevant statutes
21 compiled right along with her report on personal contact
22 with each board. A copy of that glossary has been turned
23 in to the department of corrections. I do not know exactly
24 what they're doing with it now, it will go from them to
25 Mr. Joe Duke of the attorney general's office.

1 The third thing that we are doing is that attached
2 to my report to the state bar is our questionnaire con-
3 cerning local jail conditions. That questionnaire goes
4 principally to disciplinary rules, mail rules, visitation
5 privileges and incidentally, to the conditions at the jail
6 that refer to those things.

7 The purpose in attempting to do that kind of survey
8 is to broaden some information that we have in the state
9 concerning our local jails. There are really two sources
10 of information in our state concerning local jails. One
11 is the 1970 jail survey that was done nationwide, it has
12 very limited information.

13 The second source is a committee which has prepared
14 for the state legislature an assessment of the physical
15 conditions of our local jails. That information was ob-
16 tained in 1970 and 1973, and it does not concern the rules
17 which govern prisoners' lives.

18 We would like to find out about those rules. The
19 reason we are bothering to check into that area is that
20 many people have told us that the rules are very different
21 from county to county and city to city and that they are
22 in some cases, kind of crazy and they make life miserable
23 for the inmates in the jail, the people who try to visit the
24 inmates and sometimes the jailers because of the aggravation
25 they get from the inmates and the visitors.

1 We'd like to find out what the rules are, we'd like
2 to perhaps propose a uniform set of rules which local
3 jails could make very minor changes in as they needed and
4 kind of clear up an area where a lot of aggravation is
5 being produced by everybody. We think that lawyers are
6 kind of suited to do that kind of thing.

7 I want to say that I have some limitations on my
8 value to you as a witness, the last time that I was in the
9 Arizona State Prison, which I believe you are primarily
10 concerned with, was on March 10, 1973. And at that time I
11 went down in behalf of our committee to interview a prisoner
12 down there. I haven't got any hard information about the
13 prison since that time. All the information I have is
14 hearsay.

15 In your letter to me you asked for comments on the
16 Goff guidelines. I did not know that Mr. Goff would be here
17 today, but what I have to say is complimentary, anyway.

18 Mr. Goff, it's a good guideline, I read it, the
19 easy way to say what I have to say is that I agree with
20 every one of your boldfaced statements which heads up your
21 sections and nothing comes to mind that I would take issue
22 with, it's the way things should be if we could get to that
23 point.

24 Secondly, I want to just call attention to a couple
25 of issues that I think that your Committee might want to pay

1 special attention to in the next several days, the next
2 two days, I guess it is.

3 I'm very concerned with the providing of health
4 services and psychiatric services to prisoners at the
5 state prison. I know the department has made attempts
6 since the change in administration to improve the medical
7 as well as the educational facilities down at the prison
8 and I consider that very important, I hope you'll inquire
9 into those facilities in your hearings, especially tomorrow
10 when you're in the neighborhood of the prison.

11 I can not fault the department on anything it's doing
12 on any of the subjects which are raised in the Goff guide-
13 line. Partly that's because I don't have very much in-
14 formation on what's happening now in the prison. If I
15 had more information I might want to try and fault them,
16 whenever you fault somebody you have to know something
17 about the restrictions they're working against. That would
18 be budgetary and perhaps, I don't know, the makeup of per-
19 sonnel at the prison and so on. I'm almost done now.

20 I'm almost done now. I want to say one more thing
21 about a subject I want to ask you to inquire into in the
22 next day or so. And that is prisoner against prisoner vio-
23 lence.

24 In approximately January of 1973, while I was a
25 member of your Committee, I prepared a seven-page report and

1
2 it was entitled Prisoner Against Prisoner Violence and in
3 that report I recited statistics which I obtained from then-
4 warden Bud Gomes, and those statistics were pieces of
5 paper that he gave me reciting the figures concerning
6 assaults, deaths, beatings, woundings, escapes, and so on.

7 And in that January, 1973, report, I said at the end
8 that I felt this was a subject that was not attended to
9 sufficiently in any jail in the United States. And that I
10 felt it was very unfair to lock a man up and to take away
11 from him his right to protect himself, his person, against
12 his fellow prisoners.

13 Or to ward off the depredations of disease as in
14 the case of medical problems. And at the Arizona State
15 Prison those figures which I received from the then-warden
16 indicated that there had been a steady rise in the number
17 of reported beatings, stabbings, shootings, so on, even
18 though the population during that same period had declined.

19 I'm sure that report's in your files, and I hope
20 you'll pay attention to that issue in the next few days.

21 In conclusion I just want to say that I consider
22 the level of interest in Arizona and other places too, in
23 prisons by both the public and by the members of the bar
24 to be very low, and I congratulate you people on having
25 organized in Arizona, a hearing which if properly carried
out will result in focusing the attention of the citizens of

1 our state on an area in which I think we are spending a lot
2 of money and we should be getting better and better results
3 and the results are very important to the citizens of our
4 state.

5 And I'd like to welcome your questions on any
6 subject which I can answer.

7 THE CHAIRMAN: Fine.

8 In that we're speaking to representatives of community
9 organizations, if you would sit a few minutes, Mr. Tierney,
10 while Mr. Anderson gives us an overview, I think there
11 are just a very few questions that we would ask.

12 A. Thank you, Mr. Chairman.

13 THE CHAIRMAN: Mr. Anderson, may I have your name,
14 occupation --

15

16

17

FLINT ANDERSON

18

19 A. (By Mr. Anderson.) Flint Anderson, Executive Secretary
20 for the Arizona Citizens Committee on Prisons.

21

Address? Tucson, Arizona, 715 North Park Avenue.

22

23 THE CHAIRMAN: It's my understanding that you will
24 give a brief description of the Arizona Citizens Committee
on Prisons.

25

A. Yes. I'd like to preface my remarks with the caution

1 that given the time limitation that my statements flirt on
2 the edge of dangerous generality. And some of the remarks
3 are prefaced to give some orientation to why in fact we
4 are doing what we are doing.

5 Open space has played a pronounced role in the
6 history of the United States. It evoked and nurtured a
7 sense of unlimited possibility, the frontier fear.

8 We have historically considered space and relocation
9 as in themselves endowed with creative potential, always
10 a new beginning. Thus can we in part understand the general
11 necessity of the penitentiary, an American innovation.

12 In colonial American it was firmly believed that be-
13 yond punishment the controlled environment of enforced
14 solitude would bring an offender to his or her senses. That
15 is to penance or restored relationship with his or her
16 God and consequently with the offended community.

17 Imprisonment was considered a form of constructive
18 banishment. The efficacy of which was rightfully reflected.
19 From this quite optimistic beginning, incarceration has
20 fundamentally evolved to simple relocation, the purging of
21 the free world's living space.

22 The idealism which characterizes this early experience
23 has evaporated and with it the conviction that solitude
24 alone with one's God is rehabilitative. Yet we consider to
25 warehouse in wholesale fashion, our social problems, still

1 believing that forced relocation through imprisonment serves
2 constructive ends.

3 It simply has not worked and issues we have tried
4 to resolve punitively come back to haunt us in ever greater
5 force. It is read in the lives and faces of embittered
6 individuals who are the first line victims of the criminal
7 justice process which tends to be arbitrary and tends to
8 single out the already disadvantaged and it haunts us in
9 high crime rates and high rates of recidivism.

10 This failure is primarily of systems rather than pro-
11 fessionals. A model prison with a model staff would still
12 be a failure as long as communities continue to export and
13 relocate individuals who could and should remain in the
14 community. And as long as those returning home from in-
15 carceration must battle discrimination and nonacceptance
16 at every turn.

17 A correctional system is sometimes better but never
18 worse than the concern of the public it serves. Nationwide,
19 the message has been clear in the past, neither the keepers
20 nor the kept have ranked anywhere but at the bottom of the
21 general public's social priorities. Out of sight, out of
22 mind.

23 We can now say that the situation is beginning to
24 change. It is ultimately the public which is responsible
25 for the failures of the criminal justice system and we dare

1 not lynch scapegoats to pacify our own accountability.

2 It was of concerned citizens that the Arizona Citizens
3 Committee on Prisons organized itself in May, 1972,
4 following a work stoppage at Arizona State Prison. Its
5 first concern was to investigate allegations of unjust
6 and unconstitutional treatment of prisoners at Florence.
7 A public hearing into conditions at the Arizona State Prison
8 was organized by concerned citizens in Pima County, to
9 hear testimony primarily from exoffenders.

10 Since that time, the Arizona Legislature has committed
11 itself to reforms of the criminal justice process. This
12 work is slow and not without its setbacks.

13 With the appointment of Mr. John Moran as the new
14 director of the department of corrections in early 1973,
15 the commitment to change was reaffirmed, with special
16 emphasis given to the community-based treatment as both an
17 alternative and as a supplement to prison detention. The
18 purposes of the Arizona Citizens Committee on Prisons can be
19 defined as follows: One, as citizens of Arizona we will
20 monitor the work of state and local agencies entrusted
21 with the care and treatment of offenders.

22 Two, since the best guarantee for humane treatment
23 of all who are affected by the criminal justice system is
24 an informed and active public, public education is one of our
25 major functions.

1 Three, we will support those agencies, departments
2 and individuals, legislation and programs which in our
3 view serve the constructive needs, both of society and the
4 offender, through the delivery of correctional care and
5 services which victimize neither the individual nor society.

6 We will continue, number four, to advocate fur-
7 ther reforms both at the state and local levels and will
8 act as facilitating agents for community support and pro-
9 grams.

10 The following are our present programs now active.
11 We have just recently in Pima County won a battle together
12 with many other organizations and individuals, parents and
13 so on, over the juvenile court judge, who is a strong
14 advocate of community-based treatment as an alternative
15 to incarceration.

16 Our public education efforts include a regular news
17 letter which is now received by over 1,000 Arizonans. A
18 speakers bureau and a reading and reference library on
19 prison reform and prisoners' rights.

20 We are in the process of compiling a directory of
21 community resources concerned specifically with offenders,
22 exoffenders and their families beginning with Pima County,
23 specifically adult offenders, exoffenders.

24 The following task forces have been created: One,
25 employment for exoffenders beginning in Pima County.

1 Two, jail standard and conditions focusing primarily
2 Pima County, southern Arizona.

3 Three, a legal task force formed together with a
4 CLU southern chapter. Legislative acts task forces,
5 one based in Maricopa County, the other in Pima County,
6 and finally a volunteer task force based in Maricopa County
7 which is presently cooperating, working with the department
8 of corrections in its efforts to create and implement
9 varied volunteer programs initially here in Maricopa County.

10 The Family Friend program based in Pima County
11 includes visitation to families of inmates upon request of
12 the incarcerated family member. It is presently based
13 only in Pima County. And we are now negotiating with the
14 department of economic security to establish an advisory
15 committee made up of citizens to review and make recommenda-
16 tions regarding their services to exoffenders and their
17 families.

18 That ends my statement, I'll welcome any questions.

19 THE CHAIRMAN: Are there any questions by any
20 Committee members of these two gentlemen?

21 MR. GOFF: Mr. Chairman, I wonder if I could raise
22 a question of Mr. Tierney with regard to other citizen
23 organizations that might be in existence in the State of
24 Arizona.

25 I believe you mentioned, sir, that there were other

1 groups other than yours and Mr. Anderson's group?

2 A. (By Mr. Tierney.) Yes, Mr. Goff, there are and the
3 one that comes to mind quickest is the Arizona Correctional
4 Association. That's a group which existed even prior to
5 the one Mr. Anderson is with, and it is based primarily
6 here in Maricopa County, in Phoenix.

7 I've known the presidents of that group over the
8 last couple of years and the present president is Dr. Glass,
9 who's a member of your Committee.

10 That group has had different numbers of members at
11 any given time, right now I believe the membership is around
12 75 persons and that membership includes exguards, parents
13 of prisoners, exprisoners, people who have academic interest
14 in the field of corrections and so on. They've held their
15 meeting in a variety of places, I remember one time meeting
16 in traffic court courtroom. They get together on the call
17 from the chairman, their principal contribution over the
18 last several years has been to faithfully show up at the
19 legislative hearings on bills which are proposed concerning
20 corrections, or on any presentation given by the correctional
21 department.

22 I remember during the last several years that they
23 were the ones who were most faithful about bearding the
24 tiger in his den.

25 The department of corrections, prior to the arrival of

1 Dr. Moran, in my opinion, did not present both sides of
2 many questions, and it was this group, the Arizona Correc-
3 tional Association, that presented the other side.

4 I guess that's a complete summary of what they do.

5 THE CHAIRMAN: Are there any other questions by any
6 Committee members?

7 Mr. Anderson, do you have a statement, an exhibit
8 that you wish to give or do you want to hold onto your
9 copy?

10 A. (By Mr. Anderson.) I can include a copy of our
11 most recent news letter and also a brochure which describes
12 in a bit more detail the history and the programs that we
13 have.

14 THE CHAIRMAN: If you could, we could make that a
15 part of the record.

16 And would you enclose as Exhibit 5, testimony of
17 Dave Tierney and Exhibit 6, U.S. Commission on Civil Rights,
18 prisoner letters that were sent by the former chairman of
19 the Arizona State Advisory Committee, Dr. Jose Burruel,
20 B-u-r-r-u-e-l, and with, we can submit those later on.

21 Are there any other questions of Attorney Tierney and
22 Mr. Anderson?

23 Q. (By Mr. Goff.) Yes, sir, Mr. Chairman, if I might
24 raise a question of either or both of these gentlemen.

25 Has there been any consideration given in the State

1 of Arizona to the development of an official advisory
2 council, commission or whathaveyou, comprised of citizens
3 to work directly out of the governor's office in re-
4 lationship with the whole matter of corrections in the state?

5 A. (By Mr. Anderson.) I'd be more than happy to respond
6 to that, and stick my neck out.

7 There is one, it's interesting that it's not
8 scheduled to testify, which in my own personal opinion is
9 indicative of its relevance.

10 Frankly, in the whole area of corrections citizen
11 involvement, concerned with longevity, input, and action,
12 is just fairly new.

13 Small interest groups around specific issues have
14 certainly been true but a concerted effort on the part of
15 citizens, taxpayers in the whole correctional area is fairly
16 new in Arizona and we're frankly -- since I'm putting
17 my neck out I won't put the name of the organization out,
18 but we're not happy with the kind of input that this body,
19 which does exist on paper, is in fact providing as a
20 citizens group.

21 And we would like to see it reconstituted, in fact,
22 citizens who are concerned, who are working and who are
23 putting time in as citizens who are concerned, right now
24 it's on paper but it's not functioning.

25 A. (By Mr. Tierney.) Dr. Goff, the chairman of that

1 governor's council on corrections is named Mullan, M-u-l-l-a-n,
2 he's available in the Phoenix area, I've spoken to him in
3 the last week or two.

4 Their interests are in stirring up some community
5 support, mostly in the field of probation or parole counsel-
6 ing, but so far as I know at this time, no concrete actions
7 have been taken. The committee has been in existence
8 approximately one year.

9 MR. ZAH: Mr. Chairman?

10 THE CHAIRMAN: Yes, Mr. Zah.

11 Q (By Mr. Zah.) Yes, I have a question that I'd like
12 to ask Mr. Tierney.

13 Since you have an organization, you know, from the
14 state bar association, I was just wondering in so far as
15 the bar itself, in planning things in the future, do you
16 envision that, say a panel of attorneys who would be avail-
17 able, let's say, to serve in terms of the legal services
18 or let's say complaints that might be directed, let's say
19 to, or against let's say an agency or facility in the State
20 of Arizona, do you envision at some point, that there would
21 be, let's say a panel of attorneys who would be available to
22 take, let's say some of these cases?

23 A (By Mr. Tierney.) My answer, Mr. Zah, Mr. Zah, the
24 answer is that the state bar would not organize a panel of
25 attorneys who would take cases, whatever they might be in the

1 future. An individual group like Mr. Anderson's group,
2 might obtain some fellow traveler, friendly attorneys who
3 would sort of be on tap for Mr. Anderson to suggest
4 matters, but the state bar probably wouldn't get involved
5 in that kind of thing.

6 What the state bar would do would be ask attorneys
7 to spend time on a project that would affect all prisoners
8 equally or, you know, take an issue and try and resolve
9 that issue, in some way, but it wouldn't organize a panel
10 which would take individual cases.

11 I don't know if that would be sort of -- it would
12 be too close to an ethical question as to whether that
13 was proper, individual attorneys, however, could sign on to
14 help Mr. Anderson or any other group and I believe that
15 he has now organized 20 attorneys down in Tucson and I
16 don't know how many up here in Maricopa County, but I
17 guess the bottom line is that groups of attorneys do
18 exist that are interested in doing the kind of thing that
19 you're talking about, they're just not organized under the
20 state bar.

21 Q I wasn't really raising the question in terms of
22 ethics, but I was really, you know, trying to draw the line
23 between, let's say law reform related cases as opposed to
24 let's say primarily giving services, where it's needed.

25 A I do want to say, and I only say it because I happen

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COTTON FIBER

1 to know something about what's going on in this area.

2 I want to say that it seems to me that the resources

3 that are available to prisoners within the prison for

4 postconviction assistance, that is conviction has occurred,

5 they're in the jug and they're serving their time and they

6 think there was something wrong with the proceedings in which

7 they were convicted and they didn't appeal right after

8 their conviction, those services seem to me to be very

9 much below the level that they are in other states.

10 And I speak from experience regarding Massachusetts

11 and some knowledge of New York, when I was in law school

12 I knew something about those two states and the postconvic-

13 tion assistance.

14 To my mind, in Arizona, there are precious few lawyers

15 or, I don't know of any organizations that are really pro-

16 viding postconviction assistance to people who can't pay

17 for it.

18 Did I hit it better that time?

19 Q Yes.

20 A Okay, thank you.

21 A (By Mr. Anderson.) Elaborating further on that,

22 there is a postconviction clinic at the University of

23 Arizona and you'll hear it from one of their staff people,

24 which is based in Tucson, one of the problems that we ran

25 into immediately when we initially worked with approximately

1 30 lawyers to create what we had hoped would be a prison
2 legal panel. Dealing specifically with problems of
3 postconviction remedies, etcetera.

4 Mr. Moran and others have already indicated one of
5 the emphasis on community-based treatment, new facilities,
6 is the inaccessibility of Arizona State Prison for one.

7 To find lawyers who are willing to volunteer normally
8 on a gratis basis. Not only money, but time, to travel to
9 Florence on a regular basis, and more often than not, civil
10 action or civil rights actions cases will end up in
11 Maricopa County, so that lawyers from Tucson would be making
12 a tremendous commitment.

13 I think this is one area of an indication of the
14 failure of system, even beyond the willingness of some
15 individual lawyers.

16 There's one law firm in Tucson, for instance, over 50%
17 of their case load is gratis involving prison-related
18 matters, also, but it's an area where there is no real
19 satisfaction beyond the postconviction clinic right now.

20 Q I was interested also in what kinds of reaction do
21 you get, let's say from the facilities throughout the
22 states? In relation to, let's say the inmates wanting to,
23 say to obtain the services of a lawyer, do they know that
24 there is such an organization, there are such a panel of
25 attorneys that might be able to assist them if they request

1 that, what kind of reaction have you been getting, let's
2 say from the Arizona State Prison in Florence, from the
3 state officials?

4 A. (By Mr. Tierney.) I can answer one question about
5 the Arizona State Prison concerning attorneys who go there.
6 I've gone there on numerous occasions and every time the
7 guards have been most solicitous to make sure that you get
8 in to see the man you're there to see, that wherever he is
9 or whatever he's doing he's located as quickly as possible,
10 that your opportunity to speak with him is in a secluded
11 area where you have a private conversation and so forth.

12 I never had any trouble that way. I've heard other
13 attorneys say once or twice they did have trouble and I'd
14 say that's an exception and probably an individual guard
15 who made some particular problem. I couldn't speak to you
16 about the level of awareness of the people at the prison
17 about the postconviction clinic, frankly it didn't enter
18 my mind because I've only heard of it once or twice before
19 and my impression is it's not doing a large volume of
20 representation on postconviction matters.

21 A. (By Mr. Anderson.) One of the limitations is that
22 it's primarily a teaching program, so that it's governed by
23 the parameters of a classroom kind of context, for example.

24 In my own experience we've received letters from
25 inmates, primarily out of Arizona State Prison, which simply

1 referred them to the postconviction clinic and have written
2 a letter to the inmate advising him that he should hear
3 from the postconviction clinic and thus far every indication
4 points that the fact that they've at least followed up,
5 but to emphasize again one of the areas where there's a
6 real deficiency in geography dictates a lot in Arizona,
7 there simply is no built-in guarantee that every inmate has
8 equal access to postconviction remedy.

9 And frankly, how we address that problem I don't
10 know. The court appoint lawyers? And at this point, I
11 think frankly there's not much more we can do beyond that,
12 until the legal profession perhaps establishes different
13 priorities.

14 THE CHAIRMAN: Any other questions?

15 For your information, concurrent with the meeting
16 upstairs, we're having an executive session below, in view
17 of the fact that there had been a possibility that some
18 defaming or degrading statements would be made in open
19 hearing and there is a process that we're working through.
20 Therefore we shall take a break now and reconvene at 11:20

21 VOICE: Mr. Chairman. Since this is a public hearing,
22 I'm John Alba, Channel 12, KTAR television. Since this is
23 an open meeting, public hearing, I'd like to know why you
24 feel it's necessary to go into secret meeting to preview
25 already-previewed testimony, testimony that's been taken on

1 paper from the inmates?

2 THE CHAIRMAN: Do you want to explain that?

3 MR. MUSKRAT: Yes, sir, my name's Joe Muskrat, I'm
4 the Regional Director of the United States Commission on
5 Civil Rights.

6 Our statute provides not only that we may, but that
7 we shall, in the event that we feel or have any indication
8 that some testimony to be given by a witness is going to
9 defame or degrade any identifiable person, then we are
10 required by law to hear those statements in executive
11 session, whereby the person defamed or degraded will have
12 a chance to respond to them.

13 If the Committee members in attendance decide that
14 there was some basis to those statements or decides that they
15 are just not totally false, then they are heard in open
16 session.

17 If, on the other hand, the Committee feels that
18 there's no basis whatsoever to the statements, then those
19 statements are not heard.

20 Now, we have prepared an explanation of this process
21 for you, have you received that? It was a flyer that we
22 left on the table up here, I believe. Have you gentlemen of
23 the press received that?

24 VOICE: We have it, yes.

25 MR. MUSKRAT: Well, that adequately, I feel, states the

1 law that we are operating under, this is not something that
2 we're doing because we decided that we wanted to do it,
3 this is something that we are required by law and by rules
4 of the Commission to do.

5 VOICE: Who do you feel could be defamed by this
6 testimony?

7 MR. MUSKRAT: Ma'am, I can't say that until after
8 the Committee members decide whether or not they're going
9 to use that testimony because I would be adding to the de-
10 faming process if in the event it is defaming.

11 THE CHAIRMAN: We shall take a break until 11:20.

12
13 (Recess.)

14
15 THE CHAIRMAN: The meeting will reconvene.

16 And the panel will involve the womens' division of
17 the Arizona State Penitentiary, Ms. Olivia Broussard,
18 Ms. Rita Mae Smith, Ms. Mary Munoz, and Ms. Armentha Richardson,
19 if they would come down front, please and sit at the table?

20 MR. MORAN: Mr. Chairman, could we clarify whether or
21 not these ladies want to be photographed before anything
22 gets going here?

23 THE CHAIRMAN: Yes, I think we need to clarify that.

24 VOICE: Mr. Chairman, we have releases already from
25 two of the ladies and those are the only ones we'll film.

1 MR. DUKE: And could we ask for one other point of
2 clarification?

3 With regard to the executive session, what we just
4 went through as far as how these are constituted, perhaps
5 Mr. Levis can best direct himself to that, as far as
6 membership and what we might anticipate in the future
7 sessions of that nature, what constitutes a quorum and will
8 it always be the same Commission members or how this is
9 arrived at and also whether or not the two participants
10 from the regional office are there in a chairman and sec-
11 retarial function or as members of the executive commission
12 session? Committee session?

13 MR. LEVIS: Mr. Chairman, by statute and by rules and
14 regulations of the U.S. Commission on Civil Rights, any
15 testimony which may tend to defame, degrade or incriminate
16 any person, has to first be heard in closed or executive
17 session.

18 And the state advisory committee has prepared a
19 flyer explaining that procedure. Basically, if any alle-
20 gations are made, the person making those allegations,
21 plus the person accused in those allegations, have to face
22 each other in closed session, and if those allegations are
23 substantially refuted they will not be heard in open
24 session, but if those allegations are not refuted, as de-
25 termined by the state advisory committee and it's counsel,

1 they will be heard in open session.

2 At that time, both the person making the allegations
3 plus the person accused, has a right to make statements,
4 submitting anything into the record concerning those alle-
5 gations, any person accused of any allegations has been
6 notified previously by letters as to the allegations.

7 MR. DUKE: Then I guess the question would be is what
8 constitutes, as far as membership, an executive session of
9 the state advisory committee?

10 MR. LEVIS: For membership in an executive session
11 of a state advisory committee, you need members of the
12 state advisory committee, it does not specify by statute
13 or rules and regulations as to the number in closed or
14 executive session.

15 MR. DUKE: Then we may be having executive session
16 before one state advisory committee member, is that correct?
17 Or seven or whatever?

18 MR. LEVIS: It is possible, but it is not likely,
19 as indicated by the agenda, there are subcommittees for the
20 individual panels, their names are listed on the agenda,
21 and they do comprise the subcommittee.

22 Members of the staff of the U.S. Commission on
23 Civil Rights do not make up the subcommittee, they are
24 there to advise the subcommittee and take minutes of the
25 closed session.

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MR. MORAN: Mr. Chairman, we respectfully request that some sort of a formal statement be issued which reflects the position of the Chair and the Arizona Commission with regard to the makeup of the executive committee, how it's determined as well as who makes that determination and what constitutes a quorum and a fair representation of the Commission as a whole.

MR. LEVIS: Mr. Chairman, if I could get into the issue brought up by Mr. Moran and Mr. Duke, in meetings held by the Arizona State Advisory Committee which were held last night and various times in the last several months, the Committee voted to create subcommittees to hear the various panels, and that agenda which is available indicates those members of the subcommittees.

And it is the members of the subcommittee who have been chosen by the Committee as a whole, to hear testimony concerning those institutions, it is also those subcommittees who are -- have been assigned by the Committee as a whole to hear testimony in closed or executive session.

The, again the rules and regulations are silent as to the number of Committee members necessary to be in a closed or executive session. We've been advised by counsel in Washington that that could be any number of the state advisory committee members as long as they are represented by counsel from the Commission.

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MR. MORAN: Mr. Chairman, is it clear, then, that the subcommittee in a particular area of concern, has the full authority to decide whether or not the items at hand are to be heard in the open session or do they, in turn, form -- make an evaluation, arrive at a decision and then make a recommendation to the Commission as a whole, which makes that decision?

THE CHAIRMAN: Actually, the authority to hear and to arrive at a decision has been granted by the full Committee to the subcommittee, the thought being that as we allocated resources and as we allocated resources including time and energy, a selected subcommittee more intensively worked in certain areas, there was no attempt for every member of the Committee to be able to conceptualize the totality of the criminal justice system. But in most cases, become in depth familiar with by visitations, etcetera, and therefore the Committee allocated the responsibility for this decision based upon the judgment in the case of these small panels.

Are there any other questions?

MR. DUKE: Not at this time.

MR. LEVIS: Mr. Chairman, I think there was one other issue relating to the use of television cameras, and I think it's necessary at this time to see if there are any objections from the witnesses called after they've been

1 identified by the Chair.

2 THE CHAIRMAN: All right.

3 Ladies, the procedure is for you to state your name,
4 occupation and address, for the record, please.

5 We can begin with Ms. Smith.

6 MS. SMITH: My name is Rita Smith, I'm a prisoner
7 at the Women's Division, Florence, Arizona.

8 THE CHAIRMAN: Do you have any objection to being
9 televised, for the record?

10 MS. SMITH: No, no.

11 THE CHAIRMAN: Ms. Broussard?

12 MS. BROUSSARD: My name is Olivia Broussard, and I'm
13 a prisoner at the Women's Division in Florence, Arizona.

14 MR. DUKE: Mr. Chairman, is there some way we could
15 have them either speak up or is there a microphone they
16 could use? It's very hard to hear on this side of the room.

17 THE CHAIRMAN: Speak into the mic, please.

18 MS. BROUSSARD: Olivia Broussard, and I am a prisoner
19 at the Women's Division in Florence, Arizona.

20 THE CHAIRMAN: The Arizona State Prison?

21 MS. BROUSSARD: Yes.

22 THE CHAIRMAN: Thank you.

23 Ms. Richardson?

24 I'm sorry, may I ask, do you have any objection, Ms.
25 Richardson, of being televised, filmed or photographed during

1 the hearings or testimony recorded for later broadcast?

2 MS. BROUSSARD: No.

3 MS. RICHARDSON: Armentha Doretha (Phonetic)
4 Richardson, Arizona State Prison for Women.

5 THE CHAIRMAN: I'll ask you the same question, Ms.
6 Richardson, if you have any objection to being televised,
7 filmed or photographed during the hearing or your testimony
8 being recorded for later broadcast?

9 MS. RICHARDSON: No.

10 MS. MUNOZ: Mary Munoz, prisoner, I'm a prisoner at
11 the Arizona State Prison, Women's Division, Florence,
12 Arizona.

13 THE CHAIRMAN: And I'll ask you the same question,
14 Ms. Munoz, do you have any objection to being televised,
15 filmed or photographed during the hearing?

16 MS. MUNOZ: No.

17 THE CHAIRMAN: Or testimony being recorded for
18 perhaps later broadcast?

19 MS. MUNOZ: No.

20 THE CHAIRMAN: Thank you.

21 Are there any questions by any members of the panel,
22 please?

23 REP. McCARTHY: Mr. Chairman, I would like to begin
24 questioning if I might, and I think in the interest of only
25 one microphone being on the table, with the ladies, I'll

1 start with Rita Mae Smith and then we can proceed down the
2 table.

3

4

5

RITA MAE SMITH

6

7 Q (By Rep. McCarthy.) Do you live in a dormitory
8 style quarters at the institution, is that correct?

9 A (By Ms. Smith.) Yes, I do.

10 Q Could you describe the dormitory and about how much
11 space each inmate has?

12 A I live in dorm. 1, and our living areas are about
13 ~~six-by-three-and-a-half~~, and this covers room for a
14 twin bed size and they have two beds to each cubicle, which
15 is divided by a closet which makes the space equal on each
16 side.

17 And there are about three-and-a-half-foot dividers
18 between each cubicle, that's our sleeping area.

19 Our dormitory size is 24 beds to each wing, 12
20 cubicles and our day room size is about 40-by-36 feet.

21 Q Is there any privacy as far as the dorm. is concerned?

22 A No, there is not. As far as sleeping and dressing
23 areas, what we have is just area that I've told you about.

24 The other is we have no privacy in our showers, which
25 are very small, I would say about two-by-two.

1 Q Are you, as inmates, allowed to decorate your own
2 cubicle areas?

3 A We are allowed to decorate our own areas as far as
4 hanging doilies or curtains and things on our closets.

5 Q What about such things as bedspreads?

6 A Yes, we are allowed to have bedspreads.

7 Q Stuffed animals, things of that nature?

8 A Yes.

9 Q Would you state the position of the women's prison
10 in terms of wearing your own clothes, do you wear uniforms
11 or do you wear your own clothes?

12 A Just towards the end of last year -- well, the
13 middle of last year, we were permitted to start wearing our
14 own clothes and we do have our own clothes that are made
15 at the institution or that we can buy or have sent in by
16 our families.

17 Q Are ladies at the women's prison, do they wear
18 numbers?

19 A No, they do not.

20 Q You stated about the showers, how many times or how
21 often are you allowed to take showers?

22 A You're permitted to take a shower any time that you
23 want to, as long as it's -- doesn't interfere with your
24 regular two for one or the job detail that you're on.

25 Q Do the dormitories have common rooms where inmates

1 may watch television in the evenings?

2 A We have one large day room that accomodates television
3 and other activities, such as card playing, dominoes,
4 checkers, whatever, is all done in one, in the day room
5 that I described to you before, and it's very noisy.

6 Q How do you decide who watches television?

7 A Well, it's decided, the inmates decide among them-
8 selves, we have one television, and it's one room that
9 accomodates everybody that's in the dorm. which is about,
10 the dorm. will hold 48 women.

11 Q How many women are in that dorm. right now, Rita Mae?

12 A Well, there are about two empty beds on one wing and
13 about three on the other, so I would say about 42, maybe.

14 Q So there's a goodly number of inmates in that dorm.
15 right now?

16 A Yes.

17 Q Do inmates receive any pay for the jobs in the
18 institution?

19 A There are some women who are assigned to the prison
20 payroll which is, I think the 18 cents an hour, and these
21 are picked either by staff or as they -- as they
22 qualify for the position.

23 Q What do you -- how would you describe the qualifications
24 for the positions?

25 A Well, one of the paying jobs is a cook, you have to know

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1 how to cook to be able to get that job.

2 And another is laundry, and you have to know pretty
3 much about clothes. Well, not pretty much, but you have to
4 be able to wash clothes and so on to get that paying job.

5 Q I'd like to ask some questions of Ms. Broussard, if
6 I could, next.

7

8

9

OLIVIA BROUSSARD

10

11 Q Ms. Broussard, would you describe the visiting
12 facilities at the institution?

13 A (By Ms. Broussard.) Visiting?

14 Q Yes.

15 A Well, there's about maybe six large tables in the
16 visiting area, and there's one big room, and to the left
17 there's another small room and I really don't know what
18 that one's for.

19 And I say about maybe 30 people might fit in the
20 visiting room at one time.

21 Q Would you describe the visiting regulations at the
22 women's prison, please?

23 A On Saturdays, I think it's from 12:00 to 2:00. On
24 Sundays it's from 9:00 till 11:30 and from 12:00 to 2:00.
25 And during the week, I don't know.

1 Q Most of the SAC members have had a chance to visit
2 both the men's and women's prison, the various correctional
3 institutions around the state and I was quite interested
4 in noting ~~at~~ a visit to the women's prison, that you had at
5 least one animal in the common area out there. Does that
6 animal belong to the prison or does that belong to an indi-
7 vidual in there?

8 A There is -- there were three dogs, there is two there
9 now and they belong to inmates that are there.

10 Q Their own individual pets then?

11 A Yes.

12 Q Are any other kind of pets permitted?

13 A No, not that I know of.

14 Q Okay.

15 Ms. Munoz, I have a couple of questions for you, if
16 I might, and then I'll turn the microphone over to Ms.
17 McCullah.

18

19

20

MARY MUNOZ

21

22 Q How long have you been at the women's division?

23 A (By Ms. Munoz.) About four months.

24 Q Okay.

25 Do you have any children?

1 A Yes.

2 Q And how often can your children visit?

3 A If they could make it up here they could visit every
4 weekend, but unfortunately my parents live in Yuma and I
5 might see them once every two or three months.

6 Q Do you feel that increasing of the visiting hours
7 or relaxing the visiting rules or perhaps a furlough program
8 for inmates to visit families, would be helpful, and this
9 specifically to women inmates in their personal lives?

10 A Yes, I -- I have a lot to say about -- well, not a
11 lot, but about the furloughs, I think it would strengthen,
12 you know, families whereas in other parts you might be
13 falling apart or losing touch, and it would give you a
14 chance to be with your children like with my daughter, the
15 first time she came up here she didn't even recognize or up
16 to Florence she didn't even recognize me and we had only
17 been apart about three months.

18 Q How old is your daughter?

19 A Well, she's only two and a half.

20 Q You tend to forget --

21 A Well, it bums your head -- you know, it doesn't make
22 you feel good.

23 Q I know what you mean. I was in a hospital once, when
24 mine was only two, and she didn't recognize me when I got
25 out, either.

1 I'd turn the Chair over to Ms. McCullah at this
2 point.

3 (By Ms. McCullah.)

4

5

ARMENTHA RICHARDSON

6

7

Q (By Ms. McCullah.) Ms. Richardson, in an interview
8 with Commission staff you indicated that you are a
9 diabetic, is that correct?

10

A (By Ms. Richardson.) Yes, it is.

11

Q Have medical staff at the prison ever recommended
12 that you have a special diet?

13

A Yes.

14

Q And what sort of a diet?

15

A Juices, eggs, the best that they have to offer,
16 which is not much, but nevertheless, the best that they do.

17

Q Do you feel that the lacks in your diet affects your
18 health?

19

A Well, I couldn't answer that because I'm not a
20 physician, and I really don't know.

21

I think everyone should have a lot of fresh fruits and
22 fresh vegetables and this we do not have.

23

Q In a staff interview you also indicated that you
24 have other medical problems?

25

A Yes.

1 Q Have you sought medical attention while at the
2 prison?

3 A Yes.

4 Q What were the results?

5 A Well, I've just had a GI about three weeks ago,
6 and they're doing the best they can.

7 Q I notice in your interview you said you asked for
8 an exploratory test on a cyst on your back?

9 A Yes.

10 Q Has anything been done about that to date?

11 A Well, as I said, I've had x-rays and it just, it
12 didn't show anything, I had a GI but nothing showed up.
13 So it's just still there.

14 Q Have you ever received any psychiatric care while you
15 were at the prison? In the women's division?

16 A Well, no, I see her, our head -- well, I don't know,
17 he's not -- he doesn't have a Ph.D. In psychiatry, but
18 he's a very trained man for the job, I guess, his name is
19 Sanchez.

20 Q Are you referring to Gilbert Sanchez?

21 A Right.

22 Q Then to your knowledge, is there any psychiatric help
23 available to you women inmates?

24 A Well, as I say, and being all honesty I wouldn't
25 know who have a degree and who would not, so I would have to

1 say no, not to my knowledge.

2 Q You also indicate that you have a job at the insti-
3 tution?

4 A Yes, I do.

5 Q Do you know who assigns jobs and how did you get
6 yours?

7 A I was assigned when I entered Florence, in 1971, to
8 the laundry.

9 Q In your opinion, are the working conditions in
10 the laundry safe?

11 A Safe?

12 Q Yes.

13 A Well, frankly speaking, I think that the laundry
14 needs all new equipment.

15 Q (By Rep. McCarthy.) I have a couple more questions
16 I'd like to go back to Rita Smith, if I might.

17 Would you explain to us the various activities that
18 are available other than vocational training and academic
19 training that are available to the inmates, please?

20 A (By Ms. Smith.) Well, at the present time we are in
21 softball, this is physical education class that's sponsored
22 by CAC, Central Arizona College, and we do have other
23 functions that are just starting to get back into full
24 swing now and that's organization called SIS, which is a
25 selfimprovement society, and there's a Black Heritage club

1 that has just started and a Chicano club.

2 Q And as far as softball is concerned, do you play
3 just among yourselves or do you play with outside softball
4 teams?

5 A Well, since the season is just started right now
6 we're just playing amongst ourselves. But later on teams
7 will be coming in.

8 Q Do you ever go outside the walls to play softball
9 against other teams?

10 A No, we do not.

11 Q I have been told that you also have a choir there
12 at the prison?

13 A Yes, we do.

14 Q Would you explain about the choir?

15 A The choir does have privileges of going out to sing
16 at churches and various projects that are arranged for
17 them to go out and sing to, they put on plays, and it's
18 made up of just girls that like to sing, really.

19 Q About how many inmates belong to the choir?

20 A I think that there are about 12, I think.

21 REP. MCCARTHY: Rep. Guerrero would like to ask a
22 question.

23 Q (By Rep. Guerrero.) There was reference made to
24 vocational training there for the women inmates. What type
25 of vocational training was made available to you people

1 down there?

2 A. (By Ms. Smith.) At the women's division right now
3 we only have one secretarial business school, and that
4 accomodates 12 women. Other than that, there is no vocational
5 training at all.

6 Q. Mr. Chairman, Ms. Smith, how many female inmates
7 would you say there are presently at the institution?

8 A. I think about 54.

9 Q. Mr. Chairman, Ms. Smith, could you tell me the dura-
10 tion of what, how much time does it take to complete one
11 of these courses?

12 A. Well, the course is sponsored for, I'm pretty sure that
13 it takes a year to complete the whole course and you have
14 to be near a board date, primarily to be able to attend
15 the school. You have to be within a couple -- six months
16 or a year to it, something like that, there's special
17 qualifications that have to be met before you can attend
18 the school.

19 Q. Well, then, Mr. Chairman, and Ms. Smith, would you
20 repeat this for me, you say 12 can participate in a
21 year's period and how many inmates did you say there were?

22 A. There are about, I think about 45, 44, 45.

23 Q. Do you have any idea, Mr. Chairman, Ms. Smith, do
24 you have any idea what you have to -- how you could qualify
25 to participate? What qualifications do you have to meet

1 the requirements in order to participate in this program?

2 A Well, the first thing that's necessary is you have
3 to want to be a secretary or you have to want to work in
4 some kind of business because the only thing that is
5 offered there is things like shorthand and typing and keypunch
6 and things like that, and you have to want to be a secretary.
7 Which a lot of times doesn't apply to everybody.

8 So, as far as qualifications go, you would have to
9 just want to be a secretary or be very interested in this
10 line.

11 Q (By Rep. McCarthy.) I'd like to ask some questions
12 of Ms. Munoz, if I could.

13 As far as the academic courses that are available
14 there at the women's division. It's my understanding that
15 you have some academic courses as well as vocational courses
16 available, is that true?

17 A Yes, there's a GED course offered for the girls there
18 that haven't gotten their GED. CAC is offering four
19 classes right now, Monday, Tuesday, Wednesday and Saturday,
20 English, comp. 101, class discussion, world religion and
21 physical education course, anyone can go to these.

22 Alls they need to do is sign up. A lot of girls out
23 there are working on getting their AA's and have acquired
24 quite a number of classroom hours, as she stated there is
25 also the secretarial voc. school.

1 Q Would you comment on how the courses are chosen
2 that Central Arizona College comes in and teaches?

3 A They send in a selection of what can be offered at the
4 prison, and the girls list their interest or whatever,
5 and the ones that the most people would participate in and
6 go to, they would have.

7 Q So that the courses that are offered by Central
8 Arizona College, then, are chosen by the women in the
9 prison?

10 A Yes.

11 Q Are legal books available to the inmates?

12 A I really don't know, I believe there's some over in
13 the library, but I'm not sure.

14 Q Is there anyone knowledgeable among the inmates to help
15 you use them?

16 A There's one girl there that knows about the law,
17 and when she has time she, you know, will explain what's
18 happening and things when we get our papers from courts or
19 various other places.

20 Q But she will give you the advice, then, right there
21 in the yard?

22 A When she has time, yes.

23 Q Is there any inmate council or similar inmate body
24 at the women's division?

25 A No.

1 Q What do you think of that as an idea?

2 A I think it probably would be a good idea, so that
3 people could know what's happening and perhaps have a say
4 in what's happening and see where the administration is
5 coming from on a lot of decisions.

6 Q What kind of -- if there were such a thing as an
7 inmate council, what kind of responsibilities do you think
8 they ought to have?

9 A I really don't know.

10 I guess the director over there could like, you know,
11 on points or whatever, decisions that we could take part
12 in or something. Like have just like a council, you know.

13 Q Like a student council in school or something like
14 that?

15 A Yes.

16 Q To advise the administration as opposed to taking
17 an active role in actually determining policy within the
18 prison?

19 A Well, you know, things could -- you know, -- well,
20 I don't know how to put this. I don't know how to answer
21 that, I really don't.

22 REP. MCCARTHY: Thank you, Mr. Chairman, I have no
23 further questions.

24 DR. GLASS: Mr. Chairman, I'd like to ask a few
25 questions, if I may.

1 THE CHAIRMAN: Dr. Glass?

2 Q (By Dr. Glass.) Ms. Munoz, is it? Is there any
3 program at the prison -- first I'd like to ask you this
4 question of all of you, how many -- how many women are
5 alcoholics in the women's division?

6 Do you know? Does anyone know here?

7 And is there any alcoholic treatment program at the
8 womens' prison?

9 A (By Ms. Munoz.) AA comes in every Wednesday night
10 and conducts AA meetings and things like that.

11 Q How many attend those classes?

12 A It -- it varies usually about six to 12 sometimes.

13 Q What about a drug program, do they have any type of
14 a drug program for inmates that have been on hard narcotics,
15 for example?

16 A They have a Hope, out of Tucson, Hope Center has a
17 person coming there every Friday to talk to those that
18 want to go.

19 Q Is there good participation in these programs at
20 the prison?

21 A I don't know. I don't go.

22 Q Ms. Smith, could you elaborate on this a little bit?

23 A (By Ms. Smith.) The participation of the women at
24 the Arizona State Prison at times reaches pretty far, I
25 mean at times there are women that participate and at times

1 there are women who do not, they use their own discretion
2 about this.

3 As far as AA goes, there has been large groups of
4 women attend AA and there has been small.

5 As far as the drug program, they're not having too
6 much success right now, but I think that it may pick up.

7 Q Thank you.

8 DR. GLASS: I think that's all I have, Mr. Chairman.

9 Q (By Ms. McCullah.) Mr. Chairman, Ms. Richardson,
10 getting back to the extracurricular activities, vocation,
11 recreation, etcetera, as a lifer, do you feel you have
12 access to adequate recreation in arts and crafts or education
13 programs that benefit you and other inmates?

14 A (By Ms. Richardson.) No, a lifer is shut out of
15 these things.

16 Well, recreation yes. We can participate. The
17 doors have been opened since Mr. Moran stepped in, lot of the
18 ladies are going out to work, I do see where lifers will
19 go out. I feel like that, a lifer will go out, it's up
20 to the lifer whether, you know, to prove himself, but yes,
21 I do.

22 Q A similar question too, do you feel the educational
23 opportunities towards you as a lifer are adequate?

24 A No, I do not.

25 MS. McCULLAH: Thank you.

COTTON FIBER

1 Q (By Rep. Guerrero.) One question.

2 Mr. Chairman, Ms. Richardson, how about your mailing
3 privileges, what kind of procedure do you go through in
4 order to mail a letter out of the penitentiary?

5 A Well, now you can write to anyone, they've passed
6 a law that you can write so you just write and mail it out.
7 It's no problem.

8 Q Mr. Chairman, Ms. Richardson, do you just seal the
9 envelope and mail it or do you have to present it to some-
10 body and they fold it for you and put it in?

11 A Well, you fold it and put it in an envelope, no, you
12 do not seal it, I understand that the reason that you do
13 not seal it is they check it for contraband.

14 But you can write to most anyone.

15 Q Thank you.

16 Q (By Dr. Glass.) Mr. Chairman, I'd like to make one comment on
17 a question that wasn't carried out too far here, I'd like to find
18 out more about it if I may.

19 Ms. Richardson, the point came up a while ago about
20 programs for lifers. And I know this is a real problem
21 in the men's prison too.

22 What type of programs do you think would be adequate
23 for a woman in the women's prison there for lifers?

24 A I think that a lifer should be allowed the opportunity
25 to go out and work on a paying job. I think a lifer should

1 be considered just like a regular person with her three to
2 five or ten to 15, myself.

3 Q Well, go out where, I don't understand your point
4 here?

5 A Well, now the women's division do have a program
6 set up where the women can go in different varieties, we
7 have some downtown in the courthouse working, we have a
8 lady that grooms dogs..(Bovetia)..that's out grooming dogs.

9 And we have some out at the children's colony, so I
10 feel like that the lifer should have the same opportunity,
11 yes.

12 DR. GLASS: Thank you.

13 MS. McCULLAH: Mr. Chairman?

14 THE CHAIRMAN: Ms. McCullah?

15 Q (By Ms. McCullah.) Ms. Richardson, are you paid
16 for the work you do in the laundry?

17 A (By Ms. Richardson.) No, I'm on a nonpaying job.

18 Q Is anyone paid in the laundry?

19 A Yes, there are two or three paid in the laundry.

20 Q Just another question.

21 Since you have been at the institution, have you
22 received regular physical checkups or gynecological
23 examinations?

24 A Well, the doctor is free to see you at any time, not
25 only me but any inmate, you're allowed to see the doctor

1 whenever you want to see him.

2 Q Well, how do you get the doctor to see you if you
3 don't get there?

4 A Well, this is what I'm saying, he's there, and the
5 nurse is very good in seeing that you do see the nurse if
6 you want to see the doctor, I mean it's your own fault if
7 you don't see him because he will come.

8 Q You call him then?

9 A No, the nurse does.

10 Q The nurse calls him?

11 A Yes.

12 MS. McCULLAH: Mr. Chairman, I'd like to pursue the
13 further questioning.

14 Ms. Broussard?

15 I'm sorry, Ms. Smith.

16 Q (By Ms. McCullah.) How would you describe the
17 inmate-staff relationship at the institution?

18 THE CHAIRMAN: Before you answer that, Ms. Smith,
19 I think that as a statement of possible procedure that we
20 need to pursue briefly and we'll have our staff attorney,
21 Mr. Bill Levis, speak to this procedure, please?

22 MR. LEVIS: Mr. Chairman, as we stated earlier in
23 response to Mr. Duke's question, we have had a closed
24 session concerning some allegations from inmates. And
25 there will be questions asked concerning those allegations

1 since it was the position of the subcommittee that those
2 questions should be asked in open session.

3 Once the questions are raised, the allegations are
4 brought forth, Any person accused of -- any person de-
5 famed, degraded or incriminated by that testimony will
6 have the opportunity to fully respond and also has had
7 the opportunity in closed session and by letter to fully
8 respond.

9 And that will be conducted immediately after any
10 questions that tend to defame, degrade or incriminate any
11 person.

12 If any information comes out concerning incidents
13 that we were not aware of or did not discuss in closed
14 session, the chairman will warn that person to cease
15 that testimony, but if the Chairman feels that that testimony
16 is of merit, the testimony will first be heard in closed
17 session again, where the person accused will have the
18 chance to refute those allegations again.

19 If the subcommittee feels it should be heard in
20 open session, they will then be heard in open session.

21 THE CHAIRMAN: Okay, do you want to proceed, Ms.
22 McCullah?

23 MS. McCULLAH: Yes, I'll ask the question again.

24 Q. (By Ms. McCullah.) Ms. Smith, how would you describe
25 the inmate-staff relationship at the institution?

1 A (By Ms. Smith.) The relationship between the in-
2 inmates and the staff at the institution, I would say that
3 on the whole, the relationship between the inmates and the
4 staff is very good. We don't have quite -- not quite any
5 trouble between staff and inmates. I mean we pretty much
6 relate to each other, as far as that goes, we are treated
7 very well. I mean as far as just treatment by matrons at
8 the institution.

9 Q Ms. Broussard, -- may I ask the question, Mr.
10 Chairman?

11 Have you been before the disciplinary committee for
12 a rule infraction?

13 A (By Ms. Broussard.) Ask that again, please?

14 Q Have you been before the disciplinary committee for
15 a rule infraction?

16 A Yes.

17 Q Were you confined to isolation immediately prior to
18 the disciplinary hearing?

19 A Well, when you get a writeup they have five days
20 to give you the writeup, and they can have court within any
21 time in those five days.

22 Q Were you told that this, at the time, part of
23 this time would serve as part of your disciplinary sentence?

24 A No.

25 Q How long were you sentenced to isolation after the

1 hearings and were you told when it would start and end?

2 A I was on every disciplinary report I've had I've
3 spent 15 days and I have had one 30-day confinement to
4 quarters.

5 Q Were you told when it began and when it ended?

6 A It -- well, yes.

7 Q Have you viewed any action on the part of the disci-
8 plinary committee, a member of that committee which you
9 feel racially discriminatory?

10 A Yes.

11 Q Can you give a specific example?

12 A Well, I was involved in fighting and so were two
13 other girls, I was involved with a Chicano chick and the
14 other two girls, one was White and one was Chicano. I
15 received 15 days and they received ten.

16 REP. GUERRERO: Could she repeat that, please, Mr.
17 Chairman?

18 THE CHAIRMAN: One of the members of the Committee
19 has asked if you would repeat your last statement, Ms.
20 Broussard?

21 A I received 15 days for fighting, and the other
22 two chicks received ten. One was White and one was Chicano
23 and I had a hassle with the Chicano chick.

24 Q (By Ms. McCullah.) Were the disciplinary actions
25 taken by the disciplinary committee, were your sentences even

1 or equitable, were they the same?

2 A No.

3 Q They were not?

4 A No.

5 Q What was the -- what was the disciplinary action
6 towards the other two chicks, as you mentioned? Were they
7 -- the disciplinary days?

8 A Well, when you go to disciplinary court, they just
9 regardless if you're guilty or not, they don't look into
10 it, they just give you how much time they feel you should
11 have.

12 Q Do you feel that your disciplinary action was much
13 harsher than the other couple that were in the fight?

14 A Yes.

15 THE CHAIRMAN: There's a statement by a staff lawyer?

16 MR. LEVIS: Mr. Chairman, if I could, Ms Broussard,
17 we discussed this allegation in closed session, and you
18 made some statements concerning four disciplinary procedures
19 against you, one in August 10, 1973, August 17, 1973,
20 December 3, 1973, and December 10, 1973. Do you feel that
21 any of the decisions of the disciplinary committee as a result
22 of those rule infractions were racially discriminatory?

23 A Yes, I do.

24 Q (By Mr. Levis.) All the incidents that I have re-
25 lated to you by date or only some of them, and why?

1 A. Just two.

2 Q. What incidents would they be?

3 A. I mean three.

4 Q. Three.

5 A. The two, the kissing and one fighting.

6 Q. Could you explain each incident, please, and why
7 you feel it was racially discriminatory?

8 A. Well, I received 15 days on all charges, and one
9 couple received five days, the other received ten days.
10 And the same couple that was caught kissing received ten
11 days for fighting and ten days for kissing and I received
12 15 days on both charges and they were the same.

13 Q. Why do you think that was racially discriminatory?

14 A. Because they were not Black.

15 Q. Did you and anyone else participate in the incidents
16 that led to the 15 days isolation?

17 A. Rita Smith.

18 Q. Rita Smith who's sitting next to you?

19 A. Yes.

20 Q. And what is the incident of those?

21 A. The two kissing.

22 Q. That would be the August 10th incident?

23 A. Yes.

24 Q. And the rule violation concerning waiting on another
25 inmate?

1 A Yes.

2 Q And it's your allegation that you received longer
3 sentences because you were Black?

4 A I feel this, yes.

5 Q And the other persons who were sentenced for the
6 same or similar offenses were not Black?

7 A Right.

8 Q You mentioned one other incident concerning fighting
9 when you received, you received 15 days isolation. Why
10 do you feel this was racially discriminatory?

11 A Well, a fight is a fight, and regardless of where
12 it was, -- well, I put it this way, we're inside, and we
13 had a hassle. And the other two girls were outside and
14 one of them got their blouse ripped and they received ten
15 days.

16 And the other girl's face was all scratched up, and
17 we were just having a fist fight inside and we received
18 15 days and they received ten. And I don't feel that that
19 was fair at all.

20 Q Now, were there any articles of personal property
21 or property of the institution that were disrupted, either
22 in the indoor fight or the outdoor fight?

23 A Well, we were fighting in a TV area. And when we
24 fell the chairs just moved on out of the way, there was no
25 throwing of the chairs or nothing like that.

1 Q Is that the only thing that occurred as far as
2 personal property?

3 A Yes.

4 Q Do you have any knowledge of the outdoor fight?

5 A I was on the inside when the fight occurred.

6 But from where they were, they were right outside
7 the dorm. and you can just hear the screaming and yelling
8 but Ms. Smith was there when it occurred.

9 Q Thank you. Thank you.

10 Now, you stated that the persons who received the
11 lesser sentence were not Black.

12 A Right.

13 Q Were the persons with whom you were fighting Black?

14 A No, she was a Chicano.

15 Q And what was the other -- the racial background of
16 the other persons who were fighting?

17 A One was Caucasian and one was Chicano.

18 Q And the kissing incident, who were you -- who was
19 cited along with you in that incident?

20 A She's Caucasian.

21 Q And that's Ms. Smith?

22 A Yes.

23 Q Is that also true with the 30 days loss of privilege,
24 the waiting on another inmate?

25 A Yes.

1 Q That was with Rita Smith?

2 A Yes.

3 Q Ms. Broussard, are there any individuals who you
4 feel discriminated against you or do you feel it's
5 against the women's division generally?

6 A No.

7 Q It's against the women's division generally or against
8 one individual?

9 A How can I put this?

10 Geisenhoff. He's just a whole big problem in
11 Arizona State Prison.

12 Q And who is Geisenhoff?

13 A He's the assistant director.

14 Q Mr. Richard Geisenhoff?

15 A Yes.

16 Q Assistant Director to the Women's Division?

17 A Yes.

18 Q Why do you feel that he's a whole problem?

19 A He just -- he has a very nasty attitude among the
20 Blacks especially, and he's just a bully-type person.

21 Q Did he either cite you for the violations or sit
22 on the disciplinary committee that rendered the decisions
23 for each rule violation?

24 A Yes.

25 Q He sat on the committee?

1 A Yes.

2 Q In all the incidents which we related today?

3 A Yes.

4 Q Ms. Smith, you've heard the allegations by Ms.
5 Broussard, concerning the two incidents that you were in-
6 volved in, that was the kissing --

7 MR. DUKE: Mr. Chairman, could I register, I don't
8 want to do it in the form of an objection, but just an
9 inquiry, is that as far as you're going to develop those
10 incidents, could I ask Mr. Levis?

11 MR. LEVIS: No, I think we'll get it in more detail
12 with this.

13 MR. DUKE: Well, as far as the allegations of Ms.
14 Broussard, is that as far as you intend to go?

15 MR. LEVIS: No, I don't think so.

16 MR. DUKE: Because I think there's some confidential
17 things that should be established here with regard to some
18 fairly general statements she's made, if you'll go into
19 them I'll appreciate it, so we may properly respond.

20 MR. LEVIS: Okay, that will be fine.

21 Ms. Smith, you've heard the allegations by Ms.
22 Broussard concerning the August 10, '73 incident, the
23 kissing incident and the December 3, 1973, incident, in-
24 volving waiting on another inmate. Is it your opinion that
25 these were violations and resulting punishments were racially
motivated?

1 A. (By Ms. Smith.) No, I do not feel that the sentences
2 in either one of the cases were at all just, I feel that
3 -- there was reasons why that for one thing that I carried
4 her tray to her table and that was main, you know, because
5 she was unable to do it herself.

6 Q Could you go into detail on this, in this, is the
7 December 3rd incident, right?

8 A. Yes.

9 Ms. Broussard had been involved in a track and field
10 day at the prison, and she had pulled some muscles in her
11 legs, and on the morning of the incident we asked the
12 matron to call the nurse that was supposed to be on call.
13 And they were not able to reach her or her line was busy
14 or something and so we had to go ahead and go to the dining
15 room.

16 When we went through the line at the dining room,
17 which is the regular serving line set up like smorgasbord,
18 I guess you would say, and I got Ms. Broussard's tray and
19 told her to go ahead and sit down at the table.

20 Well, as I was going by the kitchen matron, she
21 addressed me and said, Rita, you're getting a lot of food
22 today. And so I said, well, I'm getting it, you know, some
23 for Olivia because she's unable to walk.

24 And the matron didn't say anything to me about it,
25 she didn't say I couldn't do it, you know, I had explained
to her what had happened, so she let me go ahead.

1 Well, when I reached the end of the food service
2 line there was another matron there who told me that I
3 was being written up for, well, she told me that if I
4 didn't have Olivia go through the line and get the food
5 herself, that she would write me up.

6 And I told her that I didn't care, you know, that
7 she wasn't the kitchen matron because the kitchen matron
8 who is in charge of that department did not, you know,
9 say anything to me about taking the food.

10 And so I told her that I would go up and talk to the
11 sergeant that was on duty in the front office about it.
12 And so we left the dining room after breakfast and went
13 to the dorm. and then the matron that was on duty did get
14 a hold of the nurse and the nurse came and she told Olivia
15 to stay in bed and not to get up and that all her trays
16 were ordered to her cubicle. Therefore, the reason that
17 I didn't feel that it was right was because the nurse knew
18 how severely and sore that she was, and the matron that
19 was on duty at this time did know too.

20 You know, and she said that she would clarify that
21 before the disciplinary committee, which I guess that she
22 didn't do, because when we went for her for receiving the
23 food and me for taking it to her, we both received 30
24 days confinement to our quarters.

25 Q That's Olivia Broussard and yourself?

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A Yes.

Q Was Mr. Geisenhoff involved in this incident in any way?

A Yes, he was, he sat on the disciplinary committee.

Q And it's my understanding that you were both found guilty for that incident?

A Yes, we were.

Q Sentenced to 30 days loss of privileges?

A That's right.

Well, as the rules read, disobeying an order, the way this come about is the disobeying an order goes along with, if a matron tells you to do something and you don't do it, that's disobeying an order, no matter how you feel about it. So, when you go to your disciplinary court, if they say did you disobey an order, you know we don't want to hear no reason behind it we just want to know did you break this rule and if you say yes, then you're guilty.

Q Do you feel this decision by the disciplinary committee was racially motivated?

A Yes, I do.

Q Why?

A Because I am Caucasian and Ms Broussard is Black I feel that Mr. Geisenhoff really frowns on this kind of relationship at all, no matter to what depth that it goes into. I mean as far as if we were just friends or whatever.

1 Q Is that relationship among or with Blacks or among
2 or with Whites or what?

3 A I would say -- well, for one thing, he frowns on
4 the whole thing completely, but I would say moreso because
5 it is a Black and White.

6 Q When you mean whole thing completely, what kind of
7 relationship?

8 A Well, as far as the relationship, any relationship,
9 if he sees two people that are fairly close or really good
10 friends and stick up for each other in any kind of thing, he,
11 you know, kind of appears to frown on that because,
12 you know, where one is the other one always is.

13 Q Do you mean a sexual relationship or just a friend?

14 A That too, any kind.

15 Q A friendly relationship in addition?

16 The other incidents in which you were involved, con-
17 cerning Olivia Broussard, was the August 10th incident re-
18 lating to kissing, I wonder if you could explain that
19 incident?

20 A Yes, as the writeup read, Ms. Valzuela was coming
21 down the aisle, she's an officer at the prison and she said
22 that she saw me and Ms. Broussard engaged in a passionate
23 kiss.

24 Now, we were not engaged in a passionate kiss, for
25 one thing, however, I may add, maybe the position that we

1 were in would appear to have been a kiss from the point
2 that she was standing.

3 We both received 15 days on this writeup, and at the
4 same time, not more than two weeks prior, or later, two
5 other women were found in the same thing only they were
6 laying on top of each other, in a cubicle, and engaged in
7 a passionate kiss also, and they got ten days.

8 Q Do you think the difference was racially motivated?

9 A Yes, I do.

10 Q Why is that?

11 A For the same reason on the other one that I answered,
12 I feel that it was racially motivated because I am White
13 and Ms. Broussard is Black, and it's a pretty tight-knit
14 relationship.

15 Q Who were the other individuals sent to isolation
16 for a similar incident?

17 A Do I have to give their names?

18 Q No, if you could just give their ethnic --

19 A Oh, Mexican and White.

20 Q And you think that is a sufficient racial distinction?

21 A Yes, I do.

22 Well, I feel that against -- if you would put to me
23 if you would put a Mexican and a White and a Black and stand
24 him up and say which two are closest together, you'd find the
25 Mexican and the White. I mean in terms of looking at it the

1 way that I would feel that he would look at it.

2 Q He being Mr. Geisenhoff?

3 A That's right.

4 Q Could you explain that more fully? Do you mean
5 that he would prefer one or the other or what do you mean?

6 A Yes, I would say that he would prefer the Chicano
7 and the White to the Negro.

8 Q You mean Chicano and the White together to the
9 Black and any other together?

10 A Yes.

11 Q Why is that, do you have any idea?

12 A I don't know.

13 Q There is one other incident relating to your re-
14 lationship with Olivia Broussard and that occurred on
15 October 10, 1973, smuggling contraband charge that you
16 were found guilty, do you feel there was any discriminatory
17 basis in this incident?

18 A Yes, I do.

19 For one thing, Ms. Broussard was in isolation, and
20 at the time that I went before the disciplinary board, the
21 disciplinary board was well aware or they had pretty well
22 figured it out, they're supposed to do some kind of workup
23 before they, you know, go into this court or read the report
24 or something. And Mr. Geisenhoff knew or had good reason
25 to know that I was not the one that put the cigarettes and

1 things in the sandwich to be smuggled to Ms. Broussard.

2 However, when he asked me who did and I refused to
3 comply, I was given 30 days confinement to my quarters, I
4 mean -- 24 days isolation, excuse me.

5 Q For two charges?

6 A Yes, two charges stemmed from that and that was
7 smuggling and securing -- no, smuggling and contraband.

8 Q Now, you said Mr. Geisenhoff said something, was
9 this in a disciplinary committee or was it, did he just
10 charge you with a violation?

11 A Well, he didn't just say anything, but when I
12 went into the disciplinary court he told me, if you didn't
13 do it, you know who did, and I wouldn't, you know, I just
14 said well, you know, if you say I did it, I did it, you
15 know, I wasn't -- if they had done any kind of workup be-
16 hind these disciplinary court proceedings, they would
17 have, you know, I'm pretty sure they came up because the
18 officer that was on duty herself admitted to me later that
19 she knew that I didn't do it.

20 Q Do you feel this incident was racially motivated
21 too?

22 A Yes, I do.

23 Q And why is that?

24 A Again for the same reason, because Ms. Broussard is
25 Black and I'm White and I felt that he felt that I was

1 securing favors by doing something for Ms. Broussard that
2 I normally wouldn't have done.

3 That was also true as far as, I think I mentioned
4 earlier about a visitation that I had that was terminated
5 because, well, the man that had come to see me would
6 sometimes bring a lot of money and he would be flashing and
7 all this, and Mr. Geisenhoff ~~showed~~ immediate disapproval
8 of this visit, I did not know, I can not really sit here
9 and say that that was the reason -- that he was the
10 reason that this was pulled but I do know that he showed
11 remarkable dislike that I was having a visit, and that
12 the visit was terminated and I was given no reason except
13 for administrative reasons.

14 Q You mean visitation was terminated, you mean that
15 particular visitation or the right of that person to visit
16 you in the future?

17 A The right of that person to visit me in the future
18 or correspond with me in any way.

19 Q What is the ethnicity of that person?

20 A He's Black.

21 Q Ms. Broussard, I think there was one other incident
22 involving you in being sentenced to isolation concerning an
23 inmate in August, I think August 17, 1973.

24 And before we get into details I wondered if you first
25 felt that this incident was racially motivated also, or the

1 decision of the disciplinary committee?

2 A. (By Ms. Broussard.) I couldn't say because a girl
3 went home that she got paroled home, we both received 15
4 days, and within four days she got paroled home and I
5 stayed in isolation for the rest of those 15 days.

6 Q She was paroled?

7 A Yes.

8 Q Now, in all these incidents that both of you have
9 related, is it my understanding that Mr. Geisenhoff sat on
10 the disciplinary committee?

11 A On that one I don't think he did.

12 Q But on the other incidents that you've related, was
13 he on the disciplinary committee?

14 A Yes.

15 Q Were all the other members of the disciplinary com-
16 mittee the same or did they change from incident to
17 incident?

18 A Yes.

19 Q Is that true with you, Ms. Smith?

20 A (By Ms. Smith.) Yes.

21 MR. MORAN: Mr. Chairman?

22 THE CHAIRMAN: Yes, sir.

23 MR. MORAN: Once again I'm at a loss with regard to
24 procedure here. I don't for a minute question the veracity
25 and the sincerity of the statements of the women from the

1 institution. However, since I think this is, you know,
2 still America and there is a law and whatnot, I feel that
3 as a result of what's been said here and what may be
4 said later on in the hearings, that we are being put in a
5 very unbalanced, unfair and illegal situation in that
6 specific instances are being brought up of which we have no
7 prior knowledge, which we have not been able to research,
8 which has not allowed us to get into the precise details
9 of the kinds of situations that are now being brought up.

10 We have with us, really only the major supervisory
11 administrator people, we do not have the line staff that
12 would likely have been involved in these precise situations.
13 And as I said in my original presentation, we do not; in
14 fact, have fixed, rigid penalties, that the precise nature
15 of each situation and the individual involved, is a con-
16 sideration.

17 So, we don't see how we can proceed under these
18 circumstances if people are going to pull rabbits out of
19 hats and that we're not given fair warning. Even the
20 most difficult of offender prior to going to court, knows
21 what he's to be -- what the allegations are.

22 We have only generalities again, we have no way to
23 respond, we're not wanting to get into a debate with the
24 inmates, and incidentally, we did not have anything to say
25 about who would come here, we were very free in that regard.

1 These are in effect, the Commission staff witnesses,
2 I don't think that legally and in fairness and in common
3 sense and with a view toward the human civil rights of my
4 people that we can proceed under such circumstances until
5 we get some kind of a definitive statement on behalf of
6 the Commission as a whole, and particularly with respect
7 to what other matters of a similar nature are likely to be
8 brought up that we can properly prepare for.

9 THE CHAIRMAN: I think it's important for staff to
10 comment briefly, first of all, on the substantive nature
11 of the question you raised about unbalanced, unfair, and
12 illegal, as it relates to the frames of references and
13 parameters, the areas of understanding that were agreed
14 upon by staff.

15 Maybe, do you wish to comment?

16 MR. MUSKRAT: Well, I'd like to comment generally
17 and then I'd like to ask Mr. Levis to comment specifically.

18 I'm sorry to say I must disagree wholeheartedly with
19 you, Mr. Moran, the people who were going to be, or the
20 people where we had some indication that there was going to
21 be testimony that would defame or degrade them were sent
22 written notices of this. And --

23 THE CHAIRMAN: At least the people, you mean staff.

24 MR. MUSKRAT: How long ago was that, Bill?

25 MR. LEVIS: That was approximately two and a half to

1 three weeks ago.

2 MR. MORAN: Yes, I would acknowledge it very clearly.

3 MR. MUSKRAT: May I finish, please?

4 MR. MORAN: Do I know they're going to come up with
5 an October 10th incident, October 10th incident, January
6 20th incident? No, we don't have that kind of detail, it's
7 humanly impossible for anyone who deals in such a number
8 of matters of this type to have responses to that precise
9 a situation immediately at hand.

10 MR. MUSKRAT: Mr. Moran, this is a meeting of the
11 State Advisory Committee to the U.S. Commission on Civil
12 Rights, and I must insist that it be an orderly meeting.
13 And I must insist that, if I have the floor, that you allow
14 me to retain that until after I finish.

15 Now, the people, the staff who we felt there was a
16 possibility was going to be defamed and degraded were sent
17 notices of this testimony, two to three weeks before this
18 hearing. They have appeared with members of the state
19 advisory committee in executive session, and they heard
20 this testimony and were given a chance to respond.

21 Now, Bill, is it my understanding that Mr. Moran was
22 sent these letters of defame and degrade letter notices too?

23 MR. LEVIS: Mr. Chairman and Mr. Muskrat, Mr. Moran
24 and the director of the various institutions plus the staff
25 members possibly defamed or degraded were sent these notices

1 two or three weeks ago with the request for information
2 relating to these charges.

3 Also approximately two weeks ago, the department of
4 corrections was sent a list of all inmates who would be
5 asked to testify. And it was also given to the department
6 of corrections after we looked at this information, and
7 they were given specific names approximately two weeks ago
8 of the inmates who would testify and I explained to
9 Mr. Moran and his assistant on the phone that they would
10 explain to the inmates would be testifying, also, yesterday,
11 I indicated to the department of corrections those particular
12 inmates.

13 Also, in closed session, the person possibly de-
14 famed had information relating to these particular incidents
15 after they related to, by the persons who have so testified
16 today.

17 So, I can not see how the department of corrections
18 has not been prepared for this testimony, especially since
19 they responded to the testimony and the particular incidents.

20 MR. MUSKRAT: Mr. Moran, what we have done is we have
21 gone further than what the law requires us to do in an
22 effort to be fair, not only to you, the department of
23 corrections, but to the staff members who were involved in
24 this.

25 MR. DUKE: Mr. Chairman, in the interest of decorum,

1 could I specify what our objection is and file it, pursuant
2 to your rule 702.6, executive session, on this particular
3 thing?

4 And again we're talking in terms of generality
5 like we were earlier when we're talking about the formation
6 of the membership of an executive session.

7 Here it reads...that a brief summary of the in-
8 formation which the Commission has determined may tend to
9 defame or degrade or incriminate such person shall be
10 supplied to him.

11 We have exactly that, in the case which we are
12 presently dealing with, a brief summary, if you could call
13 it that.

14 With regard to what we've been talking about here,
15 there are allegations that as chairman of the disciplinary
16 committee, Mr. Geisenhoff gave certain inmates harsher
17 disciplinary sentences, that is the sum total of brief
18 summary that we have.

19 Downstairs, during an executive session, for the
20 first time we found and we had specific allegations on
21 specific incidents presented to us, and I refer particularly
22 to things now we're discussing cases which have been in
23 effect tried before the institution's disciplinary committee.

24 At this time, we are hearing one side of that case.
25 We had no idea that these particular incidents were going to

1 be raised so that we could present witnesses who could
2 present the other side of the case, which was presented
3 at that time, and I don't see how anyone can make a fair
4 judgment on the determination made by the hearing officers
5 without hearing both sides of the issue.

6 That's our specific objection, is to any testimony
7 with regard to cases from the disciplinary committee.

8 And we would like to have that as a standing objec-
9 tion to any further testimony on the same regard.

10 MR. LEVIS: Mr. Chairman, if I could briefly respond
11 to Mr. Duke's and Mr. Moran's statements, the allegations
12 that were related in the letter were more than those re-
13 lated by Mr. Duke, but that is not the point.

14 The point I think that is of most importance is that
15 the staff, possibly defamed and degraded by this testimony,
16 does have an opportunity to present his or her statements,
17 the information was presented to that person in closed
18 session, the inmates were related to staff, as to who
19 would testify concerning possible defame and degrade testimony.
20 Staff has been notified, staff was prepared to respond to
21 those charges in closed session, all procedures provided for
22 in the statutes and rules and regulations of the U.S.
23 Commission on Civil Rights have been followed and moreso.
24 And in any other incidents where this could possibly occur
25 staff has been notified along with copies of those letters

1 to Mr. Moran.

2 Mr. Moran has been notified, by telephone, in writing,
3 all inmates who would possibly testify, and as far as
4 anything that is not permissible by the regulations or the
5 statutes, the Commission has not done anything that would
6 be in violation of the statutes.

7 It's our opinion, the opinion of the general counsel's
8 office of the Commission, that the Commission has done
9 more than is provided for under the law, and one thing that
10 must be pointed out is that staff will have the opportunity
11 after the testimony is concluded, to present their side
12 of the story.

13 Present anything into the record and if anything can
14 not be provided today they will have several weeks, up to
15 30 days to add anything to the record, to clarify it,
16 and as I understand it, staff is fully prepared to answer
17 those charges.

18 MR. MORAN: Mr. Chairman, am I to conclude from that
19 that if there are likely, during the continuing course of
20 this hearing, to be specific dates, specific people,
21 specific incidents brought up in this fashion, that the
22 spirit is such here that you won't tell us ahead of time
23 so that we can get working on it tonight?

24 THE CHAIRMAN: I would think not, Mr. Moran, actually,
25 in the parameters established in terms of our relationship

1 with the criminal justice system, we try to be rather
2 specific about the questions that would be asked, even
3 though legally and I think we have stuck rather closely to
4 them, we could ask some peripheral-type questions.

5 We also try to identify those possible questions
6 whereby an individual may be defamed or incriminated or de-
7 graded, and also provided an opportunity at the time to
8 be aware of those and to gather the information in order
9 that if it was -- if the questions actually were raised
10 in the open hearing, he'd have an opportunity to respond.

11 This is why we've been downstairs working through
12 the issues of the possible questions that could defame,
13 etcetera.

14 So, I would suspect that the relative agreements
15 that we have reached about the way that we would respond
16 and we would interact in these hearings, I would suspect
17 that we're living up to those, and I would suspect that
18 we will continue to live up to those agreements.

19 MR. MORAN: Mr. Chairman, there may be issues raised,
20 then, that might require us to go in to an executive session
21 so that we can properly prepare. If something is just
22 bombed out there, and we're unprepared, it could very well
23 be that we need time to respond.

24 MR. LEVIS: Mr. Chairman, could I answer that?

25 THE CHAIRMAN: Yes.

1 MR. LEVIS: As provided for in the rules and regu-
2 lations and the statutes, and as I think you explained in
3 your opening remarks, if anything comes up at the opening --
4 at the open meeting which is unexpected, which tends to
5 defame, degrade or incriminate anyone, the Chairman must
6 first warn that person to cease in that testimony, and if
7 it continues, to dismiss that person, but if the information
8 so provided by the person, the person's statement has any
9 substance at all, the Chairman must ask the subcommittee
10 responsible for that panel, to go into closed session.

11 At that time, again, the staff which will possibly
12 be defamed, degraded or incriminated, will have a chance
13 to respond. If at that time the department of corrections
14 feels it needs more time to respond, I think we can deal
15 with that question.

16 MR. MORAN: What would be the answer to that, please?

17 MR. LEVIS: If you needed documents --

18 MR. MORAN: If we needed more time to properly respond.

19 MR. MUSKRAT: Mr. Moran, I'm certain that if some-
20 thing came up that was unexpected, in this hearing, and you
21 needed more time to respond, I can't speak for the Committee,
22 but I can certainly speak for the staff and it would be
23 our recommendation to the Committee that you be allowed that
24 time to respond.

25 MR. MORAN: So that matter would be tabled until such

1 time?

2 MR. MUSKRAT: That matter would be tabled, now that
3 would be my recommendation to the Committee.

4 MR. MORAN: Thank you.

5 MR. MUSKRAT: But now, on all of the things that we
6 have sent defame and degrade letters on, all of the antici-
7 pated testimony, we intend to -- it would be my recommendation
8 to the Committee that we hear that testimony today if the
9 Committee in executive session finds that that testimony
10 can be supported.

11 MR. MORAN: We are prepared to discuss anything that
12 was specifically outlined in the letters which I agree were
13 sent to us, but we're not prepared to discuss other things
14 that we're completely unprepared for.

15 MR. LEVIS: Mr. Chairman.

16 THE CHAIRMAN: Yes.

17 MR. LEVIS: That is also our position and we, of
18 course, feel we've complied with that fully and more than
19 to the letter of the law.

20 MR. DUKE: We still have our objection standing as
21 to testimony on the -- testimony as to disciplinary court
22 actions?

23 THE CHAIRMAN: Yes, we'll make that part of the record,
24 but I've examined a letter here to one of the staff members
25 at the Arizona State Penitentiary, regarding the testimony

1 that has been made, and in my judgment, actually, even
2 though it may have been relatively general, and dates not
3 specifically identified, but all of the questions that
4 have been asked by the ladies appear to me to be in order
5 and certainly legitimate.

6 Therefore, we will continue with the hearing.

7 Are there any other questions that anyone of the
8 Committee has to ask?

9 MR. GOFF: Yes, could I ask a substantive question?

10 THE CHAIRMAN: Certainly.

11 MR. GOFF: Of any member of the panel.

12 How many members are there on the discipline courts?

13 A (By Ms. Broussard.) Three.

14 Q (By Mr. Goff.) There are three individuals on the
15 court, who make a decision as to what the discipline will
16 be?

17 A Yes.

18 Q So this is a joint operation of three individuals?

19 A Yes.

20 Q Secondly, how many Blacks are in the institution at
21 the present time?

22 A I think there's 14.

23 Q There are 14.

24 Ms. Richardson, do you feel that there is a general
25 discriminatory -- racially discriminatory practice in the

1 institution?

2 A. (By Ms. Richardson.) Beg your pardon, I didn't
3 hear your question.

4 Q. Do you feel there is generally a racial discriminatory
5 practices in the institution, without being specific?

6 A. Well, no, I'll tell you why, I have had, I guess
7 more writeups than anyone there, and to me, now I'm only
8 speaking for myself, I'm 43 and I've always had to fight for
9 my rights, no matter where, inside or out.

10 And in the courts in Florence I fight them very
11 hard, when I go to the disciplinary board. And I have to
12 say that my sentences has been very fair.

13 Q. So you think that the disciplinary board, in your
14 instances, which have meted out disciplinary actions have
15 done it based upon your actions rather than upon the fact
16 that you are Black?

17 A. Black, right.

18 MR. GOFF: Thank you.

19 MR. ZAH: Mr. Chairman.

20 THE CHAIRMAN: Yes.

21 MR. ZAH: I have really two questions, make it
22 short and just a point of information.

23 Q. (By Mr. Zah.) What is the maximum penalty for incidents
24 that you have described in your rule books?

25 A. Well, are you speaking to me, sir?

Bond

COTTON FIBER

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Q Yes.

A I have violated just about every one of them, I guess.

Q What is it, in terms of days, you know, I think Ms. Broussard was talking about 15 days?

A Well, I had a fight and I did receive 15 days and we were both sisters and we both got 15 days.

Q The next question is, how many Native Americans are at the women's institution?

A Well, now, when you say Natives, I don't know how many foreigners we have, to my knowledge, none.

THE CHAIRMAN: He means Indians, American Indians.

A Oh, I think we have three.

MR. ZAH: Thank you.

A And none of them have been to isolation.

THE CHAIRMAN: Are there any other questions by members of the Commission?

REP. McCARTHY: Mr. Chairman, I have a point of order, are we going to hear from Mr. Geisenhoff now, in rebuttal?

THE CHAIRMAN: Yes, I think rather than go to lunch we ought to hear him.

REP. McCARTHY: That would be my request.

THE CHAIRMAN: Thank you, Ladies, for your testimony.

The next item will be the testimony of staff, which includes Ms. Marjorie Ward, Ms. Mercy Johnson, Ms. Linda Blatt

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1 and Mr. Richard Geisenhoff.

2 MR. DUKE: Mr. Chairman, could we have approximately
3 two minutes just to confer?

4 THE CHAIRMAN: Certainly.

5 MR. DUKE: Not to leave, just briefly confer.

6 THE CHAIRMAN: Are you ready, Mr. Duke?

7 MR. DUKE: Yes, we are, I'm sorry.

8 THE CHAIRMAN: May we ask of each of those who will
9 testify to give their name, the address and occupation,
10 please, for the record?

11 MR. DUKE: Excuse me, Mr. Chairman, I hate to
12 interrupt, do you have any other need of the four women who
13 just testified? We'd like to feed them.

14 THE CHAIRMAN: Just a minute.

15 MR. LEVIS: Not that I know of.

16 MR. DUKE: We'd like to get them fed, that's all.

17 THE CHAIRMAN: No.

18 MS. JOHNSON: Mercy Johnson, Florence, Arizona.

19 THE CHAIRMAN: And the position you are -- nurse?

20 MS. JOHNSON: A nurse at the women's division.

21 THE CHAIRMAN: Thank you.

22 MS. BLATT: Linda Blatt, Correction Officer, Florence,
23 Arizona.

24 MS. WARD: Marjorie Ward, Administrator, women's
25 division.

1 THE CHAIRMAN: Arizona State --

2 MS. WARD: Arizona State Prison.

3 MR. GEISENHOFF: R.K. Richard Geisenhoff, Assistant
4 Administrator, of women's prison, Florence, Arizona.

5 THE CHAIRMAN: Are there any questions any Commission
6 member wishes to raise?

7 REP. McCARTHY: Mr. Chairman, I would like to question
8 Mr. Geisenhoff first, if I might, please, about the alle-
9 gations that have been raised against him by two of the
10 women inmates.

11 Q (By Rep. McCarthy.) First of all, Mr. Geisenhoff,
12 would you respond to the executive session that we held
13 downstairs this morning where certain allegations were made,
14 you did present or had some evidence there before you, is
15 that correct?

16

17

18

RICHARD GEISENHOFF

19

20 A (By Mr. Geisenhoff.) Rep. McCarthy, I received this
21 letter from the Mountain States Regional Office of the
22 United States Civil Rights Commission on March 5th, and
23 the allegations I would like to read into the record at
24 this time. May I?

25

Q Mr. Chairman, Mr. Levis, before -- I think I can

1 respond to that.

2 We do have a copy of the letter that you received
3 and it's my intention to ask you to identify all of these
4 papers that you have submitted to the Civil Rights Commis-
5 sion along with all of the violations and with an asterisk
6 indicating the disciplinary committees upon which you sat
7 and I would ask that all of these are entered into the
8 record as Exhibit Number 6.

9 Is that all right with Mr. Duke?

10 MR. DUKE: I would request that certain of those be
11 allowed to be read into the record, this is a public forum
12 and submitting an exhibit, since we do have some public
13 here, we'd like everybody to be informed as to what they
14 are.

15 And with regard to the allegations it's only a brief
16 paragraph and this isn't because -- we realize you're in-
17 formed on that, we would just like to be able to put the
18 entire proceedings with regard to Mr. Geisenhoff in
19 perspective, time-wise, as far as the nature and also as
20 to the nature of the allegations.

21 MR. LEVIS: Mr. Chairman, I think we've gone over
22 this issue sufficiently with Mr. Moran and Mr. Duke before,
23 I don't see any purpose that would be served by getting
24 into the same issue again.

25 I think we're more concerned with the charges that

1 were raised by the two inmates and I think that is the
2 important thing that should be discussed before this
3 Committee.

4 MR. DUKE: We didn't intend to raise this as an
5 objection, but just as part of his response.

6 REP. McCARTHY: Mr. Duke, would it meet with your
7 approval if we asked a series of questions of Mr. Geisenhoff
8 and by his response answer all of the allegations that
9 have been raised?

10 At the same time introducing these various items
11 into the record, and I've been told they're Exhibit 9
12 rather than 6.

13 MR. DUKE: Fine.

14 REP. McCARTHY: Would that meet with your approval?

15 MR. DUKE: All we would request is that all of the
16 allegations of which Mr. Geisenhoff is informed
17 either through your questions or his reading it, whichever
18 way, he'd like to make a statement of what he came here
19 prepared to defend.

20 REP. McCARTHY: Before we ask some questions, would
21 you like to make a statement --

22 MR. DUKE: This is part of it, is developing what he
23 knew about when he came here today.

24 REP. McCARTHY: Well, Mr. Geisenhoff, then, before
25 I begin to ask questions about the allegations leveled by the

1 two inmates, would you like to make an opening statement?
2

3 A I received this letter from the United States
4 Civil Rights Commission on March 5, 1973, approximately
5 nine days ago. The allegations I found to be extremely
6 general, and I was -- found it very difficult to prepare
7 a proper defense of these allegations.

8 In response to the charge that I harass minority
9 inmates I would like to either read or offer or have you
10 read into the record, my letter that I wrote to the Civil
11 Rights Commission.

12 Would this be all right with you people?

13 Q (By Rep. McCarthy.) Well, we are going to make that
14 a part of the record anyway, Mr. Geisenhoff, and what I
15 would prefer to do is after you make your opening statement
16 ask you some specific questions regarding those allegations.

17 MR. DUKE: I would only like to raise one point,
18 I was informed by Mr. Levis downstairs that with regard
19 to this particular part of his submissions that there
20 would be a chance to read it into the record, did I mis-
21 understand you, Bill?

22 MR. LEVIS: I think the point I was making downstairs
23 is that as part of his response at the closed session, if
24 we had time he was going to read that, but as far as the
25 open session, I think it would be best because of the length
of his response, to have Mr. Geisenhoff summarize it briefly

1 and then submit the total document into the record.

2 If that is fine with Mr. Geisenhoff.

3 MR. DUKE: He can summarize it, it may take him a
4 bit of time, there's quite a bit of material there.

5 THE CHAIRMAN: Mr. Moran?

6 MR. MORAN: Mr. Chairman, admittedly there's con-
7 siderable time involved, but all we ask is equal time as the
8 saying goes, and I think Mr. Geisenhoff has put together
9 some things here that are significant to an understanding
10 of him as a person and his attitude.

11 THE CHAIRMAN: How many pages is it, Mr. Geisenhoff?

12 A It's two and a half.

13 THE CHAIRMAN: Fine, proceed.

14 A Okay.

15 This letter was dated March 11, 1974, addressed to
16 the U.S. Civil Rights Commission and --

17 DR. GLASS: Pardon me, could you put the microphone
18 up closer? I can't even hear you.

19 A It's as follows: "Dear Sirs. This response is in-
20 tended to negate the allegations that I, one, harass minority
21 inmates and nonminority inmates who are married to or
22 associated with minorities. And two, that as chairman of
23 the disciplinary committee, you give such inmates harsher
24 disciplinary sentences than nonminorities for the same or
25 similar offenses.

1 "These allegations were leveled against me in the
2 letter which I received from the Civil Rights Committee
3 on March 5, 1974. For me to present tangible evidence that
4 I do not harass minority inmates in the time available
5 would be extremely difficult or impossible.

6 "Therefore, all that I can do is to state unequivocally
7 that any and all decisions that I have made in the past
8 and will make in the future, regarding inmates or policy,
9 are not intended to discriminate against anyone because
10 of race, religion or national origin.

11 "Perhaps a brief description of my family's activities
12 will help you in your determinations of the veracity of
13 this first allegation.

14 "Last year my wife taught a federally funded pre-
15 school program for the underprivileged children in Coolidge,
16 Arizona. In her classroom she had children from a wide
17 range of ethnic background, Black, Mexican-American, Native
18 American and White.

19 "Prior to her teaching in Arizona she taught in
20 Minneapolis in a target area school for nine years. Currently
21 my wife is enrolled in a college level Spanish class for
22 the main purpose of learning enough Spanish to enable her
23 to better communicate with her Mexican-American students
24 and with their parents.

25 "This is being done in night school at our expense.

1 " My oldest daughter, who is a high school student
2 and speaks fluent Spanish, is tutoring a group of children
3 from mixed ethnic backgrounds. She teaches them Spanish
4 for a half-hour every day.

5 " My youngest daughter's two best friends are Mexican-
6 American.

7 " Last October we invited a foreign exchange student
8 from Cali, Colombia, to live in our home. Maria is loved
9 and treated the same as one of our own daughters.

10 " In response to the second allegation, that I give
11 harsher disciplinary sentences to minority inmates and to
12 nonminority inmates who are married to or associate with
13 minorities, I will try to give a brief description as to
14 how the disciplinary process works. In my brief -- in my
15 belief that this explanation will help to negate the
16 second allegation.

17 " During the course of the day every staff member
18 observes many institutional rules being violated. The
19 vast majority of these infractions are minor in nature and
20 are resolved in an informal manner by simply talking with
21 a particular inmate or inmates involved. The decision as
22 to whether a rule violation will be handled in an informal
23 manner or referred to disciplinary committee, is usually
24 determined by the staff member who observes the incident.
25 If the staff member observing the incident believes that it

1 is of a serious nature or that the particular inmate has
2 been forewarned and intentionally broke the rule , she will
3 bring formal rule infraction charges against the inmate.

4 "This report is then referred to the director,
5 Ms. Ward. If it is the opinion of Ms. Ward that the situ-
6 ation can best be resolved by informally talking to the
7 inmate herself, she does so. Then Ms. Ward will either
8 give the inmate a verbal or written warning, destroy the
9 report or refer it to the disciplinary committee for
10 formal action.

11 "The disciplinary committee is made up of three
12 members, one from care and treatment, one from custody and
13 a third member whenever possible from a department other
14 than custody.

15 "No staff member that was involved in the incident
16 or its investigation may be a member of the disciplinary
17 committee.

18 "Prior to appearing before the disciplinary committee
19 each inmate is informed of her minimum constitutional
20 rights. After hearing the testimony given by the staff
21 member and the inmate, the committee has both the right
22 and the obligation to dismiss the charges against the inmate
23 if it feels the decision would be appropriate. If the in-
24 mate is found guilty by the majority of the committee
25 members, then the particular sanctions are decided by a

1 majority vote of the committee members.

2 "The decision of the disciplinary committee is not
3 always final. The prison superintendent also has a right
4 to veto any and all actions taken by the committee. If
5 the inmate feels that justice was not afforded her during
6 the hearing for any reason, or if she feels that the
7 sanctions imposed were too harsh, then she has a right to
8 appeal her case to the appeal officer in Phoenix.

9 "If the case is appealed, all notes and tape re-
10 cordings of the hearing along with a list of the inmate
11 reasons for appeal are referred to this appeals officer.
12 Although the whole procedure might appear to be unwieldy,
13 it was designed to protect the constitutional and civil
14 rights of all inmates and has been approved by Judge Copple
15 of the U.S. District Court.

16 "No one committee member, including the chairman, has
17 the authority to impose his or her findings or sentence on
18 a particular inmate without the support of at least one
19 other committee member. This eliminates the chance of any
20 one committee member from acting in a capricious and irre-
21 sponsible manner."

22 THE CHAIRMAN: Do you want to proceed with your
23 questions?

24 Q (By Rep. McCarthy.) Thank you, Mr. Chairman.

25 Mr. Geisenhoff, would you also read into the record,

1 the cover letter on the actions taken by the disciplinary
2 committee and then we can talk specifically about the
3 allegations brought.

4 A. Okay, this letter was dated March 11, 1974,
5 addressed to Mr. William H. Levis, Regional Attorney of
6 the U.S. Civil Rights Commission in Denver.

7 "Enclosed, as you requested, is a list of all
8 sanctions taken by the disciplinary committee in the women's
9 division since July, 1973. Items marked with an asterisk are
10 decisions in which I was involved. If you have any further
11 questions concerning this matter, please feel free to
12 contact me at the women's division. R.K. Geisenhoff."

13 Q Thank you, Mr. Geisenhoff.

14 A. If I might add, we have one correction to make in
15 the list, it's regarding inmate number 31127, Betty Joe
16 Rogers. The date that she appeared in court was October
17 17, 1973, she's listed as a Black inmate. There is no
18 asterisk by her name and there should be because I was in-
19 volved in that decision also.

20 Q Thank you very much, Mr. Geisenhoff.

21 Now to the specific allegations.

22 Ms. Broussard mentioned that she felt that she was
23 being discriminated against because in a case where she was
24 cited for fighting with a Mexican, and in another incident
25 where a White and a Mexican were involved in a fight,

1 Ms. Broussard was given 15 days in isolation and in the
2 other incident, the two women were only given ten days in
3 isolation.

4 She felt that this was discriminatory. Could you
5 reply to that, please?

6 A This was the incident regarding the fighting you say?

7 Q Yes, sir.

8 A Okay.

9 First of all, I'd like to say that it's difficult
10 to take any one single case out of context. The sentences
11 imposed by the disciplinary court are based on a number of
12 different things, one of them being prior record.

13 The situation involving Olivia Broussard and fighting
14 took place in the dormitory in which, if I might just read
15 part of it here, "I stepped into the day room and called to
16 Olivia to be quiet and they stopped. I went to the closet
17 and looked for a game. When I started back to control I
18 saw Olivia Broussard standing over Frances Corancho
19 (Phonetic), they were both shouting and knocking over
20 chairs.

21 "I hurried into control to call the guards from across
22 the street. Sgt. Craig in first as I got to the phone and
23 she said call the guards. Both inmates stopped fighting
24 and I told Sgt. Craig to take them -- and I got -- excuse
25 me. And told Sgt. Craig to take them to isolation."

1 The "I" is not me, it's the reporting officer, in
2 this particular case a Ms. Leona Watts.

3 The other fight that you refer to --

4 Q I believe that was Ms. Jimenez and --

5 A Yes, that's correct.

6 This was written by Officer, or Sgt. Craig. "At
7 approximately 5:45 p.m. I, Sgt. Craig, "was entering the
8 yard from dorm. 1. I could hear somebody cursing. I
9 checked around the corner of dorm. 1, east wing. Inmate
10 Susan Jimenez and Shirley Smith were physically encountered
11 in a fight. I called to both inmates by name to stop
12 fighting. And both inmates were confined in isolation."

13 In both cases the inmate pleaded guilty in disciplinary
14 court. And in -- I was the only member that happened to
15 sit in on disciplinary court on both of these two cases,
16 the other two court members were different in both cases.

17 Q Mr. Geisenhoff, it was brought up in executive
18 session and I think it's worthy of telling here, before the
19 entire Committee, that there does seem to be a distinction
20 at the women's prison for fighting indoors and fighting
21 outdoors, would you care to --

22 A Not necessarily fighting indoors and outdoors but
23 depending upon how explosive the situation might be.

24 In the first case, where Olivia Broussard was fighting
25 indoors there were chairs being thrown around many other

1 inmates and it could have resulted in a tragedy if other
2 inmates joined in.

3 Like I say, I, myself, did not witness both situations,
4 and I don't know exactly what the situation was in the
5 fight outside. If it was significantly different or not.

6 But at the time that these inmates appeared in
7 court, we felt that it was different enough to warrant
8 different sentences in isolation.

9 Here again, the witnesses have the right, the in-
10 mates have the right to call witnesses on their behalf,
11 both staff and fellow inmates at their court hearing.

12 Q. Were either of the incidents that have been mentioned
13 here, appealed by the people cited?

14 A. Let's see.

15 On the Broussard's case it was not appealed, and
16 also on the Jimenez and Shirley Smith fight, it was not
17 appealed either.

18 REP. MCCARTHY: Mr. Levis, are there any other
19 questions you'd like to ask regarding that incident?

20 MR. LEVIS: Yes.

21 Q. (By Mr. Levis.) Mr. Geisenhoff, could you give us
22 the ethnicity of Shirley Smith and Susan Jimenez?

23 A. Well, Shirley Smith is Caucasian, Susan Jimenez is
24 Mexican-American.

25 Q. And you were the only staff person involved in both

1 decisions?

2 A. Right.

3 Q. And those are the files of those decisions in front
4 of you?

5 A. Yes.

6 Q. And you stated that for Shirley Smith and Susan
7 Jimenez they were given ten days in isolation?

8 A. That's correct.

9 Q. And for Olivia Broussard and Ms. Corancho, it was
10 15 days in isolation each?

11 A. Yes, that's correct.

12 Q. And the incident involving Olivia Broussard and Ms.
13 Corancho, you said occurred inside?

14 A. Yes.

15 Q. To the best of your recollection?

16 A. As I read from the record here, yes.

17 The chairs were, both were shouting and knocking
18 over chairs.

19 Q. Does it indicate whether other people were present?

20 A. No, it doesn't.

21 Q. Now, the incident outside, is there any indication
22 as to whether there were other people around or if anything
23 occurred besides the fighting, or were the persons' clothing
24 torn up as I think Ms. Broussard alluded to?

25 A. No, no mention that clothing was torn, I'm reading off

1 the record on Shirley Smith.

2 Q It just indicates that they had a fight outside?

3 A Yes.

4 Q That is the sum total of what it indicates?

5 A Yes.

6 As in the Copple decision, it just calls for a
7 brief description of the incident, here again the inmates
8 gave testimony at the hearing.

9 Q And you stated that the reason for the different
10 sentences is because in the estimation of the two disci-
11 plinary panels, they were incidents of different degrees?

12 A I offer that up as one possibility.

13 The other possibility could be the composition of
14 the board members, another possibility could be previous
15 records, prior records within the institution. A number
16 of different possibilities.

17 At that point in time, though, the committee members
18 decided to give 15 days to Broussard in this case and
19 Shirley Smith in --

20 Q For various possible reasons?

21 A Yes.

22 Q Because it was brought up and only because it was
23 brought up, was one of those reasons because of racial
24 differences?

25 A Absolutely not.

1 MR. LEVIS: Okay.

2 Rep. McCarthy?

3 REP. MCCARTHY: No, I don't have any further
4 questions, you may continue.

5 MR. DUKE: Mr. Levis, could I direct --

6 MR. LEVIS: Mr. Duke, do you have any questions
7 relating to this incident?

8 MR. DUKE: Yes, specifically to, is this incident and
9 some things directly on point, I believe, I'd just like
10 to clarify a couple of things with a couple of questions.

11 MR. LEVIS: As long as Mr. Duke is identified for
12 the record.

13 MR. DUKE: Mr. Geisenhoff, could you explain what
14 you have before you at this time, the record?

15 A. I have a Xerox copy of the report submitted by the
16 officer. And a one-sentence summation of the sentence
17 imposed.

18 MR. DUKE: Mr. Geisenhoff, when the committee makes
19 a determination on sentence do they have more before them :
20 than what you have now?

21 A. Yes, we have the records, we have, of course, the
22 testimony that's given at the hearing, too.

23 MR. DUKE: So then, would it be fair to say that
24 because you don't have the rest of the record which was
25 before you, that that's what makes it difficult to determine

1 what the sentence was?

2 A. That's correct.

3 MR. DUKE: You can't refer to priors, etcetera?

4 A. Right.

5 MR. LEVIS: Mr. Duke, do you have any other ques-
6 tions relating to that?

7 MR. DUKE: No, I just wanted to clarify that. There
8 was more before him at the time than there is now.

9 MR. LEVIS: Thank you.

10 Q (By Mr. Levis.) Mr. Geisenhoff, there was several
11 other incidents which were alluded to by, testified to by
12 Ms. Broussard and Ms. Smith, and one specific incident
13 which both of them were involved, concerns the August 10th
14 rule violation. I think it's a 206, which is immorality, I
15 think, under the old rules, which were in effect at that
16 time?

17 A. Yes.

18 Q Could you explain the reasoning for the disciplinary
19 decision and whether you served on the disciplinary
20 committee?

21 A. This is the August 10th, 1973 situation you say?

22 Q Right, right, refers to I think both Elizabeth Brous-
23 sard and Rita Mae Smith.

24 A. Okay.

25 Olivia was received at the institution on July 18, 1973.

1 On or about that date, Ms. Ward had a discussion with
2 Olivia regarding her homosexual behavior. Or history of it.
3 She warned Olivia Broussard or cautioned her that this
4 wouldn't -- that this was not an acceptable form of be-
5 havior in the institution.

6 Q Excuse me, Mr. Geisenhoff, were you present at that
7 discussion or did Ms. Ward relate that to you?

8 A I think that I was in the room but I don't remember
9 all the details about it. I may not have been, though,
10 I -- I'm just not that clear on it.

11 Q Ms. Ward, if there are any differences, you just let
12 us know, I'll appreciate it.

13
14
15 MARJORIE WARD

16
17 A (By Ms. Ward.) Well, as I remember, most of the
18 time when inmates come in he's usually at the next desk.
19 I couldn't say for sure, but I related to him, even before
20 this came up, exactly what I had stated to Olivia because
21 these type of things do cause problems in the prison.

22 And before they get involved in it, they should know
23 the consequences so that we're fair with them.

24 Q (By Mr. Lewis.) Okay, now Mr. Geisenhoff, relating
25 to the August 10th incident?

1 A (By Mr. Geisenhoff.) Okay.

2 Approximately two weeks after this, Olivia Broussard
3 was written up for this rule violation of engaging in
4 some immoral behavior, as is described in the rule book as
5 immoral behavior.

6 Q And what was the behavior she was written up for
7 and also Rita Mae Smith, is that correct?

8 A They were kissing, they were engaged in a very
9 passionate kiss, as the report shows.

10 Q Now, as I understand it, you sat on the disciplinary
11 committee that rules on the violations?

12 A That's correct, I did.

13 Q And what was the result of that committee's decision?

14 A Fifteen days isolation.

15 Q For both?

16 A For both, yes.

17 And the subject did appeal the decision, and it
18 was denied.

19 Q Which subject?

20 A Olivia Broussard appealed the decision.

21 Q Rita Mae Smith did not appeal the decision?

22 A I don't believe she did.

23 Q It's my recollection, from their testimony, that
24 they said that two other inmates, as I remember the same
25 two inmates we talked about before, Shirley Smith and Susan

1 Jimenez were cited for the same rule violation and re-
2 ceived ten days isolation, and you sat, as I understand it,
3 on the disciplinary committee for both?

4 A. Yes.

5 Q. Their infractions?

6 A. Yes, again.

7 Q. Could you explain the incident which resulted in the
8 violation and if there was a difference in the sentence,
9 why there was a difference in the sentence, to the best
10 of your recollection?

11 A. Reading from the report, it's very difficult to
12 determine if there was a significant difference.

13 However, like I said earlier, a number of things
14 go into deciding the sentences, composition of the court,
15 for one thing, prior record, prior warnings, a number of
16 different things.

17 Q. And they were given, as I understand it, that is
18 Susan and Jimenez, were given ten days isolation --

19 A. That's correct.

20 Q. Where Olivia Broussard and Rita Mae Smith were given
21 15 days for A206, which is immorality?

22 A. That's correct.

23 I think it's also important to point out here that
24 between the time of July, 1973, and to date, I am just
25 estimating now, but I think it would be fair to say that

1 I've sat in on perhaps 250 disciplinary court sessions
2 so these court sessions tend to run together. And again,
3 just like any superior court judge, it's awfully hard to
4 determine whether a sentence was appropriate or not just
5 by seeing the rule violation and the sentence given.

6 There's much more to a case than just that.

7 Q As your prior testimony indicated, Shirley Smith is
8 White and Susan Jimenez is a Chicano?

9 A Yes.

10 Q Or a Mexican-American?

11 A Yes.

12 MR. LEVVIS: Regarding this particular incident, I
13 have no further questions, Mr. Chairman, does Mr. Duke
14 have any questions?

15 MR. DUKE: Just two brief ones.

16 With regard to these proceedings, in fact, there is
17 a provision for prosecution, we'll call it prosecution
18 witnesses to appear, staff witnesses, who witness these
19 incidents to appear?

20 A Yes, that's correct.

21 MR. DUKE: And this is another thing that goes into
22 your determination --

23 A Absolutely.

24 MR. DUKE: -- as to the guilt or perhaps the magnitude?

25 A That's right.

1 MR. DUKE: One other point.

2 Under the disciplinary court rules, which as you
3 mentioned earlier, have been approved through the federal
4 court, is there any provision for a particular sentence for
5 a particular violation?

6 A. No, there isn't.

7 MR. DUKE: Thank you.

8 Q. (By Mr. Levis.) Mr. Geisenhoff, pertaining to one
9 of Mr. Duke's questions, he stated that the person charged
10 has a right to request that witnesses appear on that
11 person's behalf, is that correct?

12 A. That's correct.

13 Q. It's my reading from the disciplinary rules, which
14 were admitted into evidence as part of the documents pre-
15 sented by Mr. Moran, that the list of witnesses and I think
16 I'm correct that a summary of their testimony has to be
17 submitted to the disciplinary committee in advance so that
18 the committee can determine whether that information is
19 material to the discussion or to the hearing, is that
20 correct?

21 A. That's correct.

22 MR. DUKE: That's more particularly whether or not
23 it's cumulative.

24 Q. (By Mr. Levis.) I think, if the Chairman will let
25 me for a few minutes, I'd like to read this one sentence from

1 the Arizona State Prison inmates' records manual, which is
2 in a sense the Cople ruling, is that not correct, Mr.
3 Duke?

4 MR. DUKE: That's an attachment exhibit to the
5 stipulated judgment in the class action suit, yes, it was
6 drafted by attorneys representing a class of inmates and
7 by staff of corrections and staff from our office, the
8 attorney general's office.

9 Q. (By Mr. Levis.) And was approved by Judge Cople?

10 MR. DUKE: Correct.

11 Q. (By Mr. Levis.) It's my understanding that III,
12 Section E6, which is the conduct of disciplinary hearings,
13 states that the number of witnesses to be called and heard
14 shall be at the discretion of the committee in order to pre-
15 vent cumulative or more irrelevant testimony.

16 So, the committee has discretionary powers.

17 MR. DUKE: Correct.

18 Q. (By Mr. Levis.) Okay.

19 Olivia Broussard and Rita Mae Smith also discussed
20 several other incidents that they considered to be dis-
21 criminatory, another one that Olivia Broussard brought up
22 concerned an incident that was heard before the disciplinary
23 committee on August 17, 1973, again relating to immorality,
24 is that not correct?

25 A. That's correct.

1 Q. And it's my understanding that again she was given
2 15 days for this violation, after appealing her initial
3 violation on August 10th?

4 A. One of the reasons why she was given 15 days is
5 just two days after she appeared in court on the first
6 charge, she was written up again for essentially the same
7 charge.

8 We didn't put her in isolation at the time, because
9 we were waiting for her appeal to come back, and it was
10 just a matter of two days before she was written up for the
11 same charge again.

12 Q. And you claim that is the reason you gave her 15 days,
13 one of the reasons you gave her 15 days isolation in the
14 second case?

15 A. That certainly entered into it, yes.

16 Q. Now, it's my understanding also that the inmate that
17 she was involved with, Mary Osmund, is that correct?

18 A. That's correct.

19 Q. Was also given 15 days?

20 A. That's correct.

21 Q. Now, in the information that you submitted to me at
22 my request, am I correct in stating that the, I think it's
23 approximately four pages or five pages that you submitted,
24 that there are no other similar rule infractions besides
25 the ones which we've discussed, that is A206, immorality?

1 A. That I have been involved in?

2 Q. Right, that you've been involved in since July of
3 1973?

4 A. As I said earlier, I've been involved in perhaps
5 250 disciplinary court cases in both the men's and the
6 women's prison and I couldn't possibly estimate how many
7 of these involve this particular rule.

8 Q. Well, based on a reading of the information you sub-
9 mitted to me, it appeared that there's no similar violation
10 to the ones we've discussed-- than the ones we have dis-
11 cussed.

12 A. Let's see, I think this rule violation VI.B8C13
13 concerning -- yes, concerning inmate Sandra Miller and
14 Corky Rojas, a White and a Chicano. And they were given
15 ten days isolation too.

16 Q. Were either of them Black? Was either of them Black?

17 A. No, White and Chicano.

18 Q. Excuse me?

19 A. White and Chicano.

20 MR. LEVIS: Mr. Duke, do you have any questions con-
21 cerning those incidents?

22 MR. DUKE: No.

23 Q. (By Mr. Levis.) The next incident involves both
24 Ms. Broussard and Ms. Smith and it's the December 3, 1973
25 incident, loss of privileges for 30 days, which they talked

1 about, I wondered if you could respond to their allegations
2 concerning the giving of favors. I think is the allegation?
3 Or at least one of the allegations.

4 A They both pled guilty to the charge or at least
5 -- excuse me, Broussard pled guilty to the charge and if I'm
6 not mistaken it was her third time that she had appeared
7 in court.

8 Yes. And I am told also that she did not request to
9 go to the nurse to see the nurse before she laid in sick in
10 the dorm. on that particular day.

11 Anyway, the court sentenced her to loss of privileges
12 for 30 days and she did not wish to appeal the case, she
13 pled guilty and a stipulation was read in that she would
14 be able to go to work, go to meals in the dining room, attend
15 church and attend the Christmas program.

16 So, essentially, what it meant was that it slowed
17 her up during her off hours.

18 Q See, I think there was one more incident, Mr.
19 Geisenhoff, that Ms. Smith discussed, and that was the
20 October 10, 1973, incident, smuggling contraband to Ms.
21 Broussard, as I understand, is that correct?

22 In which she was found guilty and given two counts
23 of 12 days isolation each for a total of 24 days? And I
24 again wondered if you could respond to their allegations?

25 A What was the question now, again, please?

1 Q On October 10, 1973, Rita Mae Smith appeared before
2 the disciplinary board for rule violations A205 and A222,
3 smuggling contraband into isolation, in to -- it would be
4 Olivia Broussard's isolation cell, she was found guilty
5 and given 12 days isolation for each count, total of 24
6 days.

7 A That's correct.

8 The items that she was smuggling into isolation
9 was ten Camel cigarettes, two books of matches and one
10 pill, a pink pill.

11 Q And she was cited for two counts, is that not
12 correct?

13 A That's correct.

14 Q As I understand it they're multiple acts under the
15 Arizona State Prison inmates manual approved by Judge
16 Copple, can be given no more than 12 days in isolation on
17 two or more counts?

18 A Right.

19 MR. DUKE: No more than 15 on any single count.

20 MR. LEVINS: We will get into that tomorrow.

21 Are there any other questions of any other Committee
22 members concerning the allegations?

23 DR. GLASS: Mr. Chairman.

24 Mr. Geisenhoff, it sounds to me like these women
25 must have pretty bad records in that prison, by all the

1 involvement they've been in here.

2 And I can't see continuing talking about this same
3 thing, I'd like to hear some of the history of these
4 women's past performances as prisoners in your -- in
5 your women's prison.

6 My second question is, I would like to get an
7 answer to what isolation is in the women's prison, I've
8 never seen it, I'd like to find out what we're talking
9 about?

10 A First of all, the description of isolation?

11 We have, I believe ten isolation cells located in
12 one building, and they are a closed room and they are used
13 for discipline, disciplinary measures.

14 They have a bed and they have a toilet and a wash
15 basin, staff members visit them very frequently throughout
16 the day. They get the same food as the regular population
17 does, they are allowed showers and exercise three times
18 a week for one hour period. And they're allowed visits,
19 they're allowed to receive mail and send out mail, they're
20 allowed to have reading material.

21 It's just that they're separated from the population.
22 It gives them an opportunity to, as they put it, get
23 themselves together.

24 MR. LEVIS: Mr. Chairman, I think that we have
25 sufficiently covered the background of the inmates we've

1 discussed, all the disciplinary actions taken against them
2 since July, 1973. Mr. Geisenhoff briefly went into their
3 backgrounds and I don't think at this time, we need to
4 raise the total history of an inmate's record.

5 I think we're concerned primarily with allegations
6 raised by the inmates, and any refutation by Mr. Geisenhoff
7 and supporting witnesses concerning those allegations.

8 DR. GLASS: Well, I happen to be, Mr. Chairman,
9 I happen to be on this panel and I asked that question, I'd
10 like to get an answer to it, I feel I'm entitled to it.

11 THE CHAIRMAN: It's within your franchise to ask
12 that question, actually in view of the fact that you did
13 not attend the closed hearing, we were trying to give Mr.
14 Geisenhoff an opportunity to answer the alleged criticisms
15 that were made by the -- by women from the Arizona Prison
16 and that's why we were trying to follow, particularly in
17 the interest of time, it's within your franchise, if you
18 think it's --

19 DR. GLASS: Well, I just felt like there's two
20 sides of the story, we've heard one side. I just wondered
21 what the behavior pattern was as inmates in the prison
22 because as I heard Mr. Geisenhoff say a while ago, that
23 there are other things besides the patients' -- prisoners'
24 behavior pattern in the prison has some bearing on the
25 sentencing.

1 And that's why I was wondering if these women were
2 kind of irritating, keeping the prison in a state of dis-
3 turbance quite a bit of the time, I was curious to know.

4 MR. LEVIS: Mr. Chairman, may I just make one
5 comment?

6 I think that Mr. Geisenhoff has outlined the --
7 Ms. Broussard's behavior since she was admitted to the
8 institution in July, is that correct?

9 A. (By Mr. Geisenhoff.) No, we haven't outlined all
10 the behavior, certainly. There are some inmates in the
11 population, like in the -- there's some inmates in the
12 institution that are very similar to people on the streets,
13 you have a certain percentage that try to push their way
14 around with other inmates in the institution.

15 And these, it is our duty and responsibility to pro-
16 tect all the rights of all the inmates, not just a few.

17 A. (By Ms. Ward.) I have one comment, one allegation
18 that was made against Mr. Geisenhoff and Mr. Geisenhoff
19 wasn't even around at the time Rita Smith testified that
20 she was refused a visit by a Black.

21 And the reason being that he was -- he was -- the
22 police were after him, we had gotten a call from the
23 sheriff's office that we were to turn him in immediately
24 and that's why he was removed from her list.

25 THE CHAIRMAN: Are there questions of the Committee of

1 any of the other members of the panel?

2 Or have we satisfied ourselves that Mr. Geisenhoff
3 has had an opportunity to answer questions?

4 MR. LEVIS: Mr. Duke, do you have any questions?

5 MR. DUKE: I have two questions that relate to this,
6 one for Mr. Geisenhoff and one for Ms. Ward.

7 Mr. Geisenhoff, could you tell me how many men are
8 employed in the women's division?

9 A. (By Mr. Geisenhoff.) I'm the only male.

10 MR. DUKE: As the only male, are you called upon to
11 intercede in the more violent types of activities when
12 they occur?

13 A. I would say it was fair to say that in perhaps 95% of
14 the cases where there is violence being displayed by the
15 inmates, I am called.

16 The only time that I won't be called, is when I'm not
17 physically on the grounds.

18 MR. DUKE: And a question to Ms. Ward, are you
19 aware or have you had any other complaints of this nature
20 filed with you against Mr. Geisenhoff?

21 A. (By Ms. Ward.) I have not any complaints, I think
22 the allegations are ridiculous due to the fact before he
23 came I had a writeup in the Phoenix paper which stated that
24 I was prejudiced and when I came here to Arizona they told
25 me that the job at the prison was a snake pit and that was

1 before I was ever even interviewed for the position.

2 I didn't know the difference between Black, White
3 or whatever before I came here, but they sure put it to-
4 gether now.

5 THE CHAIRMAN: Mr. Duke, do you have other questions?

6 Because what we plan to do is take a lunch break
7 for a half-hour and then we will return, there's some
8 questions that we wish to ask of Ms. Ward, Ms. Platt and
9 Ms. Johnson and perhaps some other questions of Mr.
10 Geisenhoff, that may not be directly related to the alle-
11 gations.

12 MR. DUKE: I would just like to make one comment to
13 Dr. Glass' question.

14 I believe it is well taken to properly evaluate
15 the quality of the sentencing, I think you have to have all
16 the facts before it that the sentencers had, and time
17 limitations perhaps do not permit bringing this all in.

18 However, we just want to -- want everyone to be
19 aware of the fact that not everything has been presented
20 here.

21 THE CHAIRMAN: And what you can do is to enter it
22 into the record as an exhibit.

23 MR. DUKE: We will do so within our 30-day limitation.

24 THE CHAIRMAN: And we are not dismissing the panel,
25 we'll be in session again at 2:30. Thank you very much.

(Noon recess.)