

LA COUNTY CITIZENS' COMMISSION ON JAIL VIOLENCE



MEETING TRANSCRIPT

Unedited Draft – Partial Transcript of Witness Testimony from
CCJV Meeting of August 3, 2012

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1 **HON. LOURDES BAIRD, CHAIR:** WELCOME. CALL TO ORDER. THE MATTER
2 AT HAND IS THE APPROVAL OF THE JULY 27th, 2012, MINUTES. I
3 UNDERSTAND WE HAVE A SPEAKER WHO WOULD LIKE TO SPEAK FOR THREE
4 MINUTES ON THAT. WILL YOU COME FORWARD, PLEASE?

5

6 **ERIC PREVIN:** THANK YOU. GOOD MORNING. MY NAME IS ERIC PREVEN
7 AND I AM THE COUNTY RESIDENT FROM DISTRICT 3 AND I'LL TRY TO
8 STAY WITHIN THE THREE MINUTES. I SIGNED UP ALSO TO HEAR THE
9 REPORT FROM MS. KRINSKY AND MR. DROOYAN BUT I WILL MAKE MY
10 COMMENTS AS BRIEF AS I CAN. FRIDAY, LAST WEEK, THERE WAS
11 TESTIMONY FROM SHERIFF BACA AND THE UNDERSHERIFF MR. TANAKA --
12 WE ALL HEARD IT. IT WAS DISTURBING HOW -- AND I DON'T USE THE
13 TERM DISRESPECTFULLY -- CLUELESS, THE TWO LEADERS CLAIM TO BE
14 REGARDING THESE VERY IMPORTANT ISSUES OF VIOLENCE IN OUR
15 JAILS. I CAN ONLY SAY THAT AT THIS TIME THAT, IN THE
16 BEGINNING, THIS COMMISSION SEEMED TO HAVE A CHARGE THAT SEEMED
17 ALMOST UNFATHOMABLE BECAUSE YOU DON'T HAVE ACTUAL FINDING
18 AUTHORITY. THIS IS NOT A COURT OF LAW WHERE PEOPLE TESTIFY AND
19 YOU PROVIDE SOME SORT OF A JUDGMENT. BUT IT IS A COMMISSION,
20 IN FACT, THAT'S COMPRISED OF CITIZENS. THOUGH YOU ALL HAVE
21 THAT SPECIAL EXPERTISE, I AM HOPEFUL THAT AS YOU GO FORWARD
22 AND DELIBERATE ABOUT WHAT WE HEARD ON FRIDAY AND WHAT WE WILL
23 HEAR MORE OF TODAY. I GLANCED FORWARD TO WHAT ALADS HAS TO
24 REPORT. AND THE REALITY IS WE HAVE A CRISIS OF LEADERSHIP.
25 THOUGH, MANY OF YOU TOOK THE TIME TO COMMEND THE SHERIFF AND

1 THE UNDERSHERIFF FOR THEIR BRAVERY IN COMING FORWARD, AND
2 CERTAINLY FOR MR. BACA'S WILLINGNESS TO TAKE THE BLAME.
3 REGULAR CITIZENS LIKE ME LOOK AT THIS AS AN ORGANIZATION THAT
4 IS IN NEED OF NEW LEADERSHIP. NOW, OF COURSE, THESE ARE
5 ELECTED OFFICIALS AND IN TODAY'S LOS ANGELES TIMES, ANOTHER
6 ELECTED OFFICIAL, MR. NOGUEZ IS MIRED IN. AND WE'RE HAVING
7 DIFFICULTY WITH SOME OF THESE ISSUES. YOU, OBVIOUSLY, CAN'T
8 SOLVE THOSE PROBLEMS. YOU CAN'T SOLVE THE SIGNIFICANT PROBLEMS
9 WE HAVE IN OUR COMMUNITY WITH THE "HAVES' VERSUS THE "HAVE-
10 NOTS." WHAT CAN YOU, DO I HOPE, IS RAISE YOUR VOICES WHEN YOU
11 PRESENT THIS REPORT AND MAKE IT CLEAR THAT A MAN WHO SAYS,
12 "DON'T ELECT ME, IF YOU DON'T LIKE THE FACT THAT THESE
13 EGREGIOUS PROBLEMS HAVE BEEN UNCOVERED." IT JUST DOES NOT FEEL
14 LIKE THE RIGHT TONE TO SET. IT MAY BE A GOOD TONE TO SET FOR
15 THE RANK AND FILE DEPUTIES WHO WILL FEEL MORE PROTECTED, FOR
16 EXAMPLE, THAN THE CITIZENS WHO DO INTERACT WITH LAW
17 ENFORCEMENT. I WANT TO JUST SAY, 99% OR MORE OF THESE GUYS ARE
18 -- I DON'T KNOW THE EXACT NUMBERS -- ARE PROBABLY GOOD PUBLIC
19 SERVANTS LIKE MANY OF YOU ARE, WHO ARE FOCUSED ON UPHOLDING
20 THE LAW; BUT THIS IS AN AREA WHERE WE NEED YOUR -- NOT YOUR
21 LOYALTY TO THE BOARD OF SUPERVISORS -- BUT YOUR COMMITMENT TO
22 THE PEOPLE TO WRITE AS SCATHING AND PROFOUND A REPORT AS YOU
23 POSSIBLY CAN, TO URGE THE SHERIFF TO TERMINATE MR. TANAKA AND
24 THEN TO STEP DOWN PENDING SOME WAY IN WHICH WE CAN REPLACE
25 LEADERSHIP. WE NEED A NEW SHERIFF IN TOWN. IT'S NOT THAT MR.

1 BACA IS NOT A GOOD MAN. I THINK WE HAVE ALL UNDERSTOOD HE WAS
2 A GOOD MAN. IT'S JUST THAT HE DIDN'T ... HE WASN'T ABLE TO
3 PERFORM PROPERLY AND NOW WE HAVE SUBSTANTIAL PROBLEMS. AND I
4 KNOW WE WILL HEAR FROM PEOPLE MORE EXPERT ON THE SPECIFICS
5 TODAY. I WANT TO SAY THAT AS NICELY AS I CAN, PLEASE DON'T
6 HOLD ANY PUNCHES.

7

8 **HON. LOURDES BAIRD, CHAIR:** THANK YOU VERY MUCH, MR. PREVIN. IS
9 THERE A MOTION TO APPROVE THE MINUTES?

10

11 **SPEAKER:** SO MOVED.

12

13 **HON. LOURDES BAIRD, CHAIR:** THE MOTION IS APPROVED. WE HAVE
14 REPORTS AND UPDATES FROM MIRIAM KRINSKY, OUR EXECUTIVE
15 DIRECTOR.

16

17 **MIRIAM A. KRINSKY:** GOOD MORNING, COMMISSIONERS. IN THAT WE MET
18 ONE WEEK AGO, I THINK THIS WILL BE RELATIVELY BRIEF FROM MY
19 END. AS COMMISSIONERS NOTE, TODAY IS THE LAST OF SIX HEARINGS
20 WHERE WE WILL HAVE BEEN ABLE TO HEAR FROM LIVE WITNESSES. IN
21 OUR SEPTEMBER MEETING, WE WILL HAVE A CHANCE TO HEAR REPORTS
22 BACK FROM OUR DEPUTY GENERAL COUNSEL AND MR. DROOYAN WILL BE
23 PROVIDING AN UPDATE. JUST A REMINDER, THAT OUR SEPTEMBER
24 MEETING HAS AN 8:00 a.m. START TIME. WE DO EXPECT THAT WILL BE
25 A VERY FULL DAY, TO ENABLE US TO HEAR BACK ALL OF THOSE

1 REPORTS AND NOT HAVE TO GO INTO A SPILLOVER DAY. THERE HAS
2 BEEN STRONG, CONTINUED INTEREST IN OUR WORK. I THINK THAT,
3 CERTAINLY, OUR COMMISSION HAS BEEN ABLE TO CAST A VERY HEAVY
4 SPOTLIGHT ON THE ISSUES, THE PROBLEMS THAT WE HAVE BEEN
5 CONSIDERING, SOME OF THE PERSPECTIVES ON THOSE ISSUES THE
6 VIEWS OF THOSE WITHIN OUR SHERIFF'S DEPARTMENT AND THE VIEWS
7 OF THOSE WHO HAVE WITNESSED SOME OF THE KEY EVENTS THAT WE
8 HAVE BEEN TALKING ABOUT. WE HAD AN ALL-TIME HIGH NUMBER OF
9 VISITS ON OUR WEBSITE LAST FRIDAY, THE DAY THAT WAS JUST
10 REFERENCED WHEN OUR SHERIFF AND OUR UNDERSHERIFF TESTIFIED.
11 THERE WERE NEARLY 1,700 VISITS TO OUR WEBSITE ON THAT DAY
12 ALONE. WE NOW HAVE HAD NEARLY 25,000 VISITS TO THE WEBSITE. IN
13 TERMS OF THE ONGOING WORK OF ALL OF THE INDIVIDUALS ON THE
14 PROJECT, I BELIEVE BY MY COUNT, THERE HAVE NOW BEEN
15 APPROXIMATELY AROUND 100 OR SO FACT WITNESSES WHO HAVE BEEN
16 INTERVIEWED AND APPROXIMATELY 45 INDIVIDUALS WHO ARE EITHER
17 CORRECTIONS EXPERTS, HEADS OF OTHER JAILS, SHERIFFS WITHIN
18 CALIFORNIA, SHERIFFS OUTSIDE OF CALIFORNIA OR OTHER
19 INDIVIDUALS WHO KNOW THESE ISSUES WELL AND HAVE BEEN KIND
20 ENOUGH TO GIVE US THEIR TIME TO OFFER THEIR PERSPECTIVES. IN
21 TERMS OF TODAY'S LINEUP, I'LL HAVE AN OPPORTUNITY TO TALK A
22 LITTLE BIT MORE WITH YOU ABOUT THAT AFTER OUR FIRST WITNESSES;
23 BUT OUR FIRST WITNESSES WILL BE REPRESENTATIVES FROM ALADS,
24 FROM THE UNION, THE ORGANIZATION THAT REPRESENTS DEPUTIES.
25 WE'VE ASKED THEM TO PRESENT THEIR RECOMMENDATIONS AND

1 PERSPECTIVE ITSELF, JUST AS OTHER GROUPS HAVE PRESENTED THEIR
2 PERSPECTIVES. IN ORDER TO GIVE TIME TO ALADS, WE DID SHORTEN A
3 LITTLE BIT THE TIME THAT WE WOULD HAVE HAD TO BRING IN OUTSIDE
4 EXPERTS. BUT I DO THINK, EVEN WITH THAT SLIGHT ABBREVIATION,
5 THAT WE WILL HAVE INDIVIDUALS HERE TODAY THAT WILL OFFER SOME
6 VERY INSIGHTFUL PERSPECTIVES. WE WILL HAVE THE CHANCE IN
7 SEPTEMBER TO DO SOME MORE SUMMARIZING OF THE MANY OTHER
8 SHERIFFS OR JAIL HEADS THAT WE HAVE SPOKEN WITH AND TO PRESENT
9 TO YOU SOME OF THE OVERRIDING COMMON THEMES WE HEARD. IF THERE
10 ARE SPECIFIC AREAS WHERE THE COMMISSIONERS HAVE INTEREST IN
11 REGARD TO WHAT WE HAVE LEARNED FROM THOSE OTHER INDIVIDUALS,
12 LET ME KNOW AND WE CAN BE SURE TO FOCUS OUR ATTENTION TO THOSE
13 ISSUES IN SEPTEMBER. SO THAT'S IT FROM MY UPDATE.

14

15 **HON. LOURDES BAIRD, CHAIR:** THANK YOU.

16

17 **RICHARD E. DROOYAN:** GOOD MORNING. I WILL BE BRIEF. AS MS.
18 KRINSKY INDICATED OUR NEXT MEETING IS SEPTEMBER 7th. BETWEEN
19 NOW AND SEPTEMBER 7th, VARIOUS TEAMS WILL BE WRITING DRAFTS OF
20 THE CHAPTERS THAT WILL BE PART OF THE COMMISSION'S REPORT. I
21 HAVE ALREADY RECEIVED SEVERAL DRAFTS. THAT'S WHAT I WILL BE
22 DOING, SPENDING TIME WITH THOSE TEAMS. THE GOAL IS TO START
23 GETTING DRAFTS TO EACH OF THE COMMISSIONERS BY AUGUST 20th TO
24 HELP NO LATER THAN AUGUST 25th TO GET YOUR FEEDBACK AND
25 COMMENTS IN ADVANCE OF THE SEPTEMBER 7th MEETING. MY PLAN IS

1 TO SEND YOU EACH A DRAFT OF THE CHAPTERS. I HAVE COMPLETED IT
2 WITH THE TEAM. SO INSTEAD OF -- YOU WON'T GET SIX CHAPTERS ALL
3 AT ONCE. THEN EACH OF YOU WILL GET THOSE SEPARATELY. BECAUSE
4 OF THE BROWN ACT REQUIREMENT, YOU CANNOT CONFER WITH RESPECT
5 TO THE CHAPTERS, BUT YOU CAN SEND ME BACK YOUR COMMENTS
6 INDIVIDUALLY. AND THAT BY THE TIME OF THE SEPTEMBER 7th
7 PRESENTATION, BY THE TEAMS, I THINK OUR FINDINGS SHOULD BE
8 PRETTY MUCH SOLIDIFIED. WE WILL HAVE THAT BACK WITH
9 RECOMMENDATIONS BUT THEN WE'LL GET FEEDBACK FROM THE MEMBERS
10 OF THIS COMMISSION TO FINALIZE THOSE RECOMMENDATIONS AND THEN
11 TURN THAT CHAPTER -- THAT REPORT AROUND FOR A FINAL MEETING
12 SOMETIME IN SEPTEMBER, IN WHICH THE COMMISSION WILL ISSUE THE
13 REPORT. WE HAVEN'T SET THAT DATE YET. MS. KRINSKY WILL BE
14 REACHING OUT TO YOU TO GET SOME DATES BY THE END OF SEPTEMBER.
15 I FULLY EXPECT AND PLAN TO HAVE THIS REPORT FINISHED FOR YOU
16 BY OR BEFORE SEPTEMBER 30th.

17

18 **HON. LOURDES BAIRD, CHAIR:** THANK YOU VERY MUCH. WE HAVE THIS
19 MATTER ON NO. 2.

20

21 **MR. PREVEN:** YES, IT IS MR. PREVEN, AND WE ARE CONCLUDING THIS
22 COMMISSION IT SOUNDS LIKE IN THE FALL AND I WOULD JUST REQUEST
23 THAT, ONCE AGAIN THAT THIS BOARD LISTEN CAREFULLY TO WHAT WE
24 HEARD ABOUT WHO WAS PAYING ATTENTION AND TO WHAT, BECAUSE WHAT
25 I DIDN'T QUITE FINISH; I SAID IT BEFORE IS THAT THE LEADERSHIP

1 OF THE DEPARTMENT IS THE ONLY WAY FOR INDIVIDUALS TO FULLY
2 UNDERSTAND AND KNOW THAT THE KIND OF CONDUCT THAT WAS ALLOWED
3 TO GO UNCHECKED WILL NEVER STAND IS TO KNOW THAT THE
4 LEADERSHIP WILL NOT TOLERATE IT. AND I WILL NOT TAKE MORE OF
5 THE BOARD'S TIME, BECAUSE WE HAVE HEARD LOTS OF TESTIMONY
6 ABOUT THAT AND WE'LL HEAR MORE AND I APPRECIATE YOU, ONCE
7 AGAIN, DOING WHAT THE CHARGE IS, WHICH IS TO RESOLVE THIS. AND
8 THE ONLY WAY TO RESOLVE IT IS TO EFFECT LEADERSHIP CHANGE ONE
9 WAY OR THE OTHER AND IT'S NOT AN OFFENSE, TO ANY OF THE
10 INDIVIDUALS WHO WERE MISLED OR FAILED FOR WHATEVER REASON, BUT
11 WE NEED TO GET A NEW SHERIFF IN TOWN. THANK YOU.

12

13 **HON. LOURDES G. BAIRD:** THANK YOU VERY MUCH, MR. PREVEN. WE
14 HAVE TESTIMONY NOW.

15

16 **RICHARD E. DROOYAN:** YES, WE HAVE REPRESENTATIVES OF ALADS. KIM
17 DUNNE DEPUTY GENERAL COUNCIL AND A LAW FIRM PARTNER DOING THE
18 QUESTIONING OF THE ALADS' REPRESENTATIVES.

19

20 **HON. LOURDES G. BAIRD:** SHE'LL BE SITTING IN YOUR SEAT? ALL
21 RIGHT. MS. DUNNE, I'D ASK TO YOU TAKE A SEAT. AS I UNDERSTAND
22 IT, YOU ARE GOING TO BEGIN WITH DEPUTY FLOYD HAYHURST; IS THAT
23 CORRECT?

24

25 **KIM DUNNE:** YES, AND MR. STEVE REMIGE.

1

2 **HON. LOURDES G. BAIRD:** WHEN WE CONCLUDE WITH MR. REMIGE, IT
3 WILL BE OPENED TO FELLOW COMMISSIONERS.

4

5 **KIM DUNNE:** GOOD MORNING DEPUTY HAYHURST.

6

7 **FLOYD HAYHURST:** THAT'S ME. GOOD MORNING. YOUR HONORABLE
8 COMMISSIONERS. I'M DEPUTY FLOYD HAYHURST, THE DEPUTY OF THE
9 LOS ANGELES SHERIFFS. I'D LIKE TO THANK YOU FOR ALLOWING
10 ALADS, THE DIRECTOR AND MYSELF THE OPPORTUNITY TO TALK TO YOU
11 ABOUT THE FINDINGS OF THE ALADS CUSTODY DIVISION WORKING
12 GROUP. I WOULD ALSO LIKE TO THANK MIRIAM KRINSKY AND RICHARD
13 DROOYAN AND THE LEGAL COUNSEL-- AND WE MET WITH THE LEGAL
14 COUNSEL TO PREPARE YOU ALL FOR THIS MEETING. RECENTLY, THE
15 NEWS MEDIA AND OUTSIDE INTEREST GROUPS HAVE BROUGHT TO LIGHT
16 SOME PROCEDURES WITH THE CUSTODY DIVISION OF THE SHERIFFS
17 DEPARTMENT AND THAT THE COMMISSION IS CHARGED WITH CONDUCTING
18 REVIEWS OF THESE PROBLEMS IN MAKING RECOMMENDATIONS TO THE
19 BOARD OF SUPERVISORS AND THE SHERIFF. ALADS BELIEVES THE
20 CRITICAL PART OF ANY CHANGE MUST HAVE INPUT FROM PERSONNEL
21 WORKING IN THESE FACILITIES. MAINLY, THE CHANGES RECOMMENDED
22 TO THE CUSTODY HAVE BEEN PRESENTED BY PERSONS THAT DO NOT
23 CURRENTLY WORK NOR HAVE THEY EVER WORKED IN ANY CORRECTIONAL
24 ENVIRONMENT. I BELIEVE THAT TO IMPLEMENT CHANGES WITHOUT
25 HAVING LOOKED AT THE INSTITUTION IN ITS ENTIRETY WOULD BE A

1 COUNTERPRODUCTIVE EXERCISE. WITH THIS IN MIND, IN DECEMBER OF
2 2011, I ASKED SHERIFF BACA TO RELEASE TWO INDIVIDUALS FROM
3 EACH CUSTODY FACILITY, AND FIVE FROM CENTRAL JAIL TO FORM A
4 WORKING GROUP TO DEVELOP RANK-AND-FILE-DRIVEN SOLUTIONS. THIS
5 REQUEST WAS APPROVED BY SHERIFF BACA AND OUR WORK BEGAN IN
6 JANUARY OF THIS YEAR. ALADS' WORKING GROUP HAS INCLUDED A
7 DIVERSE CROSS-SECTION OF 20 DEPUTIES, MEN AND WOMEN WITH LESS
8 THAN THREE YEARS ON THE DEPARTMENT AS WELL AS PEOPLE ON THE
9 EVE OF THEIR RETIREMENT. THE LAST SIX MONTHS, THE WORKING
10 GROUP WITH ITS INVALUABLE GUIDANCE BY THE DIRECTOR MR. STEVE
11 REMIGE TO THE RIGHT OF ME AND MARK DAVIS WHO COULD NOT BE WITH
12 US TODAY HAS MET IN TEN FULL DAY SESSIONS TO EXAMINE SOLUTIONS
13 FOR THE CHALLENGES IN STAFFING, SUPERVISION, EQUIPMENT
14 OPERATING PROCEDURES, FACILITY FUNCTIONALITY, DEPUTY TRAINING,
15 ASSIGNMENT AND TRUSTEE, INMATE ACCOUNTABILITY AND BEHAVIOR I
16 DON'T HAVE AND A LIST OF OTHER ISSUES UNVEILED DURING THE
17 COURSE OF OUR WORK. WE ALSO MET WITH HEALTH AND MENTAL HEALTH
18 WORKERS REPRESENTED BY SCIU TO HEAR THEIR PERSPECTIVE ON THE
19 CUSTODY WORKING ENVIRONMENT. THE SHERIFFS COMMANDER TASK FORCE
20 JOINED US FOR A NUMBER OF OUR SESSIONS. WE USED THIS FORM TO
21 DEVELOP AND FINE-TUNE MANY OF THEIR NEW POLICIES AND HAVE BEEN
22 IMPLEMENTED -- WHICH HAVE BEEN IMPLEMENTED OVER THE LAST SIX
23 MONTHS. SHERIFF BACA VISITED THE WORKING GROUP AND WAS HIGHLY
24 ATTENDED BY OUR DEPUTY SHERIFFS. THIS HAS TRULY BEEN A
25 WATERSHED EXPERIENCE. ALADS BELIEVE THIS GROUP CAN AND WILL

1 HELP DELIVER SOLUTIONS TO ISSUES WITHIN THE SHERIFFS
2 DEPARTMENT CUSTODY DIVISION. WHILE THIS IS ONLY A STARTING
3 POINT, THESE RECOMMENDATIONS ARE NOT ALL ENCOMPASSING BUT THEY
4 ARE AGAIN A STARTING POINT. IT IS ALADS' HOPE IN WORKING WITH
5 ALADS' MANAGEMENT, WE CAN OVERCOME ANY ISSUES IN CUSTODY
6 DIVISION AND DEVELOP A SAFER WORKING ENVIRONMENT. AGAIN, THANK
7 YOU FOR YOUR TIME.

8

9 **HON. LOURDES G. BAIRD:** I WANT TO MENTION MY FELLOW
10 COMMISSIONER, MR. BUSANSKY, HAS A 10:00 CALL, HE WILL PROBABLY
11 BE LEAVING THE BENCH TO TAKE THAT CALL WHICH COULD NOT BE
12 HERE.

13

14 **KIM DUNNE:** DEPUTY HAYHURST, YOU REFERRED TO AN IDEA OF A
15 PERCEIVED PROBLEM. DO YOU NOT THINK THERE IS A PROBLEM HERE?

16

17 **FLOYD HAYHURST:** THERE IS PROBLEMS. WHEN I SAY THAT, SAY
18 "PERCEIVED," IT'S HOW LARGE THE PROBLEM IS

19

20 **KIM DUNNE:** DOES ALADS BELIEVE THERE IS EXCESSIVE FORCE BY THE
21 DEPUTIES IN JAIL?

22

23 **FLOYD HAYHURST:** THERE IS MANY INVESTIGATIONS GOING ON. I DON'T
24 WANT TO COMMENT WHETHER THERE IS OR ISN'T UNTIL THE FINDINGS
25 ACTUALLY COME OUT.

1

2 **KIM DUNNE:** DOES ALADS BELIEVE THERE ARE DEPUTY CLIQUES IN THE
3 JAIL?

4

5 **FLOYD HAYHURST:** I DO NOT BELIEVE THERE IS.

6

7 **KIM DUNNE:** YOU CONDUCTED A SURVEY TO SUPPORT YOUR REPORT; IS
8 THAT RIGHT?

9

10 **FLOYD HAYHURST:** YES, WE DID.

11

12 **KIM DUNNE:** I UNDERSTAND 20% OF THE DEPUTIES RESPONDED?

13

14 **FLOYD HAYHURST:** THAT IS CORRECT

15

16 **KIM DUNNE:** SO THE COMMISSIONERS HAVE A COPY OF THE REPORT,
17 THEY HAVE A COPY OF THE SURVEY, TABS 1 AND 2 IN THE BINDER. I
18 WILL HIT HIGHLIGHTS OF THAT REPORT TODAY; OKAY? WHAT IS YOUR
19 VIEW OF DEPUTY MORALE AMONG THE DEPUTIES IN CUSTODY?

20

21 **FLOYD HAYHURST:** IT IS PROBABLY AT AN ALL-TIME LOW. THERE IS A
22 LOT OF CHANGES BEING MADE, ALLEGATIONS OF PEOPLE, OF DEPUTY
23 SHERIFFS BEING ACCUSED OF FORCE OR HEAVY-HANDEDNESS AND TO
24 SOME DEGREE, LIKE WE SAID, THERE COULD POSSIBLY BE SOME
25 PROBLEMS THERE, THAT IT'S A BIG -- IT'S PAINTED WITH A BROAD

1 BRUSH, BUT IT'S RUNNING RAMPANT IN THERE.

2

3 **KIM DUNNE:** YOU ASKED IN THE SURVEY AT TAB 2, "HAS LOW MORALE
4 IN YOUR UNIT AFFECTED -- " AND YOU LISTED VARIOUS THINGS,
5 OFFICER SAFETY, PRODUCTIVITY, USE OF FORCE AND ABSENTEEISM.
6 WHY DID YOU ASSUME THERE WAS LOW MORALE IN THE JAILS WHEN YOU
7 PREPARED THE SURVEY?

8

9 **FLOYD HAYHURST:** WELL, THE ONE GROUP HAD ACTUALLY STARTED
10 WORKING ON QUESTIONS AND THINGS THAT THEY WERE GOING TO ASK
11 THE ENTIRE WORKING MEMBERS THAT WORK INSIDE CUSTODY AND SINCE
12 THEY WERE ALL WORKING THERE, THEY ALREADY HAD A PERCEPTION
13 THAT MORALITY WAS LOW. SO THAT QUESTION WAS ADDED TO SOLIDIFY
14 WHAT THEY BELIEVE WAS ACTUALLY FACTUAL.

15

16 **KIM DUNNE:** DO YOU THINK SHERIFF BACA CONTRIBUTED TO THE LOW
17 MORALE OF DEPUTIES IN CUSTODY?

18

19 **FLOYD HAYHURST:** IF HE HAS, I DON'T THINK IT'S INTENTIONAL. I
20 THINK PART OF IT HAS BEEN BECAUSE OF THE MASSIVE CHANGE OF
21 SOME OF THE POLICIES AND I WAS HERE LAST FRIDAY. HE DID TALK
22 ABOUT THE TOWN HALL MEETINGS AND HOW HE BELIEVES SOME OF THE
23 FORCE IS DOWN BECAUSE OF THE TOWN HALL MEETINGS. I BELIEVE
24 THAT IS DOWN PROBABLY MORE BECAUSE OF THEY FEEL THEY ARE UNDER
25 THE MICROSCOPE. I'M NOT SAYING THEY SHOULDN'T BE BUT THEY FEEL

1 THAT THEY ARE GOING TO BE SECOND-GUESSED NO MATTER WHAT THEY
2 DO FOR ANY REASON.

3

4 **KIM DUNNE:** IS THERE ANYTHING SPECIFIC -- IS THERE ANYTHING
5 THAT SHERIFF BACA IMPLEMENTED THAT CONTRIBUTED TO THE LOW
6 MORALE?

7

8 **FLOYD HAYHURST:** I'M NOT SURE. CAN YOU REPEAT THE QUESTION?

9

10 **KIM DUNNE:** IS THERE ANYTHING YOU BELIEVE CONTRIBUTED TO THE
11 LOW MORALE?

12

13 **FLOYD HAYHURST:** I BELIEVE MOST OF IT HAS TO DO WITH THE
14 TERMINOLOGY WE ARE HEARING IS THE EMPOWERING OF THE INMATES
15 THAT THEY DON'T BELIEVE THEY HAD TO LISTEN TO THE DEPUTIES
16 NOW. THEY CAN CIRCUMVENT THE SYSTEM AND GO DIRECTLY TO A
17 SERGEANT OR ABOVE PEOPLE YOU NOTED EARLIER.

18

19 **KIM DUNNE:** YOU NOTED THE INMATES ARE RUNNING THE JAIL.

20

21 **FLOYD HAYHURST:** YOU NOTED IN THE REPORT?

22

23 **KIM DUNNE:** PAGE 10. SIMPLY PUT, DEPUTIES FEEL THAT THEY HAVE
24 LOST CONTROL OF THE JAILS, WITH A SENSE THAT THE INMATES ARE
25 RUNNING THE JAILS?

1

2 **FLOYD HAYHURST:** GIVE ME A SECOND, PLEASE.

3

4 **KIM DUNNE:** DO YOU SEE THAT?

5

6 **FLOYD HAYHURST:** YES.

7

8 **KIM DUNNE:** WHAT DID YOU MEAN BY THAT?

9

10 **FLOYD HAYHURST:** IT GOES TO THE IDEA THAT THE DEPUTIES BELIEVE
11 BECAUSE THEY CAN'T DO ANYTHING, THE INMATES ARE STARTING TO
12 RUN THE JAIL.

13

14 **KIM DUNNE:** YOU NOTED ABOVE ON THE SAME PAGE INMATES ARE
15 EXHIBITING INCREASINGLY AGGRESSIVE BEHAVIOR TOWARDS THE
16 DEPUTIES; IS THAT RIGHT?

17

18 **FLOYD HAYHURST:** YES, THAT IS CORRECT.

19

20 **KIM DUNNE:** IS THAT VIOLENT BEHAVIOR?

21

22 **FLOYD HAYHURST:** AT TIMES IT HAS BEEN, YES.

23

24 **KIM DUNNE:** WHY DO YOU BELIEVE THE INMATES ARE BEING MORE
25 VIOLENT TOWARDS STAFF?

1

2 **FLOYD HAYHURST:** THE ONES THAT ARE BEING MORE VIOLENT TOWARDS
3 STAFF, THAT'S THE NEXT STEP BEYOND BEING DISRESPECTFUL TOWARDS
4 THE DEPUTIES, THEY WILL BE AGGRESSIVE TO SEE WHETHER THE
5 DEPUTIES ARE GOING TO USE FORCE OR GOING TO BACK DOWN AND WAIT
6 FOR A SUPERVISORS OR SOMEBODY TO GET THERE.

7

8 **KIM DUNNE:** DO YOU ATTRIBUTE THIS CHANGE TO THE SHERIFF'S
9 REFORMS?

10

11 **FLOYD HAYHURST:** I BELIEVE AGAIN THAT HAS PART OF IT TO DO WITH
12 IT, YES.

13

14 **KIM DUNNE:** WHEN YOU SAY THE DEPUTIES CAN'T DO ANYTHING, WHAT
15 DO YOU MEAN BY THAT?

16

17 **FLOYD HAYHURST:** THEY ARE BEING INFORMED IF AT ALL HUMANLY
18 POSSIBLE THEY NEED TO CALL FOR A SUPERVISOR, SOMEBODY ABOVE
19 THE RANK OF DEPUTY TO ASSESS THE SITUATION.

20

21 **KIM DUNNE:** AND DO YOU VIEW THAT REQUIREMENT THAT THEY CALL A
22 SUPERVISOR IF THERE IS ANTICIPATED FORCE TO BE A PROBLEM?

23

24 **FLOYD HAYHURST:** IT CAN BE AT TIMES, YES. WE RUN THE LARGEST
25 JAIL FACILITY THERE IS IN THE FREE WORLD AND WE DO MASSIVE

1 MOVEMENTS ALL DAY LONG AND IF EVERY TIME AN INMATE WANTS TO
2 HAVE A TALK WITH A SERGEANT OR ABOVE, THERE WOULD BE VIRTUALLY
3 -- EVERYTHING WOULD COME TO A STANDSTILL.

4

5 **KIM DUNNE:** DON'T YOU VIEW THE PRESENCE OF A SUPERVISOR AS
6 HAVING SOMEBODY WITH MORE EXPERIENCE WHO COULD PROVIDE COUNSEL
7 IN THAT TYPE OF TENSE SITUATION?

8

9 **FLOYD HAYHURST:** IT CAN BE AT TIMES, ABSOLUTELY. IN AN IDEAL
10 WORLD, PERFECT TIMES AND HOURS THAT THAT -- THAT YOU CAN CALL
11 FOR A SUPERVISOR, THAT WILL DE-ESCALATE IT. SOMETIMES IT'S
12 CALLING FOR ANOTHER DEPUTY TO DEESCALATE IT. SOMETIMES IT'S A
13 PERSONALITY BETWEEN THE INMATE AND THE DEPUTY HAVING A SECOND
14 DEPUTY THERE. THE OTHER ONE WALKING AWAY. SOMETIMES IT DE-
15 ESCALATES IT. IT'S NOT NECESSARILY THE SUPERVISORS. SOMETIMES
16 IT CAN BE THE PERSONALITY BETWEEN THE INMATE AND THAT DEPUTY.

17

18 **KIM DUNNE:** SO IT'S ALADS POSITION THAT THAT REQUIREMENT, THAT
19 A SUPERVISOR BE PRESENT SHOULD NOT BE IN PLACE, IS THAT
20 CORRECT?

21

22 **FLOYD HAYHURST:** I BELIEVE IT SHOULD BE A LITTLE MORE RELAXED
23 THAN IT IS NOW. DEPUTIES SHOULD BE ALLOWED TO AT LEAST TRY TO
24 HANDLE THE SITUATION TO CONCLUSION. I MEAN, OBVIOUSLY, IF
25 THERE IS PERCEIVED FORCE AND HAVE YOU -- AND TIME ALLOWS, BY

1 ALL MEANS, CALL WHOEVER YOU WANT. WE WANT IT AS A LAST RESORT.
2 IT'S NEVER THE FIRST RESORT. IT'S THE LAST RESORT. THERE ARE
3 TIMES I HAVE SEEN THAT BY WAITING FOR A SUPERVISOR THE FORCE
4 OR THE PERCEIVED FORCE ESCALATES UP TO GETTING MORE PEOPLE
5 INVOLVED. ONE TIME IT MIGHT BE ONE INMATE. BY THE TIME THEY
6 GET A SERGEANT THERE, THERE MAY BE 10 OR 15 INMATES NOW
7 INVOLVED. NOW YOU HAVE A SERIOUS SITUATION WHERE THE DEPUTY
8 WAS ABLE TO, WHILE THE INCIDENT TO BEGIN WITH WOULD HAVE NOT
9 INVOLVED MORE INMATES.

10

11 **KIM DUNNE:** IN ADDITION TO YOU HAVING TO WAIT FOR A SUPERVISOR
12 IN CERTAIN SITUATIONS, DO DEPUTIES BELIEVE THEY HAVE LOST
13 TOOLS, IF YOU WILL, TO HANDLE SITUATIONS WITH INMATES?

14

15 **FLOYD HAYHURST:** I DON'T BELIEVE THEY'VE LOST TOOLS, BUT
16 THEY'VE FEEL THAT THEY HAVE LOST THE AUTHORITY TO RESOLVE
17 ISSUES THAT SHOULD BE HANDLED BY A DEPUTY SHERIFF.

18

19 **KIM DUNNE:** WELL, HAVE THEY LOST THE ABILITY TO TAKE CERTAIN
20 ACTION WHEN FACED WITH INMATE MISBEHAVIOR?

21

22 **FLOYD HAYHURST:** I BELIEVE THE PERCEPTION IS THAT IF THEY USE
23 FORCE WITHOUT CALLING FOR A SUPERVISOR BEFORE THEY GET THERE,
24 THEY'RE GOING TO BE SCRUTINIZED AS TO AND QUESTIONED AND
25 BASICALLY DISCIPLINED IF THEY DID NOT WAIT FOR A SERGEANT TO

1 GET THERE.

2

3 **KIM DUNNE:** SO, ESSENTIALLY, DEPUTIES FEEL THEY'VE LOST THE
4 ABILITY TO TURN TO FORCE IN THE FACE OF INMATE MISBEHAVIOR; IS
5 THAT RIGHT?

6

7 **FLOYD HAYHURST:** THAT IS CORRECT.

8 **KIM DUNNE:** HAVE THERE BEEN OTHER CHANGES, I BELIEVE WHEN WE
9 SPOKE YOU RAISED ONE CONCERNING FLASHLIGHTS THAT CAUSED
10 DEPUTIES CONCERNS?

11

12 **FLOYD HAYHURST:** ACTUALLY, I SPOKE TO THE SHERIFF. WE CAME TO
13 AN AGREEMENT ON THE USE OF FLASHLIGHTS, THE SIZE OF
14 FLASHLIGHTS AND I DON'T BELIEVE THAT'S A BIG ISSUE. THEY WERE
15 VERY CONCERNED THEY WERE GOING TO LOSE A TOOL THAT THEY HAVE
16 PRETTY MUCH THEIR ENTIRE CAREER BEEN ALLOWED TO CARRY. I MEAN,
17 THOSE ARE THE FLASHLIGHTS THAT WERE THERE BEFORE I WAS HIRED.
18 I GOT 30 YEARS ON.

19

20 **KIM DUNNE:** JUST SO I UNDERSTAND, HOW WERE FLASHLIGHTS
21 PERCEIVED AS A TOOL FOR DEPUTIES

22

23 **FLOYD HAYHURST:** WELL, THEY'RE TWO-FOLD. THEY'RE OBVIOUSLY FOR
24 ILLUMINATION AND OBVIOUSLY AN IMPACT WEAPON OR AN IMPACT
25 OPPORTUNITY.

1

2 **KIM DUNNE:** DO DEPUTIES THINK THEY HAVE OTHER MEANINGFUL
3 OPTIONS TO ADDRESS INMATE BEHAVIOR OTHER THAN FORCE?

4

5 **FLOYD HAYHURST:** YEAH, THEY ALL KNOW THE FIRST WAY TO DEAL WITH
6 INMATE FORCE IS IF YOU CAN, YOU SEPARATE THEM, ISOLATE THEM
7 FROM THE REST. THEN THEY CAN SEND THEM TO THE "HOLE" AS WE
8 CALL IT FOR DISCIPLINE. THEY GO BEFORE A DISCIPLINE REVIEW
9 BOARD. THEY'RE PUT INTO DISCIPLINE FOR A PERIOD OF TIME.

10

11 **KIM DUNNE:** DO YOU BELIEVE SEGREGATION IS AN OPTION AND A
12 MEANINGFUL ONE?

13

14 **FLOYD HAYHURST:** AT THIS TIME THERE IS NOT ENOUGH HOUSING FOR
15 IT, IS WHAT WE WERE TOLD. THERE ARE TOO MANY IN THE HOLE OR
16 THEY WANT TO BE IN THE HOLE AND THEY WANT TO BE ISOLATED AND
17 REMOVED FROM GENERAL POPULATION.

18

19 **KIM DUNNE:** WHAT ABOUT INCENTIVES FOR APPROPRIATE INMATE
20 BEHAVIOR? WHAT IS YOUR VIEW OR ALADS' VIEW ON THOSE?

21

22 **FLOYD HAYHURST:** I'M NOT REALLY SURE. I HAVEN'T GIVEN IT MUCH
23 THOUGHT FOR PROGRAMS AND STUFF THAT HELPS. I THINK EDUCATION,
24 LIKE WHAT THE SHERIFF IS DOING IS GOING TO HELP TO SOME
25 DEGREE, BUT THEY'RE IN THERE BECAUSE OF -- THEY DON'T LIKE

1 PROGRAMS OUT ON THE STREETS. THEY DON'T BELIEVE IN LAW AND
2 ORDER AND I'M NOT SURE THE INCENTIVE IS REALLY THERE AS WE SAY
3 WITH THE PROP 109 AND OVERCROWDED. THERE IS NO INCENTIVE. THEY
4 KNOW THEY WILL GET OUT AND PICKING UP ANOTHER CASE, BEING
5 ARRESTED FOR ANOTHER CRIME

6

7 **KIM DUNNE:** DOES ALADS SEE THE TOWN HALLS IMPLEMENTED AS A WAY
8 OF REDUCING TENSION?

9

10 **FLOYD HAYHURST:** I BELIEVE THAT THOSE TOWN HALLS HAVE, AS WE
11 SAY HAVE EMPOWERED THE INMATES. THEY BELIEVE, WE HAVE BEEN
12 TOLD BECAUSE MANY TIMES THE DEPUTIES ARE NOT ALLOWED TO ATTEND
13 THOSE WHILE THE INMATES ARE IN THERE AND WOULD THERE BE --
14 WHAT THEY PERCEIVE AS BEING TOLD TO THEM AS THE INMATES ARE TO
15 ASK FOR SERGEANTS OR ABOVE OR TALK TO ANYONE THEY WANT AND IF
16 THEY HAVE A SERIOUS SITUATION YOU DON'T HAVE TO ONLY SPEAK TO
17 THE DEPUTIES.

18

19 **KIM DUNNE:** I NOTED IN THE SURVEY, QUESTION NO. 8, WHICH IS ON
20 PAGE 2 OF THE SURVEY. YOU SAID -- THERE WAS A QUESTION THAT
21 COMMAND STAFF HAS BEEN HOLDING TOWN HALL MEETINGS WITH
22 INMATES. HAVE YOU NOTICED A CHANGE IN INMATE BEHAVIOR TOWARDS
23 DEPUTIES SINCE THESE TOWN HALL MEETINGS BEGAN AND A
24 SIGNIFICANT PORTION TALKED ABOUT THE FACT THAT THESE TOWN HALL
25 MEETINGS HAD CONTRIBUTED TO AGGRESSIVE INMATE BEHAVIOR. DO YOU

1 SEE THAT?

2

3 **FLOYD HAYHURST:** WHAT PAGE WILL YOU, -- WHAT PAGE ARE YOU ON,
4 PLEASE?

5

6 **KIM DUNNE:** PAGE 2.

7

8 **FLOYD HAYHURST:** THE REASON I'M HAVING DIFFICULTY IS YOUR PAGES
9 ARE NOT THE SAME AS MINE.

10

11 **KIM DUNNE:** WHY DON'T YOU LOOK AT THE BINDER, TAB 2?

12

13 **FLOYD HAYHURST:** YES. ACCORDING TO SURVEY, IT SHOWS THAT 51%
14 HAVE NOTICED AN AGGRESSIVE BEHAVIOR AND 70% SAY THEY, THAT
15 THEY HAVE DECLINED BECAUSE THEY FEEL EMPOWERED.

16

17 **KIM DUNNE:** I WANT TO ASK YOU TO TURN TO TAB 13 IN THE BINDER,
18 WHICH ARE SOME INFORMATION AND DATA THAT WE PULLED TOGETHER
19 RELATED TO THE ASSAULTS BY INMATES ON STAFF IN 2011 AND 2012.
20 DO YOU HAVE THAT IN FRONT OF YOU?

21

22 **FLOYD HAYHURST:** YES, I DO.

23

24 **KIM DUNNE:** WE ANNUALIZED THE NUMBER FOR 2012 AS IF IT WERE THE
25 ENTIRE YEAR FOR COMPARISON PURPOSES. WHAT THIS SHOWS,

1 ACTUALLY, IS THAT THE NUMBER OF INMATE ASSAULTS ON STAFF HAS
2 DECLINED SUBSTANTIALLY AND, IN FACT, THE NUMBER OF USE OF
3 FORCE REPORTS, REPORTING HAS BEEN CUT IN ABOUT HALF. DO YOU
4 SEE THAT?

5

6 **FLOYD HAYHURST:** YES, I DO.

7

8 **KIM DUNNE:** ISN'T THIS DATA INCONSISTENT WITH YOUR BELIEF THAT
9 INMATES HAVE BECOME MORE AGGRESSIVE AND VIOLENT TOWARDS STAFF?

10

11 **FLOYD HAYHURST:** NOT NECESSARILY. THE STAFF CAN BE -- THERE IS
12 A LOT OF DIFFERENT CHANGES DURING THE MONTHS AND STUFF, WHO IS
13 IN AND OUT OF CUSTODY. THERE IS ALSO OTHER THINGS THAT HAVE
14 CHANGED IN THERE. THEY'VE BROUGHT ON A LOT MORE SERGEANTS AND
15 LIEUTENANTS IN THERE. THEY HAVE ALSO PUT IN OVER 300 CAMERAS.
16 IF YOU WERE BEING WATCHED BY A CAMERA ALL THE TIME, THAT'S
17 GOING TO REDUCE SOME OF THE ASSAULTS RIGHT THERE IN ITSELF.

18

19 **KIM DUNNE:** SO YOU'D AGREE SOME OF THESE REFORMS HAVE, IN FACT,
20 HAD A POSITIVE IMPACT ON REDUCING ASSAULTIVE BEHAVIOR BETWEEN
21 INMATES AND DEPUTY?

22

23 **FLOYD HAYHURST:** I BELIEVE IT HAD SOME RESULTS, YES.

24

25 **KIM DUNNE:** AND THAT HAS OCCURRED UNDER THE TENURE OF CAPTAIN

1 ORNELAS (PHONETIC); ISN'T THAT RIGHT?

2

3 **FLOYD HAYHURST:** YES.

4

5 **KIM DUNNE:** DID YOU NOTICE IN ALADS' RATINGS OF CAPTAINS THAT
6 CAME OUT IN JUNE OF THIS YEAR, CAPTAIN ORNELAS IS ONE OF THE
7 FIVE CAPTAINS NOTED AS NEEDING IMPROVEMENT; RIGHT?

8

9 **FLOYD HAYHURST:** I BELIEVE SO.

10

11 **KIM DUNNE:** YOU'D AGREE, THIS BEHAVIOR, IS A GOOD THING UNDER
12 HIS TENURE?

13

14 **FLOYD HAYHURST:** IF THE ACTS OF VIOLENCE DECLINED, ABSOLUTELY

15

16 **KIM DUNNE:** AND YOU AGREED THEY HAVE; RIGHT?

17

18 **FLOYD HAYHURST:** YES.

19

20 **KIM DUNNE:** YOU ALSO NOTED IN YOUR REPORT UNDERSTAFFING WAS A
21 PART OF LOW MORALE; ISN'T THAT RIGHT?

22

23 **FLOYD HAYHURST:** YES, I DID.

24

25 **KIM DUNNE:** I BRIEFLY WANT TO DISCUSS THREE ISSUES. THE FIRST

1 HAS TO DO WITH THE CARP PROGRAM, THE ADMINISTRATIVE PERSONNEL
2 THAT FILLS IN; CORRECT?

3

4 **FLOYD HAYHURST:** YES.

5

6 **KIM DUNNE:** YOUR REPORT NOTES YOU VIEW THEM AS CREATING AN
7 UNSAFE SITUATION IN CUSTODY. WHY IS THAT?

8

9 **FLOYD HAYHURST:** WELL, IT'S MORE THAN IN CUSTODY. THE CARPING
10 GOES ON IN THE COUNTY. THE REPORTS WE ARE GETTING FROM OUR
11 MEMBERS THAT, ALTHOUGH THE THEORY OF THE PROGRAM SHOULD WORK,
12 THE EASIEST WAY TO EXPLAIN IT IS LIKE HAVING A TEMPORARY
13 EMPLOYEE LIKE YOUR RECEPTIONIST IS OUT FOR A WEEK OR TWO WEEKS
14 AND YOU BRING IN A TEMPORARY RECEPTIONIST. ALTHOUGH, THEY'RE
15 FILLING THE SPOT, THEY JUST DON'T HAVE THE KNOWLEDGE AND
16 EXPERIENCE TO FULFILL THE REAL REQUIREMENTS OF THAT POSITION.
17 WHILE THERE ARE ALL THESE DEPUTIES COMING IN, THEY WORK ONE
18 DAY THERE THEN YOU MAY NOT EVER SEE THEM FOR ANOTHER MONTH.
19 LIKE I HAVEN'T WORKED IN THE CUSTODY FACILITY IN ALMOST 30
20 YEARS, SO ALTHOUGH I WORKED THERE, I COULD GO BACK AND WORK IN
21 THERE, THE CHANGES AND THE THINGS, YOU'RE JUST NOT GOING TO
22 GET THE SAME QUALITY OF WORK PRODUCTIVITY OUT OF THE DEPUTY OR
23 THE PEOPLE GOING IN THERE AND CARPING.

24

25 **KIM DUNNE:** THE ACTUAL PERCENTAGE, THOUGH, OF CARP HOURS, IF

1 YOU WILL, THE NUMBER OF RESERVED DEPUTIES IN CUSTODY IS QUITE
2 SMALL COMPARED TO THE TOTAL NUMBER OF CUSTODY STAFF; ISN'T IT?

3

4 **FLOYD HAYHURST:** YEAH. IF COMPARED TO THE STAFF TOTAL NUMBERS,
5 YES.

6

7 **KIM DUNNE:** WE ACTUALLY, IF YOU TURN TO TAB 3, WE APPRECIATE
8 THE INFORMATION YOU GAVE US ABOUT CARP HOURS AND WE LOOKED AT
9 THAT AND WHAT WE TRIED TO DO WAS TAKE THE TOTAL NUMBER OF CARP
10 HOURS IN 2011, WHICH WAS ABOUT 71,000, AND WE TRIED TO
11 CALCULATE HOW THAT WOULD BE IN FTES, TAKING A 2,000-HOUR YEAR,
12 DIVIDING THAT INTO 71,000. WE ESSENTIALLY IDENTIFIED 36 FTES,
13 WHICH WHEN COMPARED TO AGAINST THE APPROXIMATELY 1870
14 DEPUTIES, AND 1,000 CUSTODY ASSISTANTS, ABOUT 3,000, IT'S
15 ABOUT 1% OF THE TOTAL CUSTODY WORK FORCE; RIGHT?

16

17 **FLOYD HAYHURST:** IF THAT'S THE NUMBERS THAT ARE THERE, YES.

18

19 **KIM DUNNE:** NOW, YOU ARE ALSO FAMILIAR WITH THE PROPOSAL MADE
20 BY PPOA TO INCREASE THE NUMBER OF CUSTODY ASSISTANTS; CORRECT?

21

22 **FLOYD HAYHURST:** YES, I AM.

23

24 **KIM DUNNE:** WHAT IS YOUR VIEW OR ALADS' VIEW ON THAT PROPOSAL?

25

1 **FLOYD HAYHURST:** WELL, IT'S LIKE THE CARPING. EVEN THOUGH THE
2 CARPING NUMBERS ARE VERY LOW, WE ARE EXTREMELY UNDERSTAFFED AS
3 IT IS AND EVERY PERSON THAT'S IN THERE NEEDS TO BE ABLE TO
4 PERFORM AT 100% NOT AT 80%, NOT AT 70%, AND THE MORE CIVILIAN
5 EMPLOYEES WE PUT IN THERE, THE UNSWORN PERSONNEL, IT
6 DIMINISHES THE AUTHORITY AND ABILITY TO PROVIDE A STEADY WORK
7 ENVIRONMENT. I AM QUITE AWARE THERE IS A LOT OF FACILITIES
8 THAT HAVE GONE TO CIVILIAN EMPLOYEES AND THEY HAVE PROBLEMS.
9 THEY FORCE SWORN PERSONNEL OUT. THEY DON'T HAVE THE PERSONAL
10 TRAINING AND THEY DON'T HAVE THE ABILITY TO -- AND THE SAME
11 RESPONSIBILITIES, AT LEAST IN OUR SYSTEM, THAT THE DEPUTIES
12 DO.

13

14 **KIM DUNNE:** AND WHAT IS IT ABOUT THE DIFFERENCE BETWEEN THE
15 CUSTODY ASSISTANT AND DEPUTY THAT YOU THINK CAN CONTRIBUTE TO
16 INCREASED FORCE AND MORE PROBLEMS WITHIN CUSTODY?

17

18 **FLOYD HAYHURST:** IF THERE IS LESS DEPUTIES IN THERE, THE ODDS
19 ARE, IF THERE IS CIVILIANS IN THERE OPERATING THE JAIL,
20 THERE'S GOING TO BE NON-COMPLIANCE. THERE WILL BE LESS
21 COMPLIANCE WITH A CUSTODY THAN THE DEPUTY SHERIFF. I AM AWARE
22 THAT PPOA ALSO SAID THEY CAN RUN IT BETTER AND MORE EFFICIENT
23 AND WITH LESS FORCE. CURRENTLY, THEY DON'T USE VERY MUCH FORCE
24 BECAUSE DEPUTIES ARE THERE AND THE CAs, FOR THE MOST PART, DO
25 NOT RESPOND TO FORCE ISSUES. THEY LET THE DEPUTIES HANDLE IT.

1 SO THOSE NUMBERS ARE DEFINITELY GOING TO BE DOWN FROM OURS.
2 BECAUSE THEY DON'T USE FORCE, BECAUSE THEY DON'T RESPOND TO
3 IT.

4

5 **KIM DUNNE:** ARE YOU FAMILIAR WITH THE SHERIFF'S DUAL CAREER
6 PATH STUDY AND CONCLUSION THAT IMPLEMENTING DUAL PATH WOULD
7 ACTUALLY INCREASE MORALE AND CREATE A MORE STABLE CUSTODY WORK
8 FORCE?

9

10 **FLOYD HAYHURST:** I WILL, IF I MAY, I WILL START OFF WITH THAT
11 AND DEFER TO STEVE TO ANSWER. THE DUAL PATH, I UNDERSTAND WHAT
12 THE SHERIFF'S THOUGHTS ARE ON IT WE DO NOT BELIEVE IT WILL
13 HELP MORALE IN ANYWAY, SHAPE OR FORM. IN FACT, WE THINK IT
14 WILL HURT IT. WE HAD A DUAL -- WHAT THEY CALLED A "MODIFIED
15 DEPUTY" IN THE PAST AND IT CREATES A -- I AM A BETTER THAN YOU
16 OR I HAVE MORE TRAINING THAN YOU, I AM MORE QUALIFIED THAN YOU
17 -- AMONGST THE JAIL. AND THERE IS OTHER JAIL FACILITIES
18 THROUGHOUT SOUTHERN CALIFORNIA THAT HAVE HAD THE DUAL TRACK
19 AND IT IS NOT GOOD FOR MORALE EITHER BECAUSE IT GOES ALL THE
20 WAY BACK TO THE RANKS AND STUFF. AND WE'LL TALK ABOUT THAT I'M
21 GOING TO LET STEVE TALK ABOUT THE CASE WITH RESTRICTING IT,
22 WHAT THE -- HOW IT LIMITS THEIR POWERS AND THEIR AUTHORITY IN
23 CASES OF EMERGENCY. SO I'LL LET STEVE TALK, IF YOU WILL PERMIT
24 THE COMMISSIONER TO ALLOW STEVE TO ANSWER.

25

1 **KIM DUNNE:** MR. REMIGE.

2

3 **STEVE REMIGE:** GOOD MORNING. BACK IN 2004, WE EXPLORED THIS
4 PROGRAM, AND WE CONDUCTED A TOUR OF THE SHERIFF'S DEPARTMENT,
5 I'M NOT SURE WHICH ONE IT WAS. WE TALKED WITH THEIR STAFF AND
6 COMMANDERS AND ALL THAT AND THAT PROGRAM WAS NOT AT THE DESIGN
7 OF THE SHERIFF, ITSELF. IT WAS A MANDATE BY THE BOARD OF
8 SUPERVISORS AS A WAY TO CREATE A CHEAPER WORK FORCE TO RUN THE
9 CUSTODY DIVISION. THE POLICE OFFICER POWERS GRANTED THOSE
10 CORRECTIONAL OFFICERS DOWN IN SAN DIEGO WAS LESS THAN WHAT A
11 FULL 830.1 DEPUTY SHERIFF HAS. WHEN THEY HAD THE WILDFIRES,
12 PROBABLY BEFORE 2004 WHEN WE WENT DOWN THERE. THE ISSUE BECAME
13 THEY HAD A FORCE, A WORK FORCE THAT WAS NON-DEPLOYABLE. THE
14 ONLY THING THEY COULD DO WAS WORK CUSTODY FACILITY. THAT WAS
15 IT. THEY COULDN'T PUT THEM OUT ON A FIRE LINE -- THEY COULDN'T
16 PUT THEM OUT ON A FIRE LINE DIRECTING TRAFFIC, DRIVING
17 WHATEVER IT IS TO DIFFERENT LOCATIONS TO HELP AS FAR AS THE
18 MANPOWER POOL. THEY'RE VERY LIMITED IN THE USE OF THOSE
19 PERSONNEL OTHER THAN FOR CORRECTION FUNCTIONS ONLY THE COMMAND
20 STAFF THERE WHO WERE -- TWO COMMANDERS WE TALKED WITH, WHO HAD
21 ALSO WORKED THE PATROL SIDE OF THE OPERATION, SAID THAT IF
22 THEY HAD TO DO IT ALL OVER AGAIN, THEIR RECOMMENDATION WAS TO
23 STAFF THE JAILS WITH FULL- FLEDGED DEPUTY SHERIFFS.

24

25 **KIM DUNNE:** WEREN'T THE INDIVIDUALS IN THE JAILS ABLE TO BE

1 DEPLOYED WITH THOSE FIRES AS LONG AS THEY WERE WITH ANOTHER
2 SWORN DEPUTY?

3

4 **STEVE REMIGE:** THAT'S AN ISSUE IN ITSELF WHERE THEY WERE, YOU
5 COULD SPREAD OUT YOUR RESOURCES BY, YOU KNOW, HAVING THOSE
6 PEOPLE AT A SINGLE MAN POST, WHATEVER IT MIGHT BE FOR, YOU
7 KNOW, ON A STREET CORNER, YOU KNOW, JUST AS A DETERRENT FOR
8 LOOTERS, WHATEVER IT MAY BE. NOW YOU HAVE TO TAKE AN
9 ADDITIONAL MAN, PAIR HIM UP WITH THAT PERSON. INSTEAD OF
10 GETTING THE FULL VALUE OF YOUR RESOURCES, YOU ARE LIMITING
11 YOUR RESOURCES.

12

13 **KIM DUNNE:** WOULD YOU AGREE THERE ARE CERTAIN SKILL SETS THAT
14 ARE MORE APROPRIATE FOR WORKING IN CUSTODY THAN OUT ON PATROL?

15

16 **STEVE REMIGE:** THAT'S BEEN, YOU KNOW, 34 YEARS SINCE I WORKED
17 CUSTODY FACILITY. I DID WORK 32 YEARS FOR THE SHERIFF'S
18 DEPARTMENT BEFORE I RETIRED, BUT -- RETIRED, BUT MY VIEW OF
19 CUSTODY IS IT'S A LEARNING EXPERIENCE. A HUGE LEARNING
20 EXPERIENCE. A LOT OF PEOPLE THAT WE HIRE -- AND ESPECIALLY
21 TODAY -- DON'T HAVE THE LIFE EXPERIENCE THAT APPLICANTS FROM
22 THE PAST HAD. SO BY PUTTING NEWLY-ASSIGNED DEPUTIES INTO THE
23 CUSTODY FACILITY PRIOR TO THEIR ASSIGNMENT TO PATROL,
24 PERSONALLY I FEEL IS A GREAT, GREAT ASSET TO THOSE PEOPLE WHEN
25 THEY DO GET OUT TO THEIR PATROL ASSIGNMENTS, BECAUSE THEY HAVE

1 HAD THE EXPERIENCE OF ONE-ON-ONE CONTACT WITH THE PEOPLE THAT
2 NOT ALWAYS, BUT A LARGE PART OF WHAT THEY'RE GOING TO BE DOING
3 IN THE PATROL ENVIRONMENT, THEY'VE HAD CONTACT WITH THOSE
4 PEOPLE. THEY KNOW THE WAY THEY TALK, THE WAY THEY ACT, THE
5 THINGS THEY DO THAT, YOU KNOW, SET THEM APART FROM OTHER
6 PEOPLE IN SOCIETY.

7

8 **KIM DUNNE:** DON'T YOU BELIEVE THAT HAVING SOME TENURE, THOUGH,
9 WITHIN THE CUSTODY ENVIRONMENT WOULD BE A GOOD THING?

10

11 **STEVE REMIGE:** YES, ABSOLUTELY.

12

13 **KIM DUNNE:** SINCE ARE YOU A CURRENT DEPUTY, WOULD YOU AGREE
14 THEY NEED TO PLACE MORE RESPECT ON THOSE WORKING IN THE JAILS?

15

16 **FLOYD HAYHURST:** I BELIEVE, YEAH, THERE SHOULD BE PEOPLE NO
17 MATTER WHERE THEY'RE WORKING AT, THEY NEED TO FEEL VALUED AND
18 RESPECTED FOR THE POSITIONS THEY HOLD.

19

20 **KIM DUNNE:** WHAT IS ALADS' VIEW OF THE CURRENT TRAINING FOR
21 DEPUTY SHERIFFS THAT WORK IN CUSTODY?

22

23 **FLOYD HAYHURST:** I'D SAY THAT'S THE SAME AS LAW ENFORCEMENT. WE
24 DON'T GET ENOUGH TRAINING, BUT WITH THE STATE WE KNOW AND THE
25 BUDGET AND FINANCES, ANY TIME WE GET MORE TRAINING AND IF IT

1 PREVENTS ONE PERSON FROM GETTING INJURED OR KILLED,
2 ABSOLUTELY. TRAINING IS 100% NEEDED ALL THE TIME.

3

4 **KIM DUNNE:** DO THE DEPUTIES FIND THAT THE CURRENT POLICIES THAT
5 APPLY TO CUSTODY WORK ARE UNDERSTANDABLE?

6

7 **FLOYD HAYHURST:** ACTUALLY, NO. IT'S -- THEY SEEM TO GET WATERED
8 -DOWN OR MISINTERPRETED FROM THE TIME IT'S WRITTEN TO THE TIME
9 IT'S ACTUALLY EXPLAINED TO THEM. THAT WAS ALSO PUT IN OUR
10 SURVEY. I THINK THERE WAS TESTIMONY PRIOR TO THIS THAT
11 SOMETIMES THE POLICIES ARE POORLY WRITTEN OR WRITTEN IN SUCH A
12 FASHION THAT THEY'RE HARD TO INTERPRET.

13

14 **KIM DUNNE:** IS THERE A CONCERN THAT THE SOURCE OF POLICIES IS
15 IN TOO MANY LOCATIONS, YOU HAVE TO GO TO TOO MANY DOCUMENTS
16 WHETHER IT'S A MANUAL OR UNIT ORDERS OR ANYTHING LIKE THAT?

17

18 **FLOYD HAYHURST:** RIGHT, NOT JUST DIFFERENT POLICIES AND
19 DOCUMENTS WITHIN A FACILITY, BUT FROM FACILITY TO FACILITY,
20 YOU MAY BE DOING THE SAME JOB AT ONE FACILITY AND A DIFFERENT
21 ONE, EVEN THOUGH IT'S A CUSTODY FACILITY STATION A DIFFERENT
22 POLICY FOR HANDLING THAT.

23

24 **KIM DUNNE:** LAST FALL, SHERIFF BACA ISSUED A FORCE PREVENTION
25 POLICY, WITH WHICH I THINK YOU ARE FAMILIAR. DO YOU THINK THAT

1 POLICY MADE THE SITUATION BETTER OR WORSE?

2

3 **FLOYD HAYHURST:** I DON'T KNOW IF IT MADE IT BETTER OR WORSE. I
4 JUST BELIEVE -- WHAT I DO BELIEVE IS IT CONFUSED A LOT OF
5 PEOPLE TO EXACTLY WHAT THE POLICY READS.

6

7 **KIM DUNNE:** IN WHAT WAY DID IT CONFUSE PEOPLE?

8

9 **FLOYD HAYHURST:** AGAIN, THE LANGUAGE, THE WAY IT WAS WRITTEN. I
10 DON'T KNOW IF WE HAVE IT IN HERE. IT'S HARD TO INTERPRET
11 EXACTLY WHAT IT IS THAT THEY'RE ASKING.

12

13 **KIM DUNNE:** IF YOU TURN TO TAB 14, YOU WILL SEE IT THERE. IS
14 THERE ANYTHING IN PARTICULAR TO WHICH YOU CAN POINT AS BEING
15 PARTICULARLY CONFUSING?

16

17 **FLOYD HAYHURST:** ONE THING WE'VE ALWAYS HAD AN ISSUE WITH IS
18 WHAT IS OBJECTIVELY REASONABLE, OBJECTIVELY REASONABLE TO WHO?
19 TO THE INMATE? TO THE DEPUTY? TO A COMMISSION? TO THE OFFICE
20 OF INDEPENDENT REVIEW? I MEAN, WE ALL HAVE A DIFFERENT POINT
21 OF VIEW TO WHAT IS OBJECTIVELY REASONABLE.

22

23 **KIM DUNNE:** I WANT TO TURN TO THE ISSUE OF PAPERWORK FOR A
24 MOMENT. IN THE SURVEY AND AGAIN, THAT'S AT TAB 2, YOU HAD A
25 QUESTION ON NO. 30, PAGE 8. YOU SAID THERE IS A LOT OF

1 PAPERWORK WHEN THERE IS AN INCIDENT EVEN IF IT IS A NON-
2 SIGNIFICANT USE OF FORCE. HOW DOES THE PAPERWORK LEAVE YOUR
3 UNIT UNDERSTAFFED AND UNSAFE? AND THERE WAS A PARTICULAR
4 COMMENT IN YOUR REPORT THAT IT'S VERY BURDENSOME WITH USE OF
5 FORCE. CAN YOU EXPLAIN WHAT THE ISSUE IS WITH THIS PAPER THAT
6 YOU FIND TO BE SO BURDENSOME?

7

8 **FLOYD HAYHURST:** AGAIN, I THINK PART OF IT HAS TO DO WITH THE
9 STAFFING LEVELS. WHEN SOMEBODY HAS TO STOP TO TAKE THE TIME TO
10 WRITE REPORTS AND YOU ARE ALREADY UNDERSTAFFED LET'S SAY YOU
11 ARE DOWN TWO OR THREE PEOPLE, ET CERTERA, YOU GET DEPUTIES
12 TIED UP WITH WRITING REPORTS, THAT MEANS THERE IS LESS PEOPLE
13 OUT THERE LESS DEPUTY PERSONNEL, MANAGING THE SECURITY OF THE
14 INMATES AND SUPPORT STAFF, THAT THEY WRITE REPORTS AND THERE
15 ARE SO MANY INCIDENTS FOR USES OF FORCE AND/OR INJURIES. WE'RE
16 NOT TALKING ABOUT WRITING REPORTS FOR USE OF FORCE. WE ARE
17 TALKING ABOUT ALL PAPERWORK, IT TAKES ANOTHER PERSON OUT. IF
18 YOU HAVE THREE OR FOUR DEPUTIES ON ONE FLOOR THAT ARE WRITING
19 REPORTS THAT HAVE TO DO WITH INJURIES, ET CETERA, THEY'RE NO
20 LONGER ON THE FLOOR PROVIDING SECURITY. AND THE REPLICATION OF
21 PAPERWORK, WHATEVER INCIDENT REPORT THEY ARE WRITING, IT WOULD
22 GO AND CUT DOWN ON TIME. THERE ARE SO MANY TIMES WHEN YOU GO
23 TO A HOSPITAL, YOU FILL OUT THE FORM AND THE NURSE TURNS
24 AROUND AND CHECKS YOU IN AND ASKS YOU ALL THE SAME QUESTIONS.
25 YOU FILL OUT THE PAPERWORK, THE DOCTOR COMES IN, FILLING OUT

1 ANOTHER PIECE OF PAPER, IT'S REDUNDANT PAPERWORK, IF THEY CAN
2 CONDENSE IT DOWN, ALL THE INFORMATION WOULD BE THERE FOR EACH
3 PERSON ALONG THE WAY, ALL YOU'D HAVE TO DO IS MAKE A COPY OF
4 IT. I WANT TO MAKE SURE I UNDERSTAND.

5 **KIM DUNNE:** LET'S FOCUS ON THE REPORTS RELATED TO USE OF FORCE.
6 MY UNDERSTANDING IS IN 2011, THERE WERE 581 SUCH INCIDENTS. SO
7 581 REPORTS OF A DEPUTY INVOLVED. LET'S JUST SAY A DEPUTY,
8 THERE'S TEN DEPUTIES THAT WITNESSED IT OR SOMEHOW TANGENTIALLY
9 INVOLVED. THEY HAVE TO WRITE REPORTS. THE 581 TIMES 10, LET'S
10 SAY 5,800 REPORTS. OKAY. WITH THE APPROXIMATELY 1,800
11 DEPUTIES, DIVIDING THOSE DEPUTIES INTO THE NUMBER OF REPORTS,
12 THAT GETS YOU ABOUT THREE USE OF FORCE REPORTS A YEAR. DOES
13 THAT SOUND ABOUT RIGHT?

14

15 **FLOYD HAYHURST:** EXAMPLE BEING WE HAVE ONE SHOOTING IN COMPTON.
16 IT LOOKS LIKE THERE MIGHT BE A LOT OF SHOOTINGS IN COMPTON,
17 THEY SPREAD IT OUT THROUGHOUT ALL OF L.A. COUNTY, NOW THERE IS
18 ONLY ONE SHOOTING TO WORRY ABOUT.

19

20 **KIM DUNNE:** IF THERE IS A REPORT, THAT STILL DOESN'T CREATE AN
21 UNSAFE ENVIRONMENT AS DAILY OR WEEKLY THE RESPONDENTS
22 RESPONDED TO THE SURVEY; CORRECT?

23

24 **FLOYD HAYHURST:** NOT NECESSARILY, IT COULD BE HAPPENING ON ONE
25 PARTICULAR FLOOR WITH A LOT OF INMATES. IT COULD BE VERY, VERY

1 SPECIFIC TO ONE AREA. WHERE IT IS COMPROMISING THEIR SAFETY
2 FOR THAT TIME BEING FOR THAT PARTICULAR TIME.

3

4 **KIM DUNNE:** WHAT IS YOUR VIEW OF TRACKING COMPLAINTS BY DEPUTY?

5

6 **FLOYD HAYHURST:** WHAT KIND OF COMPLAINTS?

7

8 **KIM DUNNE:** USE OF FORCE COMPLAINTS, FOR EXAMPLE?

9

10 **FLOYD HAYHURST:** I WAS TOLD ARE YOU TALKING ABOUT THE FAST
11 PROGRAM?

12

13 **KIM DUNNE:** THE CONCEPT OF TRACKING EITHER COMPLAINTS OR USE OF
14 FORCE INCIDENTS BY DEPUTY. WHAT IS ALADS' VIEW ON THIS?

15

16 **FLOYD HAYHURST:** IT DEPENDS ON WHAT IT IS GOING TO BE USED FOR.

17

18 **KIM DUNNE:** BUT THE CONCEPT OF TRACKING THE INCIDENT DOESN'T
19 TROUBLE YOU; IS THAT RIGHT?

20

21 **FLOYD HAYHURST:** NOT FOR WHAT IT MIGHT BE USED FOR.

22

23 **KIM DUNNE:** DOES ALADS HAVE A VIEW ON THE ROTATION POLICY THAT
24 HAS BEEN RECENTLY IMPLEMENTED?

25

1 **FLOYD HAYHURST:** ACTUALLY, WE SAT DOWN AND HAD A BRIEF
2 DISCUSSION. THE CURRENT POLICY, ALTHOUGH WE DON'T AGREE WITH
3 IT IN ITS ENTIRETY, IF THAT'S A SNOWBALL PROBLEM. IT'S NOT A
4 BATTLE WE ARE REALLY PREPARED TO GET INVOLVED WITH. IT HAS ITS
5 PROs TO IT. IT HAS ITS CONs. THE ROTATION, THE BEST WAY I
6 COULD EXPLAIN IT, THERE IS PROBLEMS WITH IT DEALING WITH THE
7 HEALTH ISSUES, MENTAL PATIENTS THAT THEY BECOME VERY SENSITIVE
8 TO CHANGE IN THEIR LIFE AND WHEN THEY HAVE TO DEAL WITH
9 DIFFERENT HOSPITAL STAFF, PERSONNEL, OR DIFFERENT DEPUTIES
10 IT'S JUST THEIR STATE OF MIND. IT CAN BE PROBLEMATIC. MORE
11 USES OF FORCE ISSUES. THE NON-COMPLIANCE AND FOR THE
12 POPULATION, IT'S THE BEST WAY I CAN DESCRIBE THAT IS A DEPUTY
13 WORKING OUT IN THE FIELD. HE KNOWS WHERE THE GANGS ARE HANGING
14 OUT IN YOUR NEIGHBORHOOD. THEY KNOW WHERE THE PROBLEM PEOPLE
15 ARE. IF YOU CHANGE THE DEPUTY OUT EVERY FEW DAYS OR EVERY
16 MONTH IT TAKES A WHILE FOR THE DEPUTY TO BECOME FAMILIAR WITH
17 WHERE THE PROBLEMS ARE. AND WHERE THE INMATES ARE THAT GO
18 ALONG WITH THE PROGRAM AND WANT TO DO THEIR JAIL TIME AND GET
19 OUT OF CUSTODY AND GO BOOK TO THE FAMILY, WELL, IF YOU CHANGE
20 THEM AROUND, THERE IS A LOT OF TIMES DEPUTIES DON'T KNOW WHICH
21 INMATE IS WHICH ON THE FLOOR.

22

23 **KIM DUNNE:** DO YOU BELIEVE THE ROTATION POLICY HAS CONTRIBUTED
24 TO THE SIGNIFICANT LOW MORALE THAT YOU TALKED ABOUT?

25

1 **FLOYD HAYHURST:** I BELIEVE SO.

2

3 **KIM DUNNE:** AND ARE YOU CONCERNED ABOUT THE POTENTIAL
4 CONSEQUENCES OF THE -- CURRENTLY AMONG THE DEPUTIES IN
5 CUSTODY?

6

7 **FLOYD HAYHURST:** MY BIGGEST CONCERN IS WHEN MORALE GOES DOWN
8 AND PEOPLE DON'T FEEL THAT THEY ARE BEING RESPECTED AND/OR THE
9 JOBS THAT THEY DO, IT'S LIKE ANYBODY ELSE, THE PERFORMANCE
10 COULD GO DOWN. WE ARE ALSO LOOKING AT SAFETY ISSUES AS WE
11 DISCUSSED THE OTHER DAY AT SOME POINT. IN THE EVENT THE INMATES
12 FEEL EMPOWERED, THEY WILL RIOT. THEY WILL TRY TO TAKE IT OVER.
13 I THINK YOU KNOW I SAID AT SOME POINT IN TIME THERE WILL BE A
14 RIOT. WHAT HAPPENED THE VERY NEXT DAY? INMATES ON INMATES. THE
15 STEPS, ALL A PART OF THE DAILY PROCESS THERE. YOU CAN FEEL IT
16 IN THE BUILDING, WHEN THE MORALE IS DOWN, THE INMATES SENSE
17 THAT TOO, AS WELL.

18

19 **KIM DUNNE:** I THINK YOU USED THE TERM "BUBBLE ABOUT TO BURST,"
20 DO YOU REMEMBER THAT?

21

22 **FLOYD HAYHURST:** THAT IS CORRECT.

23

24 **KIM DUNNE:** WHY DO YOU USE THE TERM "THE BUBBLE IS ABOUT TO
25 BURST?"

1

2 **FLOYD HAYHURST:** AGAIN THE STAFFING IS LOW, THE INMATES ARE
3 FEELING EMPOWERED. AT SOME POINT IN THE TIME, IT HAS HAPPENED
4 IN STATES, IN OUR STATE ALONE, RIOT ITSELF HAPPEN AND PEOPLE
5 GET HURT. AND WHEN THE DEPUTIES START LOSING THEIR AUTHORITY,
6 PERCEIVE THEY'RE LOSING THEIR AUTHORITY TO MAINTAIN LAW AND
7 ORDER WITHIN THE JAIL, THAT'S WHEN VIOLENCE STARTS HAPPENING.

8

9 **KIM DUNNE:** IN THE COURSE OF OUR WORK, WE HAVE BEEN TOLD BY
10 DEPUTIES THAT WE HAVE CONTACTED TO INTERVIEW OR SPEAK WITH
11 THAT ALADS TOLD THEM NOT TO COOPERATE WITH THE COMMISSION'S
12 INVESTIGATION. ARE YOU AWARE THAT SHERIFF BACA ACTUALLY HAS
13 ENCOURAGED CURRENT AND FORMER DEPUTIES TO SPEAK TO THE
14 COMMISSION?

15

16 **FLOYD HAYHURST:** I'M NOT AWARE OF EVER TELLING DEPUTIES NOT TO
17 COOPERATE WITH THE COMMISSION. I BELIEVE WHAT THEY WERE TOLD
18 IS THAT IF YOU FEEL YOU ARE GOING TO BE QUESTIONED BY THE
19 COMMISSION, THAT YOU SHOULD SPEAK TO LEGAL COUNSEL FOR LEGAL
20 ADVICE ON IT. BUT I WOULD NEVER DISCOURAGE A DEPUTY FOR
21 INTERFEREING WITH AN INVESTIGATION OF ANY KIND.

22

23 **KIM DUNNE:** IN CONTRAST, ALADS HAS NEVER ENCOURAGED DEPUTIES TO
24 SPEAK; IS THAT RIGHT?

25

1 **FLOYD HAYHURST:** AGAIN, THAT'S NOT MY WORDS. WE TOLD THEM THEY
2 ARE GOING TO SEEK LEGAL COUNSEL FOR GUIDANCE. I NEVER
3 DISCOURAGED ANYBODY FROM COOPERATING WITH THIS COMMISSION OR
4 ANY OTHER COMMISSION.

5

6 **KIM DUNNE:** HOW DOES ALADS VIEW THE EFFECT AND IMPACT OF THE
7 INDEPENDENT OVERSIGHT THAT HAS BEEN CONDUCTED BY THE ACLU,
8 MERRICK BOBB, MIKE GENNACO?

9

10 **FLOYD HAYHURST:** I BELIEVE A LOT OF THEIR INPUT, THEY GO IN
11 WITH BLINDERS ON AND IN AN IDEAL WORLD.

12

13 **KIM DUNNE:** WHAT DO YOU MEAN GO IN WITH BLINDERS?

14

15 **FLOYD HAYHURST:** WELL, THEY GO IN AND THEY ACTUALLY, FROM WHAT
16 I'M AWARE OF OR KNOW, THEY DON'T SPEND A LOT OF TIME INSIDE
17 THE JAIL OR ANY OTHER FACILITY AND SEEING THE DAY-TO-DAY
18 OPERATION AND AS WE SAY, REAL TIME. WHEN THEY VIEW THE -- GO
19 INTO THE JAILS OR ANY OTHER FACILITY, THEY'RE USUALLY,
20 EVERYBODY IS MADE AWARE OF THAT THEY'RE THERE AND THEY'RE
21 ESCORTED AND THEY SEE IT UNDER IDEAL CONDITIONS.

22

23 **KIM DUNNE:** DO YOU BELIEVE THIS TYPE OF OVERSIGHT HAS
24 CONTRIBUTED TO THE LOW MORALE AMONG DEPUTIES THAT ARE WORKING
25 IN CUSTODY?

1

2 **FLOYD HAYHURST:** NOT IN ITSELF, BUT SOME OF THE RECOMMENDATIONS
3 HAS PROBABLY HURT SOME OF THE MORALE OR AS AGAIN IT COMES BACK
4 TO THE DEPUTIES ARE FEELING THAT THEY DON'T HAVE ANY AUTHORITY
5 IN THE JAILS ANYMORE. THAT THEY HAVE BEEN TOLD, ALL INMATES,
6 EVERYTHING IS HANDS OFF. YOU HAVE A PROBLEM, GO GET A
7 SUPERVISOR.

8

9 **KIM DUNNE:** ISN'T IT TRUE WHEN WE MET, YOU BLAMED MERRICK BOBB
10 AND ACLU FOR THE PROBLEMS EXISTING IN THE JAILS?

11

12 **FLOYD HAYHURST:** NO, I BLAMED THEM FOR SOME OF THE
13 RECOMMENDATIONS THE SHERIFF HAS DONE.

14

15 **KIM DUNNE:** ISN'T IT TRUE YOU HAVE SIMILAR FEELINGS AGAINST THE
16 SHERIFF FOR NOT STANDING UP TO THESE OUTSIDE ENTITIES?

17

18 **FLOYD HAYHURST:** THE CONVERSATIONS I'VE HAD WITH THE SHERIFF IS
19 MY CONCERNS ABOUT THEIR RECOMMENDATIONS. I DON'T HAVE ANY
20 OTHER THING BAD TO SAY ABOUT MY SHERIFF.

21

22 **KIM DUNNE:** SO IS IT ALADS' VIEW THAT THESE OVERSIGHT RULES
23 SHOULD BE ELIMINATED SO, YOU KNOW, DEPUTIES CAN BE DEPUTIES?

24

25 **FLOYD HAYHURST:** I'M NOT SAYING THEY SHOULD BE ELIMINATED BUT

1 THEIR RECOMMENDATIONS SHOULD BE CAREFULLY CONSIDERED AND NOT
2 ALWAYS ACTED UPON BECAUSE I DON'T BELIEVE THEY HAVE REALLY
3 WHAT'S IN THE PUBLIC SAFETY'S BEST INTEREST. SOME OF THESE
4 PEOPLE ARE NOT THE EXPERTS ON IT.

5

6 **KIM DUNNE:** NO FURTHER QUESTIONS.

7

8 **FLOYD HAYHURST:** THANK YOU.

9

10 **HON. LOURDES BAIRD, CHAIR:** ARE YOU GOING ON?

11

12 **KIM DUNNE:** DID YOU HAVE ANY STATEMENTS? THEY WERE BOTH HERE.

13

14 **HON. LOURDES BAIRD, CHAIR:** THE COMMISSIONER'S QUESTIONS WILL
15 BE WITHHELD UNTIL SUCH TIME AS YOUR EXAMINATION OF MR. REMIGE
16 IS COMPLETED.

17

18 **KIM DUNNE:** MY EXAMINATION OF MR. REMIGE IS COMPLETED. I DIDN'T
19 HAVE QUESTIONS. THEY WERE BOTH HERE TO ANSWER QUESTIONS THAT
20 YOU HAD.

21

22 **HON. LOURDES BAIRD, CHAIR:** I GUESS I MISUNDERSTOOD. AS FAR AS
23 THE COMMISSIONERS GO, I THINK I STARTED ON MY RIGHT LAST TIME,
24 SO THIS TIME I'LL START ON MY LEFT.

25

1 **HON. CARLOS R. MORENO:** I THINK I HAVE ONE QUESTION FOR FORMER
2 DEPUTY REMIGE. IT SEEMED THAT YOUR CHARACTERIZATION WAS TO
3 HAVE CUSTODY ASSIGNMENT FOR TRAINING PURPOSES. I WAS INTRIGUED
4 BY THAT. IF IT SEEMS LIKE YOU FEEL THAT THAT KIND OF
5 EXPERIENCE MAKES A BETTER PATROL OFFICER BECAUSE IT, AND
6 CORRECT ME IF I'M WRONG, IT TOUGHENS UP THE DEPUTY TO HAVE THE
7 KIND OF BACKGROUND AND EXPERIENCE TO DEAL WITH SITUATIONS ON
8 THE STREET. BEFORE YOU ANSWER THAT, I THINK IT WAS THE SHERIFF
9 WHO SAID THAT GIVEN TODAY'S RECRUITS, MANY OF THEM I THINK HE
10 SAID HAVE NEVER BEEN IN A FIGHT. I THINK I'M QUOTING HIM
11 CORRECTLY. IS IT YOUR -- ONE WAY THAT ONE MIGHT CHARACTERIZE
12 YOUR SUPPORT FOR TOUGHENING UP DEPUTIES IS THAT IF THEY GET
13 INTO A FIGHT OR EXPOSED TO THAT KIND OF ROUGH CULTURE IN THE
14 COUNTY JAIL, THAT MAKES FOR A BETTER PATROL DEPUTY; IS THAT
15 WHAT YOU ARE SAYING?

16

17 **STEVE REMIGE:** I'M NOT SAYING THERE IS A POSSIBILITY YOU COULD
18 GET IN A FIGHT BECAUSE YOU ARE IN A CUSTODY ENVIRONMENT. I'M
19 SURE THERE IS A LOT OF OUR MEMBERS THAT SPEND THEIR ENTIRE
20 CUSTODY CAREERS AND NEVER HAVE A MAJOR FORCE INCIDENT.

21

22 **HON. CARLOS R. MORENO:** LIKE THE MANY DEPUTIES ON PATROL OR
23 POLICE OFFICERS THAT NEVER FIRE A WEAPON IN THE COURSE OF
24 THEIR CAREER?

25

1 **STEVE REMIGE:** ABSOLUTELY. I BELIEVE THE EXPERIENCE OF THE
2 CUSTODY SETTING, IT'S MORE OF A PERSONA I GUESS OF THE PEOPLE
3 THAT YOU ARE EVENTUALLY GOING TO BE DEALING WITH WHEN YOU GET
4 TO THE STREET. YOU KNOW, WE HIRE PERSONNEL FROM ALL DIFFERENT
5 WALKS OF LIFE, FROM EVERY CLASS YOU KNOW, NO SOCIAL ECONOMIC
6 ENVIRONMENT. AND SOME OF THOSE PERSONNEL MAY HAVE NEVER HAD
7 EXPERIENCE WHERE THEY'VE HAD A HOSTILE INDIVIDUAL THAT -- HAS
8 NO SECOND THOUGHTS ABOUT, YOU KNOW, TAKING THEIR LIFE. SO I DO
9 BELIEVE THAT THE EXPERIENCE OF WORKING CUSTODY IS INVALUABLE
10 FOR OUR DEPUTY SHERIFFS. I THINK IT MAKES A BETTER PATROL
11 DEPUTY WHEN THEY DO GET OUT TO THE STREETS. AND MATURES THEM,
12 ACTUALLY.

13

14 **HON. CARLOS R. MORENO:** FROM THE PERSPECTIVE OF A LAW-ABIDING
15 CITIZEN WHO IS STOPPED FOR AN ORDINARY TRAFFIC VIOLATION, IF
16 THE DEPUTY IS SORT OF GOING TO BELIEVE THAT I DON'T KNOW WHAT
17 TO EXPECT, THAT MAY BE TOTALLY REASONABLE. A LAW-ABIDING
18 CITIZEN MIGHT SAY IT'S THE PRESUMPTION THAT THE DEPUTY THINKS
19 THE PERSON IS VIOLENT THAT MAY LEAD TO THE PERSON BEING
20 INITIALLY MISTREATED.

21

22 **STEVE REMIGE:** I'M NOT SURE WHAT YOU ARE DRAWING THAT
23 CONCLUSION FROM. I MEAN...

24

25 **HON. CARLOS R. MORENO:** YEAH, IF YOU'VE GOT SOMEONE WHO HAS

1 TOUGHENED UP IN A CUSTODY CIRCUMSTANCE COMING ON THE STREET,
2 THEY MIGHT TREAT EVERYONE THEY STOP LIKE SOMEONE WHO HAS BEEN
3 IN CUSTODY.

4

5 **STEVE REMIGE:** WELL, EVERYBODY HAS THEIR OWN PERSONALITY AND
6 SOME PEOPLE JUST ACT DIFFERENTLY I WOULD SAY, I MEAN, YOU
7 KNOW, LIKE I SAID, I WAS A DEPUTY SHERIFF FOR 32 YEARS. I HAD
8 THE OPPORTUNITY TO WORK NUMEROUS ASSIGNMENTS ON THE SHERIFF'S
9 AT THE TIME I DID 26 MONTHS AT MCJ BEFORE I WENT TO PATROL.
10 AND WHAT I GOT OUT OF THE CUSTODY EXPERIENCE, I FELT, WAS
11 INVALUABLE AND COMPLETED MY TRAINING ON THE STREETS.

12

13 **HON. CARLOS R. MORENO:** IT MADE YOU A BETTER PATROL DEPUTY?

14

15 **STEVE REMIGE:** ABSOLUTELY, WITHOUT A DOUBT.

16

17 **HON. CARLOS R. MORENO:** I THINK FOR DEPUTY HAYHURST, I WANTED
18 TO SEE IF YOU COULD EXPAND ON YOUR TRACKING REPORTS, USE OF
19 FORCE INCIDENTS. YOU SAID, IT DEPENDS ON WHAT IT'S USED FOR
20 THAT DATA. IN YOUR VIEW WHAT ARE YOUR CONCERNS ABOUT HOW THAT
21 DATA MIGHT BE PROPERLY USED OR IMPROPERLY USED?

22

23 **FLOYD HAYHURST:** THE OBJECTION I HAD TO IT IS, THERE IS GOING
24 TO BE CERTAIN PLACES WHEN THEY START DOING A STAT, AS WE KNOW
25 STATS ARE NOT ALWAYS WHAT THEY APPEAR TO BE. AND IF YOU HAVE A

1 DEPUTY THAT IS ON A POTENTIALLY VIOLENT FLOOR OR WORKS A MORE
2 DANGEROUS OR FAST PACED STATION AND THEIR FORCE IS RECORDED
3 AND WE SAY DEPUTY HAYHURST, MY GOOD GUY, HE'S GOT 36 USES OF
4 FORCE OVER THE LAST THREE YEARS. THERE'S DEPUTY SMITH AT
5 ANOTHER FACILITY, HE'S ONLY USED TWO, THERE IS A PROBLEM
6 THERE. WELL, AGAIN, THOSE STATS MAY BE ACCURATE, BUT IT'S NOT
7 ACCURATE FOR WHERE HE'S WORKING, THE CLASSIFICATION OF WHERE
8 THEY'RE WORKING AT. YOU MAY TURN AROUND AND SET THE TWO
9 DEPUTIES OUT. THE VERY NEXT THREE YEARS, THE NUMBERS CHANGING
10 DRASTICALLY. AND IT WOULD SEND A RED FLAG UNDESERVEDLY AGAINST
11 ONE OF MY MEMBERS FOR DOING HIS JOB PROPERLY. IT IS ONE THING
12 THEY'RE RECORDING USE OF FORCE, EXCESSIVE USE OF FORCE OR
13 MISUSE OF FORCE. THAT'S ONE THING, INCLUDING ALL USE OF FORCE,
14 USING IT FOR STATISTICAL DATA FOR DISCIPLINE OR TRACKERS. I
15 HAVE SOME CONCERNS ABOUT THAT.

16

17 **HON. CARLOS R. MORENO:** I THINK THE SHERIFF TALKED ABOUT THE
18 DIFFERENT KIND OF ASSIGNMENTS, AGAIN, I'M NOT SURE IF I'M
19 QUOTING HIM CORRECTLY, BUT HE ALLUDED TO, LET'S SAY, ALTADENA
20 AND MALIBU BEING LOW FORCE THERE. IN THE COUNTY JAIL, YOU
21 MIGHT HAVE HIGH LEVEL USES OF FORCE. WOULDN'T IT BE FAIR JUST
22 TO COMPARE APPLES WITH APPLES AND LOOK AT PATTERNS WITHIN THE
23 MEN'S CENTRAL JAIL AND WOULDN'T THAT IN SOME WAY LEVEL THE
24 PLAYING FIELD SO IF SOMEONE HAD, LET'S SAY THE AVERAGE WAS 10,
25 BUT IF SOMEONE HAD 30, THAT MIGHT BE AN INDICATION THAT THAT

1 PARTICULAR DEPUTY WHEN COMPARED WITH OTHERS IN THE SAME
2 ASSIGNMENT, MIGHT HAVE A PROBLEM?

3

4 **FLOYD HAYHURST:** WELL, AGAIN, IF IT'S ON THE SAME FLOOR AND THE
5 DEPUTIES ARE PERFORMING THE SAME JOB ON THE SAME SHIFT. I
6 WOULD SAY, ABSOLUTELY. THERE COULD BE A RED FLAG. YOU HEARD
7 SOME OF THIS STUFF, I AM WORKING ON THE 3rd FLOOR DURING PILL
8 CALL. THERE WAS A DEPUTY ON 5,000 WORKING THERE AND IT'S
9 MOSTLY TRUSTEES THAT WORK WITHIN THE JAIL FACILITY. YOU
10 COMPARE THOSE TWO, IT WOULD BE AN INACCURATE COMPARISON. IT
11 HAD TO BE SOMETHING THAT IS WELL DESIGNED AND YOU CAN DO YOU A
12 FAIR COMPARESON. SO I DON'T THINK WE'D HAVE ANY OBJECTION TO
13 THAT. BUT IT WOULD HAVE TO BE REALLY TIGHTENED UP. WE ARE LOOK
14 AT THINGS OBJECTIVELY ON A FAIR PLAYING FIELD.

15

16 **HON. DICKRAN M. TEVRIZIAN:** YES, YOU INDICATED THAT YOU DIDN'T
17 LIKE A LOT OF THE PAPER THAT WAS BEING DONE WITH REGARD TO USE
18 OF FORCE INVESTIGATIONS. WHY IS THAT? I THINK YOU SAID IT WAS
19 TOO BURDENSOME ON THE DEPUTY, TOOK HIM AWAY FROM THE, TOOK HIM
20 OFF THE FLOOR.

21

22 **FLOYD HAYHURST:** I'M REALLY NOT SURE THAT'S EXACTLY HOW I SAID
23 IT. I SAID THERE IS A LOT OF PAPERWORK. THAT IS VERY
24 BURDENSOME THAT TAKES THE DEPUTIES OUT OF THE SITUATION WHERE
25 THEY'RE NOT ABLE TO PROVIDE ADEQUATE BACKUP AND SAFETY WHILE

1 THEY'RE DOING THAT. WE ARE, OUR RECOMMENDATION IS TO CONDENSE
2 SOME OF THE PAPERWORK SO IT GETS THEM BACK OUT, LIKE OUT IN
3 THE FIELD, WHEN WE MAKE AN ARREST, IF ARE YOU IN THE STATION,
4 BOOK SOMEBODY INTO CUSTODY, ARE YOU IN THERE FIVE HOURS, THAT
5 MEANS FIVE HOURS YOU ARE NOT OUT THERE SERVICING THE PUBLIC.
6 AND THAT'S SAME THING WHILE IN CUSTODY, WELL-DOCUMENTED
7 INCIDENTS, I THINK WE SHOULD PROVIDE AS MUCH FACTS AS HUMANLY
8 POSSIBLE AND THAT'S NOT WHAT WE'RE TRYING TO DO. WE'RE NOT
9 TRYING TO CUT OUT THE FACTS OR DO PROPER REPORTING. THERE
10 SHOULD BE A DOCUMENT SOMETHING WITHOUT DOING THREE OR FOUR
11 PAGES OF THE SAME QUESTIONS ON A PIECE OF DOCUMENT. IT SHOULD
12 BE A UNIVERSAL DOCUMENT THAT WE CAN DO IT ONE TIME AND THAT
13 WILL CUT IT OUT.

14

15 **HON. DICKRAN M. TEVRIZIAN:** MY COLLEAGUE TALKED ABOUT PITCHESS
16 MOTIONS AND THE FACT THAT THE INFORMATION THAT IS FURNISHED
17 THE COURT ON THESE PITCHESS MOTIONS SHOULD BE ACCURATE
18 INFORMATION. BUT PITCHESS MOTIONS, I'M SORRY, PITCHESS
19 REQUIREMENTS ARE CODIFIED IN THE PENAL CODE OF STATE OF
20 CALIFORNIA 832.5 FOR SWORN PEACE OFFICERS. I BELIEVE 841.5 FOR
21 CUSTODIAL OFFICERS. SO, REALLY, THE STATE REQUIRES THE
22 REPORTING REQUIREMENTS THAT ALADS SEEMS TO BE OPPOSING. WHEN I
23 TALK ABOUT ALADS, ARE YOU THE REPRESENTATIVE FROM ALADS. WHY
24 IS THAT?

25

1 **FLOYD HAYHURST:** IF I UNDERSTAND THE QUESTION, YOU ARE SAYING
2 PROPER REPORTING?

3

4 **HON. DICKRAN M. TEVRIZIAN:** YOUR TESTIMONY IS YOU ARE TRYING TO
5 SHORT CIRCUIT THE REPORTING ARM. I HAVE A PROBLEM WITH THAT
6 BECAUSE THERE IS A PENAL CODE SECTION THAT ADDRESSES THE, YOU
7 KNOW, THE CODIFICATION OF THESE REPORTS DEALING WITH.

8

9 **FLOYD HAYHURST:** I WILL HAVE TO DEFER THE LEGAL REQUIREMENTS TO
10 LEGAL COUNSEL. WE ARE NOT TRYING TO SHORT CIRCUIT THE LEGAL
11 PROCESS. IF IT'S LEGALLY REQUIRED, WE DON'T TRY TO CIRCUMVENT
12 THE WAY TO GO ABOUT IT. IF WE DON'T BELIEVE IN THE LAW, WE TRY
13 TO GET THE LAWS CHANGED. AT THIS POINT IN TIME, IF IT'S
14 REQUIRED, CODIFICATION PREVENTS SHERIFFS FROM DOING WHAT HE
15 NEEDS TO DO.

16

17 **HON. DICKRAN M. TEVRIZIAN:** WE HAD DIFFERENT MEETINGS, WE HAD
18 MR. GENNACO, MR. BOBB, THE SHERIFF LAST WEEK, NOW ALADS THIS
19 WEEK. AND I GET THE IMPRESSION, THE DISTINCT IMPRESSION THAT
20 THERE IS A JURISDICTIONAL FREE FOR ALL GOING ON AT THE PRESENT
21 TIME WITH RESPECT TO WHAT SHOULD OR SHOULDN'T BE DONE BY WHICH
22 GROUP IN THE JAIL. TODAY ARE YOU ADVOCATING THE DEPUTIES DON'T
23 HAVE THE INDEPENDENT -- THE INDEPENDENCE THAT IS NEEDED TO
24 CARRY OUT THEIR FUNCTION? LAST WEEK, WE HAD THE SHERIFF COME
25 IN HERE, ADMITTED THERE WAS A PROBLEM GOING ON IN THE JAILS

1 AND WE'VE HAD MR. GENNACO AND MR. BOBB COMPLAINING. AM I
2 GETTING IT RIGHT, YOU DON'T BELIEVE THE PROBLEM IS AS SERIOUS
3 AS WHAT WE HAVE BEEN LED TO BELIEVE?

4

5 **FLOYD HAYHURST:** I DO NOT BELIEVE THE PROBLEM IS AS SERIOUS AS
6 WHAT THE ACLU AND MERRICK BOBB AND MIKE GENNACO SAID, NO, I DO
7 NOT. AGAIN, WE ARE RUNNING ONE OF THE MOST VIOLENT JAILS IN
8 THE WORLD. WE ARE DOING IT WITH LESS AND EVEN THOUGH THE FORCE
9 IS DOWN SIGNIFICANTLY, AGAIN, IN THE LAST SIX MONTHS, YOU
10 COMPARE IT TO THE STATS, THE ONES THAT MIKE GENNACO LIKES TO
11 USE OR MR. BOBB LIKES TO USE, OUR USE OF FORCE IS NEXT SO ZERO
12 COMPARED TO THOSE, OUR NUMBERS IN STAFFING IS DOWN COMPARED TO
13 THOSE EXTREMELY LOW COMPARED TO THEIRS. OUR DEPUTIES ARE DOING
14 AN OUTSTANDING JOB. THEY ARE USING FORCE, AT TIMES, WHEN
15 NECESSARY IF THERE IS SOME OUT THERE USING EXCESSIVE FORCE,
16 INVESTIGATIONS, WE'LL LET THEM RUN THE COURSE AND THE
17 APPROPRIATE ACTIONS SHOULD BE TAKEN AGAINST THEM. BUT WHEN WE
18 DO COMPARISONS ABOUT FORCE, LET'S LOOK AT THEM. HERE IS VOLUME
19 AND THE NUMBER OF INMATES THAT WE HAVE AND THE PEOPLE RUNNING
20 THE JAIL IS NEXT TO ZERO COMPARED TO THESE OTHER JAILS
21 THROUGHOUT THE COUNTRY. THEY'RE DOING A PHENOMENAL JOB. I'M
22 NOT GOING TO SAY THERE IS NO BAD DEPUTIES OUT THERE. THAT
23 WOULD BE CRAZY TO SAY. BUT I'D SAY THE DEPUTIES AS A WHOLE ARE
24 DOING A FABULOUS JOB.

25

1 **HON. DICKRAN M. TEVRIZIAN:** LET ME ASK YOU THIS QUESTION...I
2 THINK MR. REMIGE SAID TODAY'S DEPUTIES DON'T HAVE THE LIFE
3 EXPERIENCE THAT THE PREVIOUS DEPUTIES HAD. WHAT DO YOU MEAN BY
4 THAT?

5
6 **STEVE REMIGE:** WELL, BACK WHEN I CAME ON, 1979, THE MAJORITY OF
7 THE APPLICANTS THAT WE WERE PUTTING THROUGH THE SHERIFF'S
8 DEPARTMENT WERE COMING TO US WITH MILITARY BACKGROUNDS. AND/OR
9 HAD LIFE EXPERIENCE. THAT'S NOT THEIR FIRST JOB THAT THEY WERE
10 COMING INTO. YOU KNOW, ON MYSELF, I WAS ALMOST 26 WHEN I
11 STARTED AT THE SHERIFF'S. AT THE TIME I HAD HAD SEVERAL JOBS,
12 NO MILITARY BACKGROUND, BUT I DID GROW UP IN NEIGHBOURHOODS
13 THAT WERE CONSIDERED A LITTLE ROUGH. SO --

14
15 **HON. DICKRAN M. TEVRIZIAN:** DID YOU GROW UP IN LOS ANGELES?

16
17 **STEVE REMIGE:** IN THE CENTRAL VALLEY AND BACK EAST IN
18 PENNSYLVANIA. SO, WHAT I MEANT BY THAT PRIOR TO MY TENURE, I
19 WAS THERE TEN YEARS. WE WERE SEEING APPLICANT COME IN THIS WAS
20 THEIR FIRST JOB. SOME HAD NEVER HAD A PART-TIME JOB PRIOR TO
21 COMING ONTO THE SHERIFF'S DEPARTMENT. THIS WAS IT FOR THEM.
22 THEY CAME STRAIGHT OUT OF SCHOOL OR IN SOME CASES FROM THEIR
23 PARENTS' HOUSE TO THE SHERIFFS DEPARTMENT. HERE WAS THE
24 ENVIRONMENT THEY WERE THROWN INTO. SO IF THAT MAKES SENSE.

25

1 **HON. DICKRAN M. TEVRIZIAN:** YOU KNOW, NOT TOO LONG AGO, THERE
2 WAS DESERT STORM, SO YOU HAD A LOT OF INDIVIDUALS, YOU KNOW,
3 THAT LEFT THE MILITARY AND APPLIED WITH THE SHERIFFS. I GREW
4 UP HERE. THAT WAS A CHANGING NEIGHBORHOOD A TOUGH
5 NEIGHBOURHOOD. BUT, YOU KNOW, THE KIDS TODAY ARE MORE STREET
6 SMART THAN THE KIDS OF MY GENERATION. THE ONLY THING WE HAD TO
7 WORRY ABOUT IS PUTTING THE KEY IN THE CAR AND WHETHER IT WOULD
8 START UP OR NOT. THE LIGHTS WENT ON. THESE KIDS TODAY FACE FAR
9 MORE SERIOUS ISSUES THAN WE EVER FACED WHEN WE GREW UP. I
10 MEAN, I DON'T UNDERSTAND THE STATEMENT THAT, SO THESE KIDS
11 DON'T HAVE THE LIFE EXPERIENCES THAT THE OLDER GENERATION HAD,
12 THE OLDER GENERATION WAS ALL HAPPY. THIS IS DIFFERENT TIMES.

13

14 **STEVE REMIGE:** AND I UNDERSTAND THAT COULD BE TRUE, DEPENDING
15 ON LIKE I SAID THE AREA THAT YOU GROW UP IN. BUT MY EXPERIENCE
16 FROM TALKING TO THE NEW RECRUITS, WE WOULD TALK TO THEM FROM
17 DAY ONE OF THE ACADEMY. AND, TO ME, IT APPEARED THAT, YOU
18 KNOW, WE WERE HIRING A LOT MORE PERSONNEL THAT DIDN'T HAVE
19 WHAT I CALL LIFE CONFRONTATION, EXPERIENCE, WHATEVER IT MIGHT
20 HAVE BEEN. AND THAT'S MY OPINION AND WHAT PEOPLE IN MY
21 GENERATION HAVE BEEN.

22

23 **HON. DICKRAN M. TEVRIZIAN:** ARE WE IN A BIG TURF BATTLE HERE
24 BETWEEN MANAGEMENT, THE DEPUTIES, AND OUTSIDE MONITORING
25 GROUPS, REALLY STANDING IN THE WAY OF PROGRESSIVELY FORM OF

1 THE OPERATION OF THE L.A. COUNTY JAIL? I WILL AGREE WITH MR.
2 HAYHURST THE L.A. COUNTY JAIL IS A VERY, VERY VIOLENT PLACE. I
3 DON'T DISAGREE WITH THAT AT ALL. BUT THIS IS A TURF BATTLE
4 GOING ON HERE. IS THAT TURF BATTLE LICENSING ROGUE DEPUTIES TO
5 COMMIT VIOLENCE ON INMATES?

6

7 **FLOYD HAYHURST:** I'LL TAKE THE STAND ON THAT FIRST. I WOULD
8 NEVER CALL IT A TURF BATTLE. I THINK THAT, AGAIN, WHEN PEOPLE
9 ARE LOOKING INTO HOW THE JAILS ARE BEING RUN AND WHAT THE
10 DEPUTIES ARE DOING WHAT ALL THE SHERIFFS DEPLOYMENT, HOW THEY
11 ARE PERFORMING, THEY NEED TO LOOK AT IT WITH OPEN EYES, GO IN
12 THERE AND SEE HOW VIOLENT THE JAIL COULD BE. MYSELF, LIKE YOU,
13 I GREW UP IN L.A. COUNTY ALL MY LIFE. TIMES ARE CHANGING. WHEN
14 WE ARE DEALING WITH THE INMATES IN CUSTODY, THEY'RE NOT ALL
15 GUILTY, BUT MANY OF THEM NOW WE HAVE IN CUSTODY ARE REPEAT
16 OFFENDERS. THEY ARE IN THERE FOR VERY VIOLENT CRIMES. MOST OF
17 THEM, BECAUSE OF THE STAFFING AND THE HOUSING RESTRICTIONS AND
18 STUFF, THEY'RE RELEASED. SO WE'RE MAINTAINING THE MOST
19 VIOLENT. THEY DON'T HAVE THE SAME SET OF VALUES AS MYSELF,
20 STEVE AND THE REST OF THE COMMISSIONERS THERE AND MOST PEOPLE.
21 THEY DON'T LOOK AT YOU, WILL LIE TO YOU STRAIGHT TO YOUR FACE
22 OR ACT LIKE THEY LIKE YOU AND THE FIRST CHANCE THEY GET, THEY
23 WOULD THINK NOTHING ABOUT KILLING YOU. I'M NOT SAYING THAT
24 THAT'S FOR ALL INMATES. THERE ARE A LOT IN THERE THAT ARE VERY
25 VIOLENT. THEY DON'T HAVE THE RESPECT. SO FOR A TURF WAR, NO, I

1 WOULD LIKE THE ACLU, WHICH WE KNOW IS NEVER GOING TO HAPPEN
2 AND MERRICK BOBB AND MR. GENNACO WILL LOOK AT IT AND THROUGH
3 THE DEPUTY'S EYES TO THEIR ENVIRONMENT THAT THEY'RE WORKING IN
4 AND HOW THE CHALLENGES ARE EVERY SINGLE DAY, THEY'RE DOING A
5 TOUGH JOB AND, YOU KNOW, THERE SHOULD BE -- MR. GENNACO LIKES
6 TO MAKE COMMENTS ABOUT OR ACTUALLY WALTER KATZ MADE A COMMENT
7 ABOUT IN A TIE WE NEED THE CAMERA TO BE ABLE TO LOOK AT IT AND
8 SEE WHO IS TELLING THE TRUTH. IT'S NOT A BALL GAME. THIS IS
9 LIFE OR DEATH. THESE DEPUTY SHERIFFS WENT THROUGH STRENUOUS
10 TRAINING. THEY HAD BACKGROUNDS CHECKS. THEY'RE NOT CRIMINALS.
11 WHEN YOU HAVE A SUSPECT THAT'S CONSTANTLY LYING, NOT TELLING
12 THE TRUTH, WHY WOULD YOU GIVE HIM THE BENEFIT OF THE DOUBT
13 WHEN THERE IS USES OF FORCE. CAN YOU SEE CAMERAS, WHERE THERE
14 IS A LOT OF TIMES, THE INMATES CLAIM THE DEPUTIES ARE HITTING
15 THEM AND DOING SOMETHING CLEARLY, THERE WAS NO USE OF FORCE,
16 ANY WAY, SHAPE OR FORM. SO THERE IS NO TURF WAR. IT'S JUST I
17 WOULD LIKE REALLY TRUE OBJECTIVE WRITINGS AND SUBMISSIONS BY
18 THEM FOR WHAT WILL HELP MAKE IT A BETTER JAIL, A BETTER
19 WORKING ENVIRONMENT AND A BETTER DEPARTMENT. I THINK THAT'S
20 WHAT WE'RE ALL STRIVING FOR. WE ARE NOT THE ENEMY. I'M HERE
21 TO REPRESENT DEPUTIES WRONGLY ACCUSED AND THE ONES THAT,
22 OBVIOUSLY, ARE ACCUSED OF THINGS THAT AND THEY ARE GUILTY, I'M
23 A COP FIRST. IF THEY ARE DOING SOMETHING UNLAWFUL, THEN, YOU
24 KNOW WHAT, THEY NEED TO BE HELD ACCOUNTABLE JUST LIKE ANYBODY
25 ELSE. ANYBODY THAT DOES SOMETHING WRONG IN LAW ENFORCEMENT, IT

1 TARNISHES OUR BADGE. IT HURTS OUR DEPARTMENT, IT HURTS EVERY
2 DEPARTMENT THROUGHOUT THE STATES.

3

4 **HON. DICKRAN M. TEVRIZIAN:** LET ME ASK YOU THIS
5 QUESTION...THERE ARE 20,000 INMATES I UNDERSTAND IN L.A.
6 COUNTY JAIL. ABOUT 80% ARE PRE-TRIAL DETAINEES, IN OTHER
7 WORDS, HAVE NOT BEEN FOUND GUILTY OF ANY OFFENSE. YOU KNOW,
8 THERE IS A CONCEPT IN THIS COUNTRY CALLED PRESUMTION OF
9 INNOCENCE AND THAT PRESUMTION OF INNOCENCE REMAINS UNTIL THAT
10 PERSON IS ACTUALLY CONVICTED. I HAVE A PHILOSOPHICAL PROBLEM
11 AND I'M A HARDLINER. I HAVE A PHILOSOPHICAL PROBLEM WHEN YOU
12 SAY THE WORD OF THE INMATE SHOULD NOT BE TAKEN OVER THE
13 DEPUTY, IT SHOULD BE ON EQUAL FOOTING, SHOULDN'T IT, UNTIL
14 SUCH TIME AS THERE IS AN ADJUDICATION TO WHETHER OR NOT THE
15 USE OF FORCE SHOULD BE SUSTAINED OR NOT SUSTAINED?

16

17 **FLOYD HAYHURST:** I CAN AGREE WITH YOU ON THAT.

18

19 **HON. DICKRAN M. TEVRIZIAN:** YOU WANTED THE DEPUTIES TO -- TO
20 HAVE MORE AUTHORITY, CONTROL, DISCRETION WHEN THEY APPLY USE
21 OF FORCE AND THEY DON'T HAVE TO ALWAYS CALL A SUPERVISORS IN.
22 BUT THE REVERSE OF THAT WOULD BE IF SUPERVISORS WASN'T THERE
23 WOULD BE LACK OF MANAGEMENT CONTROL, SO THAT'S WHY I SAY, YOU
24 KNOW, TO ME IS THERE IS A TURF BATTLE GOING ON, A TURF WAR.

25

1 **FLOYD HAYHURST:** AGAIN MY POINT IS, THE SERGEANT HAS A
2 SUPERVISORY ROLE. THERE IS NOTHING IN THE PENAL CODE I'M AWARE
3 OF THAT SAYS A SERGEANT HAS NO MORE AUTHORITY TO MAKE AN
4 ARREST THAN A DEPUTY SHERIFF OR ANYBODY ELSE. THERE IS, IF THE
5 DEPUTY IS GIVEN A LAWFUL ORDER OR A DIRECTION FOR COMPLIANCE
6 FOR JAIL VIOLATION AND JAIL RULES, YOU GOT TO GIVE HIM THE
7 AUTHORITY TO CARRY OUT HIS RESPONSIBILITIES. IT'S KIND OF LIKE
8 SAYING, YOU CAN DO EVERYTHING YOU WANT TO DO BUT WHEN THE
9 TOUGH THINGS COME ALONG, YOU GOT TO COME AND GET ME. ARE YOU
10 IN CHARGE, BUT WHEN A QUESTION COMES UP, I WANT TO ANSWER IT.
11 THAT'S BASICALLY WHAT THE DEPUTY HAS BEEN TOLD, YOU RUN THE
12 JAIL, IF THERE IS A PROBLEM, YOU COME GET US. YOU ARE NOT
13 CAPABLE OF RESOLVING THAT ISSUE.

14

15 **HON. DICKRAN M. TEVRIZIAN:** I HAVE TWO SHORT QUESTIONS. THE
16 MEN'S CENTRAL JAIL. DO YOU THINK THEY CONTRIBUTE TO WHAT HAS
17 BEEN DEFINED WHETHER YOU AGREE WITH OR NOT AS A PROBLEM THAT
18 THERE IS EXCESSIVE FORCE BEING USED BY DEPUTIES WITHIN THE
19 L.A. COUNTY JAIL SYSTEM?

20

21 **FLOYD HAYHURST:** DO I BELIEVE THERE IS EXCESSIVE FORCE? NO.

22

23 **HON. DICKRAN M. TEVRIZIAN:** THE FACILITIES, THEMSELVES, THE
24 ANTIQUATED FACILITIES OF THE MEN'S CENTRAL JAIL, DO YOU THINK
25 THAT COULD BE A CONTRIBUTING FACTOR TO THE USE OF FORCE WITHIN

1 THE COUNTY JAIL SYSTEM?

2

3 **FLOYD HAYHURST:** IT COULD BE A CONTRIBUTING FACT, YES, BECAUSE
4 OF HOW OLD THE JAIL IS, THE WAY IT'S SET UP. IT'S ANCIENT. IT
5 WAS ANCENT WHEN I WAS THERE, THAT WAS BACK IN '82. AS WE SAY,
6 IT'S REALLY OLD.

7

8 **HON. DICKRAN M. TEVRIZIAN:** THE LAST QUESTION I HAVE IS A.B.
9 109 WHAT IMPACT DO YOU THINK A.B. 109 IS GOING TO HAVE WITH
10 RESPECT TO HOW THE L.A. COUNTY JAIL IS GOING TO BE RUN? YOU
11 SEE PROBLEMS WITH PRISONERS HOUSED THERE ON THE -- ON A
12 PERMANENT BASIS FOR SOME PERIOD OF TIME VS. SHORT-TERM
13 DETENTION?

14

15 **FLOYD HAYHURST:** THE JAILS WERE NEVER SET UP FOR LONG -TERM
16 HOUSING, SO, YEAH, IT'S GOING TO HAVE SOME IMPACT ON IT. I'M
17 NOT SURE HOW IT WILL DO. I KNOW WE WILL NOT TREAT THE 109
18 INMATES ANY DIFFERENT THAN THE PRESENTENCE. IT'S THE WAY THE
19 FACILITY IS DESIGNED. WE CAN'T DISCRIMINATE OR TREAT ANY OTHER
20 INMATE ANY DIFFERENT. SO YEAH, IT'S GOING TO HAVE SOME IMPACT
21 ON IT.

22

23 **HON. DICKRAN M. TEVRIZIAN:** I DO HAVE ONE OTHER QUESTION. YOU
24 OPPOSE THE DUAL CAREER PATH. BUT SHOULDN'T A DEPUTY BE GIVEN A
25 CHOICE, IF THEY WANT TO VOLUNTARILY ENTER THE DUAL TRACK

1 SYSTEM IF MANAGEMENT AGREES, THEY'RE GOING TO OFFER THIS
2 ALTERNATIVE?

3

4 **FLOYD HAYHURST:** IF WE'RE TALKING ABOUT ISSUES AS FAR AS
5 MORALE, IT WILL MAKE MORALE MUCH WORSE. IT'S GOING TO CLEARLY
6 DIVIDE THE TWO PATH ITSELF. IT'S CLEARLY GOING TO SAY, THIS
7 HAS BEEN A CUSTODY. THIS IS PATROL. YOU KNOW WHAT, ARE YOU NOT
8 AS GOOD AS ME. YOU CAN'T DO THIS. I ACTUALLY GOT A CALL WHICH
9 I'M GOING TO SHARE WITH THE SHERIFF NEXT TIME I HAVE A CHANCE
10 TO TALK TO HIM. I GOT SERVICE PERSONNEL SAYING IF THEY ARE
11 GOING FOR DUAL PATH ALLOWING PEOPLE TO PROMOTE WHEN NOT IN
12 PATROL, WHEN IN CUSTODY, WHY CAN'T WE HAVE THE SAME THING FOR
13 COURT SERVICES? I EXPECT THE NEXT ONE WILL PROBABLY BE FROM
14 THE BOAT OPERATORS, BECAUSE THEY THINK THEY'RE SEPARATE, WE
15 HANDLE JUST STRICTLY MARINA STUFF WE SHOULD BE SEPARATE. ANY
16 TIME YOU START DIVIDING, YOU ARE GOING TO TEAR DOWN MORALE.
17 IT'S ALSO GOING TO RESTRICT WHAT THE MOVEMENT IS, FOR IN CASE
18 OF EMERGENCIES. I'M NOT OPPOSED TO HAVING ANY DEPUTY THAT
19 WANTS TO STAY IN CUSTODY FOR HIS ENTIRE CAREER, IF THAT'S WHAT
20 HE CHOOSES TO DO. BUT IT WORKS WELL. YOU MIX IT. YOU ARE MORE
21 ROOTED. LIKE YOURSELF, YOUR HONOR, IF YOU ONLY TRY MURDER
22 CASES AND NEVER ANYTHING ELSE, HOW DIVERSE WOULD YOU BE?

23

24 **HON. DICKRAN M. TEVRIZIAN:** I HAVE BEEN NOTIFIED MY TIME IS UP.
25 I WANT TO THANK BOTH YOU GENTLEMAN FOR APPEARING TODAY.

1

2 **THE HON. ROBERT BONNER:** THANK YOU. HOW LONG HAVE YOU BEEN A
3 DEPUTY SHERIFF?

4

5 **FLOYD HAYHURST:** 30 YEARS.

6

7 **THE HON. ROBERT BONNER:** HOW LONG HAS IT BEEN SINCE YOU SERVED
8 IN CUSTODY AS A DEPUTY?

9

10 **FLOYD HAYHURST:** ABOUT NINE-AND-A-HALF YEARS. I WAS WORKING
11 TRANSPORTATION, EVERY DAY, WE'D GO IN AND OUT OF THE JAIL
12 FACILITIES. WE WERE ACTUALLY IN THE JAILS WHEN THE MOST AMOUNT
13 OF INMATES ARE OUTSIDE OF THE CONFINES OF THEIR HOLDING CELLS
14 AND STUFF.

15

16 **THE HON. ROBERT BONNER:** WAS THERE A TIME YOU SERVED AS A
17 DEPUTY IN MEN'S CENTRAL JAIL?

18

19 **FLOYD HAYHURST:** YES, I DID.

20

21 **THE HON. ROBERT BONNER:** HOW MANY YEARS AGO WAS THAT?

22

23 **FLOYD HAYHURST:** NOW WE'RE AGING MYSELF, 14 YEARS.

24

25 **THE HON. ROBERT BONNER:** ARE YOUR DUTIES FULL-TIME

1 REPRESENTATIVE?

2

3 **FLOYD HAYHURST:** I'M FULL TIME WITH THE UNION, SIR.

4

5 **THE HON. ROBERT BONNER:** WOULD YOU AGREE ONE OF THE MOST
6 IMPORTANT WAYS TO CURTAIL A USE OF FORCE PROBLEM, IF THERE IS
7 ONE, ACTUAL OR PERCEIVED, IS TO HAVE ADEQUATELY-TRAINED FIRST
8 LINE SUPERVISORS WHO UNDERSTAND CUSTODY?

9

10 **FLOYD HAYHURST:** IT SURE COULD HELP, BUT IT DOESN'T MEAN IT
11 WOULD BE THE ONLY WAY TO CURTAIL USES OF FORCE. I THEY WELL-
12 TRAINED PERSON, NO MATTER WHAT RANK THEY ARE, IT CERTAINLY IS
13 SOME USE OF FORCE.

14

15 **THE HON. ROBERT BONNER:** OF COURSE, WITHIN THE SHERIFF'S
16 OFFICE, THE FIRST LINE WOULD TYPICALLY BE A SERGEANT LEVEL?

17

18 **FLOYD HAYHURST:** YES.

19

20 **THE HON. ROBERT BONNER:** DO WE GET OUR BEST EXPERIENCED
21 SERGEANTS INTO CUSTODY WITH ENOUGH TIME IN CUSTODY TO PERFORM
22 THEIR JOBS ADEQUATELY?

23

24 **FLOYD HAYHURST:** I PAUSE ON THAT BECAUSE IT'S -- DEPUTIES WHEN
25 THEY PROMOTE, THEY GO WHERE THEY ARE SELECTED TO GO. ARE WHO

1 IS ACTUALLY PROMOTED HAS HAD TO HAVE WORKED CUSTODY AT SOME
2 POINT IN TIME. SO WITH THEIR KNOWLEDGE OF CUSTODY AND WORKING
3 PATROL, THEY SHOULD BE VERY QUALIFIED TO WORK AS A SUPERVISORS
4 IN CUSTODY AND AT ANY TIME.

5

6 **THE HON. ROBERT BONNER:** WELL, MY QUESTION IS...DO WE GET OUR
7 BEST AND MOST EXPERIENCED SERGEANTS INTO CUSTODY AT THE
8 SHERIFF'S DEPARTMENT? HAVE WE BEEN GETTING OUR BEST SERGEANTS
9 THERE?

10

11 **FLOYD HAYHURST:** I GUESS IT'S AN OBJECTIVE QUESTION. I DON'T
12 KNOW WHAT THE BEST IS. IF THEY MEET THE CRITERIA AND PASSED
13 ALL THE TESTING, THEY ARE QUALIFIED TO BE A SERGEANT. TO
14 WHETHER THEY ARE THE BEST? THAT'S VERY SUBJECTIVE. HE MIGHT BE
15 THE BEST TO ME. HE MIGHT BE THE WORST TO YOU.

16

17 **THE HON. ROBERT BONNER:** YOU MEAN TO SAY IN YOUR LAW
18 ENFORCEMENT EXPERIENCE, YOU HAVEN'T BEEN ABLE TO DISCERN THAT
19 SOME PEOPLE ACTUALLY HAVE BETTER SKILL SETS THAN OTHERS FOR,
20 LET'S SAY, A PARTICULAR TASK?

21

22 **FLOYD HAYHURST:** OH, ABSOLUTELY. TO ANSWER THE QUESTION ANOTHER
23 WAY, I KNOW A COUPLE SERGEANTS AT MEN'S CENTRAL JAIL, WHO ARE
24 SOME OF THE BEST DEPUTIES I WORKED WITH AND HAVE A LOT OF
25 EXPERIENCE. THERE IS A GUY THAT WORKED THREE OR FOUR PATROL

1 STATION, SCB A. VERY SMART GUY. WITH THE SAME THING, I HAD
2 SERGEANTS PROMOTE AND COME TO THE STATION WHERE I USED TO
3 WORK. THEY WERE HORRIBLE. SO IT'S HARD TO SAY WHO IS THE BEST
4 AT ONE SPECIFIC FACILITY ONLY.

5

6 **THE HON. ROBERT BONNER:** LET ME PUT IT THIS WAY...HAS THERE
7 BEEN A PROBLEM THAT THE NEWLY SELECTED SERGEANTS THAT GET
8 ASSIGNED TO CUSTODY, NO. 1, AND THEY TYPICALLY HAVE A TOUR OF
9 DUTY THAT HAS BEEN UNDER TWO YEARS? I MEAN, IS THAT, FIRST OF
10 ALL, IS IT ACCURATE AND IS THERE A PROBLEM?

11

12 **FLOYD HAYHURST:** I DON'T KNOW WHAT THE ACTUAL STATS ARE AS TO
13 HOW LONG THEY STAY THERE AND ANY TIME YOU PROMOTE OR ANYWHERE
14 YOU GO, IT IS THE DEPUTY OR WHATEVER RANK YOU ARE AT'S CHOICE
15 TO MOVE IF YOU CHOOSE NOT TO BE THERE. I KNOW WHERE YOU ARE
16 GOING WITH THIS, I DON'T KNOW HOW TO ANSWER THIS.

17

18 **THE HON. ROBERT BONNER:** YOU APPARENTLY CAN'T HELP ME, DEPUTY
19 HAYHURST. I GUESS YOUR -- I GUESS YOUR OPINION IS THERE ISN'T
20 AN ACTUAL PROBLEM WITH USE OF EXCESSIVE FORCE WITHIN MEN'S
21 CENTRAL JAIL. AM I CORRECTLY CHARACTERIZING YOUR TESTIMONY
22 TODAY? THAT IT'S A "PERCEIVED" PROBLEM BUT THERE IS NOT ANY
23 TROUBLING USE OF EXCESSIVE FORCE PROBLEM WITHIN THE MEN'S
24 CENTRAL JAIL, CORRECT OR NOT?

25

1 **FLOYD HAYHURST:** NO, I WOULD SAY THAT UNTIL THE INVESTIGATIONS
2 COME OUT, WHETHER THERE WAS EXCESSIVE USE OF FORCE IT'S UNFAIR
3 TO SAY THAT THESE DEPUTIES ARE USING EXCESSIVE FORCE. IF THE
4 INVESTIGATIONS SHOW THAT THEY USED EXCESSIVE FORCE, AND THEN
5 THEY NEED TO BE DEALT WITH APPROPRIATELY TO SAY BECAUSE THERE
6 IS FORCE USED IN THERE, THAT DOESN'T MEAN IT'S EXCESSIVE. WE
7 HAVE TO HAVE A THOROUGH INVESTIGATION.

8

9 **THE HON. ROBERT BONNER:** I THINK I UNDERSTAND WHERE YOU ARE
10 GOING. FROM THE POINT OF VIEW OF THE COMMISSION, WE'RE HERE TO
11 EXAMINE THE QUESTION OF WHETHER OR NOT THERE HAS BEEN A
12 PATTERN, ALSO BELIEVE IN A PERVASIVE PATTERN OF USE OF
13 EXCESSIVE FORCE WITHIN THE COUNTY JAIL. THEN TO MAKE
14 RECOMMENDATIONS TO HOW THAT MIGHT BE CORRECTED. AND YOU
15 PRESENTED OR ALADS PRESENTED A SERIES OF RECOMMENDATIONS. TO
16 ME, IT'S FAIR TO SAY THEY'RE NOT PREMISED UPON THE FACTS THAT
17 THERE IS A PROBLEM WITH THE USE OF EXCESSIVE FORCE. THEY'RE
18 MORE PREMISED WITH THE COUNTY JAIL. PERHAPS THAT'S RHETORICAL.
19 I WILL NOT ASK YOU TO RESPOND TO IT. LET ME ASK YOU THIS...IF
20 THERE IS A PERCEIVED FORCE IS AND HAS BEEN, LET'S SAY, IN THE
21 RECENT PAST, WHO IS RESPONSIBLE FOR IT?

22

23 **FLOYD HAYHURST:** I THINK WE ALL ARE. IT DOESN'T GO ALL THE WAY
24 UP TO THE SHERIFF. I FEEL RESPONSIBLE, TOO, JUST AS MUCH THAT
25 I MIGHT HAVE A FELLOW DEPUTY OUT THERE THAT'S USING EXCESSTIVE

1 FORCE. HE NEEDS TO BE DEALT WITH OR SHE NEEDS TO BE DEALT
2 WITH.

3

4 **THE HON. ROBERT BONNER:** IS IT FAIR TO SAY THAT ALADS AS THE
5 UNION REPRESENTATIVE FOR THE DEPUTIES IS AT LEAST, IN PART,
6 RESPONSIBLE AND ACCOUNTABLE IF THERE IS A PROBLEM.

7

8 **FLOYD HAYHURST:** I WOULDN'T SAY ALADS. WE ARE REPRESENTING THE
9 DEPUTIES BEING INVESTIGATED AND, BUT I AS A DEPUTY SHERIFF
10 FIRST, I WHOLLY DO NOT WANT TO WORK WITH A DEPUTY THAT'S DIRTY
11 OR NOT PERFORMING HIS JOB APPROPRIATELY. LET ME SUGGEST TO
12 YOU. IT'S THE SHERIFF AND THE MANAGEMENT OF THE SHERIFFS
13 DEPARTMENT THAT'S RESPONSIBLE AND ACCOUNTABLE, IF, IN FACT,
14 THERE IS AND HAS BEEN USE OF EXCESSIVE FORCE IN THE JAIL. IT'S
15 NOT ALADS. THAT'S WHO IS RESPONSIBLE.

16

17 **THE HON. ROBERT BONNER:** CAN MANAGEMENT OF THE SHERIFF'S
18 DEPARTMENT, CAN IT ASSIGN AND TRANSFER DEPUTIES WHO THEY
19 BELIEVE HAVE THE RIGHT EXPERIENCE LEVEL, WHERE AND WHEN THEY
20 NEED TO ASSIGN THEM?

21

22 **FLOYD HAYHURST:** CAN THEY TRANSFER DEPUTIES WHEREVER THEY NEED
23 --.

24

25 **THE HON. ROBERT BONNER:** LET'S ASSUME, I NEED RIGHT NOW AT THE

1 COUNTY JAIL, I NEED TO ASSIGN FOR A COUPLE OF YEARS, SOME
2 REALLY GOOD DEPUTIES OUT ON PATROL. CAN THE SENIOR MANAGEMENT
3 OF THE SHERIFF'S DEPARTMENT SAY, HERE ARE YOUR ORDERS. YOU ARE
4 ASSIGNED TO THE MEN'S CENTRAL JAIL FOR THE NEXT SEVERAL YEARS?

5

6 **FLOYD HAYHURST:** NOT WITHOUT CAUSE. THEY HAVE TO SHOW A CLEAR
7 REASON WHY THEY ARE BEING TRANSFERRED FROM THERE, IF IT'S FOR
8 PURPOSES YES. THEY CAN ASK FOR VOLUNTEERS, WHICH THEY HAVE.

9

10 **THE HON. ROBERT BONNER:** NOW THE REASON THE SHERIFF CAN'T OR
11 THE SENIOR MANAGEMENT CAN'T ASSIGN OR TRANSFER PEOPLE, THERE
12 IS SOMETHING IN THE COLLECTIVE BARGAINING AGREEMENT, IS IT
13 NOT?

14

15 **FLOYD HAYHURST:** THAT IS CORRECT.

16

17 **THE HON. ROBERT BONNER:** WHAT IS IT IN THE COLLECTIVE
18 BARGAINING AGREEMENT THAT LIMITS THE SHERIFFS TO MANAGE AND
19 ASSIGN PEOPLE WHERE AND WHEN HE NEEDS TO ASSIGNMENT THEM.

20

21 **FLOYD HAYHURST:** WAGES, HOURS AND WORKING.

22

23 **THE HON. ROBERT BONNER:** HE CAN'T DO THAT.

24

25 **FLOYD HAYHURST:** UNLESS THERE IS EMERGENT REASON OR CAUSE.

1

2 **THE HON. ROBERT BONNER:** WHY IS THE JAIL SYSTEM, AT THE JAIL,
3 65% DEPUTIES AND 35% CUSTODY ASISSTANTS.

4

5 **FLOYD HAYHURST:** I WOULD PROBABLY SAY ECONOMIC REASONS. WE'D
6 LIKE TO HAVE 100% DEPUTIES.

7

8 **THE HON. ROBERT BONNER:** IS THERE AN AGREEMENT SETTLED ON THE
9 FACT THAT THE RATIO WILL BE 25/35, 65% DEPUTIES 35% CUSTODY
10 ASISSTANTS? YOU ARE SAYING IT IS A DECISION BY THE SHERIFF'S
11 DEPARTMENT, AND MANAGEMENT, IS THAT CORRECT?

12

13 **FLOYD HAYHURST:** THAT IS CORRECT.

14

15 **THE HON. ROBERT BONNER:** IF THE SENIOR MANAGEMENT WANTED TO
16 CHANGE THE FLASHLIGHT THAT WAS USED IN ANYWAY THAT IS SUBJECT
17 TO A MEET AND CONFER, ISN'T THAT UNDER THE UNION AGREEMENT?

18

19 **FLOYD HAYHURST:** YES, IT IS.

20

21 **THE HON. ROBERT BONNER:** SO IF THE UNION ACTUALLY DISAGREED
22 WITH THE SIZE AND SHAPE OF THE FLASHLIGHT, THAT COULD BE
23 GRIEVED, COULDN'T IT, UNDER THE COLLECTIVE BARGAINING UNIT,
24 I'M NOT SAYING IT WAS, BUT IT COULD HAVE BEEN, COULD IT NOT?

25

1 **FLOYD HAYHURST:** IT COULD HAVE BEEN.

2

3 **THE HON. ROBERT BONNER:** WHO DECIDES THAT? AN ARBITER WHO
4 ULTIMATELY DECIDES WHAT PIECE, THE PIECE OF EQUIPMENT AND THE
5 SHAPE OF THE PIECE OF EQUIPMENT THAT WOULD BE CARRIED AS PART
6 OF THE SWORN DEPUTY'S UNIFORM?

7

8 **FLOYD HAYHURST:** WELL, THERE IS A GRIEVANCE PROCESS, IT GOES TO
9 A CAPTAIN'S LEVEL, ON UP TO THE CHIEF AND THE CIVIL SERVICE
10 AND WE CAN GO OUTSIDE THERE.

11

12 **THE HON. ROBERT BONNER:** SO IF IT GOES OUTSIDE THERE, THERE IS
13 AN ARBITRATION DIVISION OF SOME SORT?

14

15 **FLOYD HAYHURST:** YES.

16

17 **THE HON. ROBERT BONNER:** LET ME TURN YOUR ATTENTION TO EXHIBIT
18 14, IF I COULD. THAT'S THE POLICY THAT SHERIFF BACA
19 IMPLEMENTED AROUND NOVEMBER OF LAST YEAR REGARDING USE OF
20 FORCE PREVENTION.

21

22 **FLOYD HAYHURST:** WHAT PAGE ARE YOU ON?

23

24 **THE HON. ROBERT BONNER:** IT'S EXHIBIT 14 IN YOUR BOOK THERE.

25

1 **FLOYD HAYHURST:** THE FORCE PREVENTION POLICY?

2

3 **THE HON. ROBERT BONNER:** YES. THAT'S THE EXHIBIT. YOU
4 INDICATED, THERE WAS A QUESTION ASKED BY MS. DUNNE WHICH WAS
5 ESSENTIALLY...WHAT IS IT ABOUT THIS POLICY THAT IS CONFUSING
6 OR TROUBLES YOU. YOU SAID THE TERM "OBJECTIVELY REASONABLE"
7 COULD BE TROUBLING OR CONFUSING. I MIGHT BE MISCHARACTERIZING.
8 IN WHICH CASE DISABUSE ME. LET ME TELL YOU, THERE IS NOTHING
9 NEW ABOUT THE OBJECTIVELY REASONABLE TEST IN TERMS OF WHETHER
10 OR NOT FORCE IS EXCESSIVE AND EXCEEDS THE CONSTITUTION OF THE
11 UNITED STATES, IS THERE? I MEAN, THIS HAS BEEN AROUND A LONG
12 TIME. THIS IS NOT NEW POLICY, AT LEAST THE OBJECTIVELY
13 REASONABLE TEST IS NOT NEW POLICY, IS IT?

14

15 **FLOYD HAYHURST:** WELL, THERE'S MORE THAN JUST THAT IN THERE.

16

17 **THE HON. ROBERT BONNER:** I KNOW THERE IS. I WANT TO FOCUS. YOU
18 HAVE SAID THAT YOU THOUGHT THE DEPUTIES MIGHT BE CONFUSED
19 BECAUSE THE TERM "OBJECTIVELY REASONABLE" WAS USED IN THE
20 CONTEXT OF WHEN OR WHEN YOU CANNOT USE FORCE OR WHAT DEGREE OF
21 FORCE YOU CAN USE. I'M JUST ASKING YOU ABOUT OBJECTIVELY
22 REASONABLE. I MEAN, WHAT IS IT THAT WOULD BE CONFUSING TO THE
23 DEPUTIES ABOUT THAT TERM?

24

25 **FLOYD HAYHURST:** I THOUGHT I ANSWERED THAT OBJECTIVELY

1 REASONABLE IS SUBJECTIVE BY WHAT YOU BELIEVE IS OBJECTIVELY
2 REASONABLE AS THE REST OF THE COMMISSIONERS ON THE PANEL.

3

4 **THE HON. ROBERT BONNER:** WELL, FIRST OF ALL, THAT'S A
5 CONSTITUTIONAL TEST. SO IF YOU -- AND YOU APPARENTLY YOU
6 THOUGHT, WELL, IS IT OBJECTIVELY REASONABLE WHAT THE INMATES
7 THINK OR WHAT THE GEP THINK? ISN'T IT REALLY IN THE FINAL
8 ANALYSIS, IT'S GOING TO BE WHAT A JURY THINKS AND DECIDES WITH
9 RESPECT TO THE USE OF EXCESSIVE FORCE? IN OTHER WORDS, THE --
10 IT ISN'T THE INMATES THAT DECIDE THIS. IT'S NOT THE DEPUTIES
11 THAT DECIDE THIS. ULTIMATELY, BY THE WAY, IT'S A JURY OF PEERS
12 WITH SOME EXPERT TESTIMONY, OF COURSE, GIVEN TO THEM, THAT'S
13 GOING TO DECIDE WHETHER THE USE OF FORCE WAS EXCESSIVE OR IT
14 WASN'T. AND IF THEY DECIDE IT'S EXCESSIVE, IT'S GOING TO COST
15 THE COUNTY OF LOS ANGELES, USUALLY, A SIGNIFICANT SUM OF
16 MONEY. YOU DON'T NEED TO ANSWER IT. IT'S NOT A QUESTION.

17

18 **FLOYD HAYHURST:** WELL, IF I MAY TO PUT IT BACK IN PERSPECTIVE,
19 I BELIEVE THE QUESTION IS, WE WERE TALKING ABOUT MORALE AND
20 HOW THESE THINGS AFFECTED MORALE. WE WERE TALKING ABOUT SOME
21 OF THE THINGS THAT COULD HAVE AFFECTED IT. WE WENT TO THIS
22 ABOUT THE PREVENTION, FORCE PREVENTION POLICY. I SAID, THIS IS
23 SOME OF THE REASONS WHY -- HOW IT COULD AFFECT MORALE IS
24 INTERPRETATION OF THAT COULD BE MISCONSTRUED.

25

1 **THE HON. ROBERT BONNER:** DO YOU FIND, BY THE WAY, THE OTHER
2 PART OF THAT THAT SAYS THAT REASONABLE EFFORT, IF POSSIBLE,
3 SHOULD BE USED TO DEESCALATE SITUATION BEFORE USING FORCE? IS
4 THAT CONFUSING?

5

6 **FLOYD HAYHURST:** NOT AT ALL.

7

8 **THE HON. ROBERT BONNER:** IS THAT NEW POLICY, BY THE WAY, FOR
9 THE SHERIFF'S DEPARTMENT?

10

11 **FLOYD HAYHURST:** THEY REWROTE THIS POLICY ABOUT FIVE MONTHS AGO
12 AND UNLESS I HAVE AN EXACT PARALLEL READ, I WOULD NOT BE ABLE
13 TO SAY EXACTLY IF ALL THOSE WORDS WERE CHANGED ON IT. SO I DO
14 KNOW THERE WERE SOME WORD SMITHING DONE ON IT.

15

16 **THE HON. ROBERT BONNER:** OKAY. IN ANY EVENT, I THINK, IF I
17 UNDERSTAND YOUR SYSTEM CORRECTLY YOU WOULD AGREE THE USE OF
18 FORCE BY DEPUTIES SHOULD BE A MEASURE OF LAST RESORT, NOT
19 FIRST RESORT?

20

21 **FLOYD HAYHURST:** OH, ABSOLUTELY SIR.

22

23 **THE HON. ROBERT BONNER:** THANK YOU.

24

25 **MIRIAM A. KRINSKY:** I HAVE, MANY WERE COVERED. I HAVE, FRANKLY

1 JUST THREE. SO YOU INDICATED MR. HAYHURST, ONE OF YOUR
2 CONCERNS IS THESE POLICIES WERE SORT OF SCATTERED. THEY'RE IN
3 UNITS, ORDERS, MEMORANDA, ETC. ARE ALL OF THOSE PUBLISHED?

4
5 **FLOYD HAYHURST:** ALL OF THEM ARE PUBLISHED TO THE FACILITY THEY
6 ARE ASSIGNED TO THEY ARE ALSO ONLINE, I BELIEVE, THE INTERNET.

7
8 **MIRIAM A. KRINSKY:** YOU ALSO, I KNOW, HAVE A VIEW ABOUT WHAT --
9 THE PROPRIETY OF DEPUTIES BEING ALLOWED TO LOOK AT VIDEO
10 CAMERAS BEFORE WRITING REPORTS. WHAT'S ALADS' VIEW ON THAT?

11
12 **FLOYD HAYHURST:** WELL, MY VIEW IS THAT IT'S EVIDENCE AND ANY
13 TIME A DEPUTY IS TO WRITE A REPORT, THEY ARE SUPPOSED TO MAKE
14 SURE THEY HAVE ALL THE INFORMATION BEFORE THEM AND INCLUDED
15 INTO THEIR REPORT. CAMERAS ARE, OBVIOUSLY, ONE DIMENSION AND
16 IT SHOWS FROM ONE ANGLE. SOMETIMES IT CAN HELP REFRESH A
17 DEPUTY'S MEMORY TO EXACTLY WHAT TRANSPERIOD THERE. IF THE
18 DEPUTY REPORTED USE OF FORCE, WASN'T TRYING TO HIDE ANYTHING,
19 THEY SHOULD BE ALLOWED TO REVIEW THE VIDEO.

20
21 **MIRIAM A. KRINSKY:** IT'S ALADS' VIEW THEY SHOULD BE ALLOWED TO
22 REVIEW THE VIDEO BEFORE WRITING THE REPORT?

23
24 **FLOYD HAYHURST:** THE WRITTEN REPORT, NOT BEFORE MAKING THE
25 VERBAL REPORT.

1

2 **MIRIAM A. KRINSKY:** FINALLY, YOU REFERENCED YOUR CONCERNS ABOUT
3 THE "BUBBLE THAT'S ABOUT TO BURST" AND THERE WAS AN
4 OPPORTUNITY FOR TO US TO DISCUSS THAT WITH YOU. DURING OUR
5 DISCUSSION DID YOU TALK ABOUT AND TELL US YOUR CONCERN THAT
6 THERE WAS AN ENVIRONMENT WHERE INMATES NO LONGER FEARED
7 DEPUTIES AND THAT NINE MONTHS AGO AN INMATE KNEW IF HE MOUTHED
8 OFF, DEPUTIES WOULD USE FORCE ON THE INMATE, SO THEY DIDN'T
9 TEST THE DEPUTIES. DID YOU RECALL REFERENCING THOSE
10 SENTIMENTS?

11

12 **FLOYD HAYHURST:** I DON'T BELIEVE I USED THE WORD "FEAR," IF I
13 DID, I WOULD SAY THEY DID NO LONGER RESPECT THE DEPUTY ITSELF.

14

15 **MIRIAM A. KRINSKY:** YOU RECALL SAYING THAT THERE WAS A
16 DIFFERENT STATE OF AFFAIRS A FEW MONTHS AGO. IF AN INMATE
17 MOUTHED OFF OR VERBALLY CONFRONTED A DEPUTY IN THE PAST, THE
18 DEPUTIES HAD THE ABILITY TO -- TO USE FORCE, SO THE INMATES
19 WERE LESS LIKELY TO TEST THE DEPUTIES?

20

21 **FLOYD HAYHURST:** AGAIN, I DON'T THINK I SAID THEY WOULD
22 IMMEDIATELY USE FORCE. I SAID I BELIEVE THEY WOULD TAKE THE
23 APPROPRIATE ACTION FOR DISCIPLINE AND IF THEY HAD TO USE FORCE
24 TO TAKE THEM TO THE "HOLE" WHATEVER THAT WOULD BE APPROPRIATE,
25 IF IT WAS THE INMATE WAS RESISTIVE OR COMBATIVE.

1

2 **MIRIAM A. KRINSKY:** THAT WAS ONE OF THE TOOLS NINE MONTHS AGO.
3 FINALLY, WHEN WE MET WITH YOU AND TALKED ABOUT FLASHLIGHTS,
4 YOU DID INDICATE TO US YOUR CONCERN ABOUT THE LOSS OF THE TOOL
5 OF FLASHLIGHTS, AMONG OTHERS, IS NOW DEPUTIES WOULD BE MORE
6 LIKELY TO BREAK THEIR OWN BONES WITHOUT FLASHLIGHTS TO USE?

7

8 **FLOYD HAYHURST:** THAT IS CORRECT. IF THERE IS NO IMPACT WEAPON,
9 OBVIOUSLY, THEY HAVE TO GO TO THEIR HANDS.

10

11 **MIRIAM A. KRINSKY:** THANK YOU.

12

13 **HON. LOURDES BAIRD, CHAIR:** COMMISSIONER.

14

15 **CHIEF JIM O'DONNELL:** THANK YOU FOR BEING HERE. WITHOUT A
16 DOUBT, THE COUNTY JAIL IS A TOUGH ENVIRONMENT. LOOKING AT IT
17 FROM MANAGEMENT PERSPECTIVE, RISK TOOLS. IN ORDER TO FIX THE
18 PROBLEM, YOU HAVE TO IDENTIFY WHAT THE PROBLEM IS. WE TALKED
19 ON TRACKING COMPLAINTS BY DEPUTY. I DON'T THINK CURRENTLY WE
20 HAVE THE ABILITY TO DO THAT OR WE DIDN'T UP UNTIL PREVIOUSLY,
21 AT LEAST. YOU MENTIONED IT DEPENDS ON WHAT IT WAS USED FOR
22 WHETHER OR NOT YOU WOULD BE SUPPORTIVE OF THAT. FROM LOOKING
23 AT IT FROM BOTH IDENTIFYING AT RISK DEPUTIES BUT ALSO
24 IDENTIFYING DEPUTYS THAT MAYBE MANAGEMENT IS PUT IN A POSITION
25 WHERE THEY'RE IN HARM'S WAY REPEATEDLY, WITHOUT HAVING THE

1 ABILITY TO IDENTIFY TRENDS OR PATTERNS, ARE WE NOT PUTTING THE
2 DEPUTIES IN A BAD POSITION AS WELL AS MANAGEMENT?

3

4 **FLOYD HAYHURST:** IF I UNDERSTAND THE QUESTION RIGHT, YES. TO
5 DOCUMENT IT OR TRACKING TO SEE IF THERE IS A PROBLEM, OR A
6 POTENTIAL PROBLEM, IT IS ALWAYS GOOD. ANY TIME WE CAN IMPROVE
7 TRACKING TO MAKE SURE THAT EVERYBODY IS IN COMPLIANCE, THAT'S
8 FINE. BUT OUR CONCERNS IS WHAT IT'S ACTUALLY GOING TO BE USED
9 FOR. IF IT'S GOING TO BE USED LATER ON IN THE DEPUTY'S CAREER,
10 LET'S SAY, 20 YEARS FROM NOW, HE'S ACCUSED OF FORCE OUT IN THE
11 FIELD, THEY GO, OH, BACK WHEN HE WORKED CUSTODY, HE USED 30 OR
12 40 USES OF FORCE AND IT DOESN'T CLEARLY SHOW THAT THEY WERE
13 JUSTIFIED, OR IF THEY WERE ORDERED FORCE BY A SUPERVISORS, TO
14 GO IN THERE AND DO THIS. WE HAVE TO DO A CELL EXTRACTION USE
15 OF FORCE. THEN IT MIGHT COME BACK LATER ON IN THEIR CAREER AND
16 BE USED AGAINST THEM FOR PROMOTIONS OR ANYTHING ELSE. THAT'S
17 THE CONCERN.

18

19 **CHIEF JIM O'DONNELL:** I CAN SEE WHERE YOU ARE COMING FROM ON
20 THAT. IF THEY USE INDIVIDUAL FORCE, BASED ON THE MERIT OF EACH
21 USE OF FORCE, A DECISION WOULD BE MADE, DO THEY STAY IN THAT
22 ENVIRONMENT? DO WE NEED TO MODIFY BEHAVIOR BY TRAINING OR
23 OTHERWISE, IF IT WAS USED FOR THAT PURPOSE, WOULD YOU BE
24 COMFORTABLE WITH THAT?

25

1 **FLOYD HAYHURST:** I WOULD HAVE TO SEE EXACTLY HOW THE LANGUAGE
2 IS, BUT IN CONCEPT, I DON'T SEE A PROBLEM WITH THAT, SIR.

3

4 **CHIEF JIM O'DONNELL:** YOU MENTIONED THAT THE MONITORS, THE
5 ACLU, MR. GENNACO, MR. BOBB, WHEN THEY GET INTO THE JAIL
6 ENVIRONMENT, IT'S NOT REAL TIME. THEY'RE NOT EXPOSED TO WHAT
7 IS GOING ON IN THERE OTHER THAN BEING ESCORTED WITH AN
8 ANNOUNCEMENT MADE AHEAD OF TIME THAT THEY'RE COMING. DO YOU
9 FEEL, THEN, THEY HAVE AN OPPORTUNITY TO BE ABLE TO EVALUATE
10 REALISTICALLY WHAT IS GOING ON IN THE JAIL?

11

12 **FLOYD HAYHURST:** I DON'T BELIEVE THEY HAVE THE FULL PICTURE OF
13 WHAT GOES ON IN THERE. I BELIEVE IT IS VERY SELECTED TIME
14 PERIODS. I HAVE OFFERED TO THE BOARD OF SUPERVISORS. I HAVE
15 OFFERED TO MR. GENNACO AND HIS STAFF MERRICK BOBB THAT WITH
16 THE SHERIFF'S APPROVAL I COULD TAKE THEM IN THAT FACILITY AT
17 ANY TIME ANYWHERE UNESCORTED AND TO THIS DATE NOT HAVE -- WITH
18 ME. SO I THINK IF THEY WENT IN THERE DURING THE SOME OF THE
19 PEAK TIMES OF MOVEMENT, THEY WOULD HAVE A MUCH DIFFERENT
20 PICTURE OF HOW WELL THE DEPUTIES AND THE SERGEANTS,
21 LIEUTENANTS ARE DOING THEIR JOB TO CONTROL AND MAINTAIN AND
22 NOT HAVE TO USE FORCE.

23

24 **CHIEF JIM O'DONNELL:** SO WOULD YOU SAY THEIR ACCESS TO WHAT IS
25 GOING ON IS PRETTY CONTROLLED?

1

2 **FLOYD HAYHURST:** IT'S EXTREMELY RESTRICTED. AGAIN, THEY DON'T
3 SEE THE TRUE MOVEMENT WITHIN THAT JAIL FACILITY WHEN THINGS
4 ARE REALLY VERY BUSY.

5

6 **CHIEF JIM O'DONNELL:** OKAY. A FINAL -- YOU MENTIONED THE
7 PAPERWORK AND THE ISSUES WITH THE REDUNDANCY, FILING OUT FORMS
8 OVER AND OVER A -- FILLING OUT THE FORMS WITH THE SAME
9 INFORMATION, ISN'T IT FILLED OUT WITH PENCIL? IS ANY OF THAT
10 PROCESS WHERE YOU COULD HAVE PORTIONS OF THE DATABASE
11 POPULATED THAT WOULD GO FROM ONE REPORT TO ANOTHER?

12

13 **FLOYD HAYHURST:** AS YOU SEE, I LOOKED OVER AT MY EXECUTIVE
14 DIRECTOR. I HAVEN'T WORKED AT THAT FACILITY, I BELIEVE SOME IS
15 AUTOMATED. SOME IS NOT. I -- IS AUTOMATED. SOME IS NOT. I
16 DON'T WANT TO DOCUMENT THE FACTS, WE'RE TRYING TO FIGURE OUT A
17 WAY TO SAY IF WE CAN CUT DOWN AS FAR AS TIME IT PUTS MORE
18 PEOPLE INTO THE FACILITY THAT HELPS MAKE IT SAFER.

19

20 **CHIEF JIM O'DONNELL:** WOULD AN AUTOMATED PIECE WHERE YOU FILL
21 OUT THAT ONE PIECE OF INFORMATION THAT THAT BOX, IF YOU WILL,
22 THAT CARRIES REPORT TO REPORT BASED ON THE INCIDENT NUMBER OR
23 DI NUMBER, WOULD THAT MEET YOUR NEEDS?

24

25 **FLOYD HAYHURST:** OH, ABSOLUTELY.

1

2 **CHIEF JIM O'DONNELL:** THANK YOU.

3

4 **REV. CECIL L. MURRAY:** THANK YOU. THE QUESTIONS HAVE BEEN WELL
5 COVERED WITH THE COMMISSION AND ALL. THESE THREE BRIEF
6 QUESTIONS. YOU SAY THE DIRECTORS ARE WITHOUT AUTHORITY, THEY
7 FEEL THEY ARE -- LOSING AUTHORITY. THEY FEEL THEY ARE LOSING
8 AUTHORITY. IF THEY HAVE THE WHOLE SYSTEM BACKING THEM, YET
9 THEY HAVE THE GUN, SHOULDN'T AUTHORITY HAVE ACCOUNTABILITY?

10

11 **FLOYD HAYHURST:** OH, ABSOLUTELY THEY SHOULD. BUT THEY, AS YOU
12 KNOW, THEY DO NOT HAVE FIREARMS AND STUFF INSIDE THE JAIL
13 FACILITY, NOR WOULD WE ADVOCATE DOING SO. ACCOUNTABILITY IS
14 DIFFERENT THAN TAKING AWAY YOUR AUTHORITY TO PERFORM YOUR
15 JOBS.

16

17 **REV. CECIL L. MURRAY:** BUT YOU HAVE AUTHORITY IN THE
18 TRADITIONAL SENSE, YOU MAY NOT HAVE ABSOLUTE AUTHORITY, NONE
19 OF US SHOULD HAVE ABSOLUTE AUTHORITY. THERE IS ACCOUNTABILITY.
20 WE ARE LOOKING AT WHERE IS THE ACCOUNTABILITY IF THERE SEEMS
21 TO BE A PATTERN OF SLAMMING A PRISONER'S HEAD AGAINST THE BARS
22 AND SO FORTH.

23

24 **FLOYD HAYHURST:** AND I AGREE WITH YOU. IF SOMEBODY IS USING
25 FORCE, UNJUSTIFIABLE FORCE, THEY ABSOLUTELY NEED TO BE HELD

1 ACCOUNTABLE FOR IT. BUT WHAT I'M SAYING IS THEY SHOULD NOT BE
2 RESTRICTED AT ALL TIMES THAT IF THERE IS A NEED TO USE FORCE,
3 TO PROTECT THEMSELVES OR TO KEEP FROM A SITUATION ESCALATING
4 WHERE A BAD CIRCUMSTANCE THEY SHOULDN'T HAVE TO BACK OFF AND
5 WAIT AND WAIT. BECAUSE SOMETIMES WAITING, AS WE'VE SEEN IN THE
6 PAST, SOMETIMES ESCALATES INTO A MUCH LARGER SITUATION THAN IF
7 YOU WOULD HAVE REACTED AT THE TIME.

8

9 **REV. CECIL L. MURRAY:** THAT WOULD LEAD TO THE NEXT QUESTION,
10 PLEASE DEFINE ASSAULT. WE UNDERSTAND WHAT IT MEANS, -- ON THE
11 INMATE. GENERALIZE AND SAY WHAT DO WE MEAN WHEN A POLICE
12 ASSAULT [INAUDIBLE] IS THAT PHYSICAL?

13

14 **FLOYD HAYHURST:** WELL, IT HAS TO BE WHERE THERE IS THE THREAT
15 THAT THERE IS GOING TO BE A PHYSICAL ALTERCATION WITH THE
16 DEPUTY. CLEARLY, IF THE INMATE IS NOT A THREAT, THEN THE
17 JUSTIFICATION OF FORCE OTHER THAN TO GET COMPLIANCE, THEN YOU
18 HAVE TO JUSTIFY WHY YOU ARE DOING IT. THE BIGGEST EXAMPLE
19 BEING, LET'S SAY YOU HAVE A K-10 KEEP-AWAY. HE'S HANDCUFFED
20 AND HE'S AN ESCORT. AND AS YOU GO DOWN THE HALL, YOU GIVE HIM
21 AN ORDER TO STAY TO THE RIGHT AND STAY AWAY FROM THE INMATE,
22 HE TAKES OFF TOWARDS THE OTHER INMATE AND HE'S GOING TO ATTACK
23 HIM. DO YOU WAIT UNTIL HE ATTACKS THE GUY TO GRAB THE GUY OR
24 GRAB HIM AND IT MAY REQUIRE TAKING HIM TO THE GROUND OR UP
25 AGAINST THE WALL? THAT WAS THE FORCE THAT WAS USED IN THAT YOU

1 DIDN'T HAVE THE OPPORTUNITY TO CALL A SUPERVISOR.

2

3 **REV. CECIL L. MURRAY:** YOU ARE LOOKING AT INMATE ON INMATE. BUT
4 PLEASE SPEAK SPECIFICALLY TO INMATE ON DEPUTY.

5

6 **FLOYD HAYHURST:** WELL, THE SAME TYPE OF THING, SAY HE'S WALKING
7 AROUND, HE GOES DOWN THE WRONG ESCALATOR. YOU SAY, HEY, DON'T
8 GO THAT WAY, HE CONTINUES ON.

9

10 **REV. CECIL L. MURRAY:** HOW OFTEN DOES THAT HAPPEN? YOU HAVE A
11 MEMO HELP TO -- SOME OF THE INMATES HAVE PROBLEMS, EVEN WITH
12 THE TROUBLED ONES, WHY WOULD THEY JUMP ON SOMEBODY WITH A GUN?

13

14 **FLOYD HAYHURST:** FIRST OF ALL, YOUR HONOR, WE DO NOT HAVE GUNS
15 IN A JAIL FACILITY.

16

17 **REV. CECIL L. MURRAY:** WELL, SOMEONE WITH AUTHORITY.

18

19 **FLOYD HAYHURST:** WHY? THEY DON'T HAVE THE SAME SET OF VALUES.
20 THEY DON'T ALWAYS COMPLY. THERE ARE MANY THAT DO. IT'S THE
21 ONES THAT DON'T THAT DON'T TELL THEM TO OBEY THE RULES IN THE
22 JAIL. IF YOU HAVE TO FORCIBLY MAKE THEM COMPLY WITH A LAWFUL
23 ORDER.

24

25 **REV. CECIL L. MURRAY:** DEPUTIES COMPLAIN THAT THE INMATES CAN

1 CIRCUMVENT THE SYSTEM AND GO DIRECTLY TO THE SERGEANT.
2 SHOULDN'T THIS INCLUDE ACCESS TO SERGEANTS? IS THERE A
3 PERCENTAGE OF ALADS WHO UNDERSTAND -- THAT HAVE
4 ACCOUNTABILITY? DO THEY HAVE ABSOLUTE ACCOUNTABILITY?

5
6 **FLOYD HAYHURST:** WELL, I THINK AS WE SAY, I HEARD THIS
7 DISCUSSED LAST FRIDAY, CHAIN OF COMMAND. IT'S THE CHAIN OF
8 COMMAND, INMATES ARE BEING HOUSED AND THEY'RE IN CUSTODY. THEY
9 NEED TO KNOW THEY SHOULD HAVE TO TRY TO HAVE A DEPUTY, BECAUSE
10 THEY ARE THE FIRST LINE PEOPLE OF AUTHORITY IN THERE, THEY
11 SHOULD HAVE TO TRY TO SEE IF THE DEPUTY CAN RESOLVE THEIR
12 PROBLEM. THERE IS NOTHING WRONG WITH THEM GOING AROUND THE
13 DEPUTY IN SITUATIONS THAT COULDN'T BE RESOLVED, BUT THERE IS
14 SO MANY TIMES WHEN THERE IS ISSUES THAT COULD BE RESOLVED BY
15 THE DEPUTY HAD THEY BEEN GIVEN THE OPPORTUNITY? IT'S NO
16 DIFFERENT THAN IF THEY TURN AROUND AND SAY, I DON'T WANT TO
17 TALK TO THE SERGEANT, EITHER, I WANT TO GO TO THE LIEUTENANT
18 OR BETTER YET, I DON'T WANT TO TALK ABOUT TO THE LIEUTENANT, I
19 WANT TO TALK TO THE CAPTAIN. I WILL NOT COMPLY WITH ANYTHING
20 YOU SAY UNTIL YOU GET THE CAPTAIN HERE. YOU HAVE TO USE FORCE.
21 I'M NOT GOING TO COMPLY. THAT'S DIRECTED FORCE NOW. A SERGEANT
22 OR A LIEUTENANT, SOMEBODY SAYS, TAKE IT BACK TO HIS HOUSE. DO
23 WHATEVER YOU HAVE TO DO TO GET HIM THERE. WHAT'S THE
24 DIFFERENCE THERE? IF THAT DEPUTY TELLS THEM TO DO SOMETHING
25 THAT IS A LAWFUL DIRECTION IN THAT JAIL, AND THE INMATE DOES

1 NOT COMPLY -- IF HE WANTS TO WANDER AIMLESSLY THROUGH THAT
2 JAIL, THEN WE LOSE CONTROL. THEN WE GET A LOT OF PEOPLE HURT.
3 WE GET MEDICAL STAFF. WE CAN HAVE THE MAINTENANCE PEOPLE GET
4 HURT. THEY CAN HURT OTHER INMATES. THERE IS INMATES IN THERE
5 THAT WANT TO WANDER AROUND IN -- TO GET TO OTHER INMATES THEY
6 HAVE GANG RIVALS WITH. THERE MIGHT BE AS WE SAY A GREEN LIGHT
7 OR A HIT PUT ON THEM. THEY MAY WANT TO DO THAT. IF WE CAN NOT
8 CONTROL THEM AS A FIRST LINE AUTHORITY, THEN WE ARE LOSING
9 CONTROL.

10

11 **CECIL L. MURRAY:** THANK YOU.

12

13 **FLOYD HAYHURST:** THANK YOU.

14

15 **HON. LOURDES BAIRD, CHAIR:** WE WILL TAKE A FIVE MINUTE BREAK.
16 KEEP IT TO FIVE MINUTES. ONE OF OUR WITNESSES IS COMING UP
17 NEXT. SO FIVE-MINUTE BREAK. THANK YOU VERY MUCH.

18 **HON. LOURDES BAIRD, CHAIR:** WELL, WE HAVE HERE MR. JACOBSON AND
19 MR. HORN. MS. KRINSKY.

20

21 **MIRIAM A. KRINSKY:** AS WITH THIS MORNING, I HAVE SOME
22 QUESTIONS, FIRST FOR MR. JACOBSON, THEN MR. HORN. THERE WILL
23 BE AREAS THAT WILL OVERLAP. THEY WILL WELCOME COMMISSIONERS
24 QUESTIONS AFTER THAT. THANK YOU.

25

1 **MICHAEL JACOBSON:** MICHAEL JACOBSON, VERA PRESIDENT.

2

3 **MIRIAM A. KRINSKY:** HOW LONG HAVE YOU HELD THAT POSITION?

4

5 **MICHAEL JACOBSON:** 7 1/2 YEARS.

6

7 **MIRIAM A. KRINSKY:** CAN YOU TELL US WHAT VERA IS?

8

9 **MICHAEL JACOBSON:** A POLICY ORGANIZATION THAT WORKS WITH
10 GOVERNMENT.

11

12 **MIRIAM A. KRINSKY:** I'M GOING TO ASK TO YOU PULL YOUR MIC A
13 LITTLE CLOSER; THEY TEND TO BE TEMPERMENTAL. I INDICATED
14 THROUGH THAT ANSWER -- YOUR WORK IS DONE AROUND THE NATION,
15 CORRECT?

16

17 **MICHAEL JACOBSON:** WE WORK -- WE DO A LOT OF WORK LOCALLY. WE
18 PROBABLY WORK IN ABOUT 44 STATES RIGHT NOW. IN THOSE STATES,
19 DIFFERENT JURISDICTIONS, WE DO A FAIR AMOUNT OF WORK
20 INTERNATIONALLY AS WELL.

21

22 **MIRIAM A. KRINSKY:** HOW BIG IS YOUR STAFF?

23

24 **MICHAEL JACOBSON:** WE HAVE OVER 200 PEOPLE.

25

1 **MIRIAM A. KRINSKY:** DID YOU OVERSEE A COMMISSION ON SAFETY AND
2 ABUSE IN AMERICA'S PRISONS?

3

4 **MICHAEL JACOBSON:** ONE OF YOUR MEMBERS WAS THE DIRECTOR.

5

6 **MIRIAM A. KRINSKY:** HE WAS THE DIRECTOR, MR. BUSANSKY, IS THAT
7 CORRECT?

8

9 **MICHAEL JACOBSON:** PEOPLE HAVE CALLED HIM THAT.

10

11 **MIRIAM A. KRINSKY:** DID THAT COMMISSION ON NATIONAL ABUSE IN
12 AMERICA'S PRISONS ISSUE A REPORT IN 2006?

13

14 **MICHAEL JACOBSON:** IT DID.

15

16 **MIRIAM A. KRINSKY:** DID THOSE RECOMMENDATIONS INCLUDE CHANGES
17 OR ISSUES IN REGARD TO FORCE AND VIOLENCE IN JAILS, AS WELL AS
18 OVERSIGHT AND ACCOUNTABILITY OF JAILS?

19

20 **MICHAEL JACOBSON:** YES.

21

22 **MIRIAM A. KRINSKY:** DID IT EXAMINE CULTURE ISSUES?

23

24 **MICHAEL JACOBSON:** YES.

25

1 **MIRIAM A. KRINSKY:** IS VERA CURRENTLY WORKING ON ISSUES IN LOS
2 ANGELES JAILS AND THE JUSTICE SYSTEM.

3

4 **MICHAEL JACOBSON:** THEY REPORTED A YEAR AGO ABOUT THE CAUSES OF
5 JAIL OVERCROWDING AND SOME RECOMMENDATIONS AROUND JAIL
6 OVERCROWDING. WE HAVE A CURRENT PROJECT THAT LOOKS AT REENTRY
7 FOR INMATES WITH MENTAL ILLNESSES. SO WE HAVE BEEN INVOLVED
8 ONE WAY OR ANOTHER IN THAT JAIL SYSTEM FOR A NUMBER OF YEARS.

9

10 **MIRIAM A. KRINSKY:** WHO IS THE CLIENT IN THAT WORK INVOLVING IN
11 L.A. COUNTY?

12

13 **MICHAEL JACOBSON:** THE COUNTY BOARD OF SUPERVISORS, FOR THE
14 REENTRY WORK. ANOTHER, AND SORT OF THE CLIENT, IS THE
15 CALIFORNIA ENDOWMENT. OUR OTHER CLIENT IS THE L.A. JAIL
16 SYSTEM.

17

18 **MIRIAM A. KRINSKY:** YOU SERVED AS THE NEW YORK JAIL DIRECTOR,
19 IS THAT CORRECT?

20

21 **MICHAEL JACOBSON:** YES.

22

23 **MIRIAM A. KRINSKY:** WHO APPOINTED YOU?

24

25 **MICHAEL JACOBSON:** MAYOR GIULIANI.

1

2 **MIRIAM A. KRINSKY:** WERE YOU INVOLVED IN OTHER GOVERNMENT WORK
3 OVER PRIOR DECADES?

4

5 **MICHAEL JACOBSON:** YES. BEFORE BECOMING THE CORRECTION
6 COMMISSIONER, I WAS WITH THE NEW YORK CITY DEPARTMENT OF
7 PROBATION FOR YEARS. PRIOR TO THAT JOB, I WORKED FOR THE
8 OFFICE OF MANAGEMENT AND BUDGET AND OVERSEEING THE CITY'S
9 CRIMINAL JUSTICE SYSTEM. I HAD A COUPLE OTHER JOBS BEFORE
10 THAT.

11

12 **MIRIAM A. KRINSKY:** WERE YOU ALSO THE DEPUTY MAYOR FOR CRIMINAL
13 JUSTICE?

14

15 **MICHAEL JACOBSON:** NO, I WAS THE DEPUTY BUDGET DIRECTOR.

16

17 **MIRIAM A. KRINSKY:** SORRY, WE DIDN'T WANT TO PROMOTE YOU.

18

19 **MICHAEL JACOBSON:** THAT'S NOT A PROMOTION.

20

21 **MIRIAM A. KRINSKY:** HAVE YOU DONE TEACHING OVER TIME?

22

23 **MICHAEL JACOBSON:** WHEN I LEFT, I WAS AT THE CITY GRADUATE
24 CENTRE FOR SEVEN OR EIGHT YEARS BEFORE I CAME.

25

1 **MIRIAM A. KRINSKY:** HAS YOUR ACADEMIC TEACHING INCLUDED
2 CRIMINOLOGY, CORRECTIONS AND CRIMINAL JUSTICE ISSUES?

3

4 **MICHAEL JACOBSON:** IT HAS.

5

6 **MIRIAM A. KRINSKY:** HAVE YOU WRITTEN BOOKS?

7

8 **MICHAEL JACOBSON:** I WROTE ONE BOOK, DOWNSIZING.

9

10 **MIRIAM A. KRINSKY:** HAVE YOU TESTIFIED BEFORE ON NATIONAL
11 BODIES ON ISSUES INVOLVING CORRECTIONS?

12

13 **MICHAEL JACOBSON:** I HAVE INDEED.

14

15 **MIRIAM A. KRINSKY:** LET ME TURN TO YOUR YEARS AS HEAD OF THE
16 NEW YORK DEPARTMENT OF CORRECTIONS. AT THAT TIME PERIOD, HOW
17 MANY JAILS AND INMATES WERE THERE IN RIKERS ISLAND?

18

19 **MICHAEL JACOBSON:** MOST NEW YORK CITY JAILS ARE -- NOT ALL OF
20 THEM -- SO RIKERS, WHICH IS A SORT OF A MYTHIC PENAL COLONY --
21 RIKERS, ITSELF, HAD, I BELIEVES TEN JAIL FACILITIES AND THEN
22 THERE WERE PROBABLY ABOUT 19,000 INMATES. BY THE TIME I LEFT,
23 IT WAS CLOSER TO 17,5 AND TODAY IT'S LESS THAN 11, IT'S LESS
24 THAN 12,000. IT'S ONE OF THE HUGE DIFFERENCES BETWEEN THE TWO
25 SYSTEMS IS THEY USED TO BE THE SAME SIZE NOW IT'S HALF OF IT.

1

2 **MIRIAM A. KRINSKY:** AND ARE APPROXIMATELY THREE-QUARTERS OF
3 THE INMATES PRE-TRIAL DETAINEES?

4

5 **MICHAEL JACOBSON:** YES.

6

7 **MIRIAM A. KRINSKY:** DURING THE TIME YOU WERE COMMISSIONER AND
8 WHEN YOU FIRST CAME INTO THAT POSITION, WERE THERE SERIOUS
9 CONCERNS IN REGARD TO USE OF FORCE AND VIOLENCE IN THE JAILS?

10

11 **MICHAEL JACOBSON:** THERE WERE.

12

13 **MIRIAM A. KRINSKY:** CAN YOU DESCRIBE FOR US THE NATURE OF THOSE
14 CONCERNS?

15

16 **MICHAEL JACOBSON:** WELL, THE CONCERNS WERE FORCE AND VIOLENCE
17 WERE BOTH AT INCREDIBLY HIGH LEVELS. I THINK THE WEEK I BECAME
18 THE -- I GOT APPOINTED, THERE WAS A COVER STORY IN THE NEW
19 YORK MAGAZINE THAT SAID "RIKERS READY TO BLOW." IT WAS A BIT
20 OF A HYPERBOLE. IT WASN'T READY TO BLOW. IT WAS OVERCROWDED
21 AND BOTH USES OF FORCE -- INMATE ON INMATE VIOLENCE WAS TOO
22 HIGH -- HAD BEEN UNCHECKED AND NOT PARTICULARLY WELL
23 OVERSIGHTED, CERTAINLY BY THE CITY, ITSELF.

24

25 **MIRIAM A. KRINSKY:** WERE YOU ABLE TO EFFECTUATE A CHANGE IN

1 THAT PICTURE OVER THE TIME YOU WERE THERE?

2

3 **MICHAEL JACOBSON:** OVER A FEW YEARS, I WAS. AND THAT CONTINUED.

4

5 **MIRIAM A. KRINSKY:** DO YOU KNOW WHAT THE PERCENTAGE DECREASE IN
6 VIOLENCE IN THE JAILS WAS DURING YOUR TENURE?

7

8 **MICHAEL JACOBSON:** I BELIEVE IT WAS 65 OR 70. IT STARTED AT A
9 HIGH NUMBER. I'M TALKING INMATE-ON-INMATE VIOLENCE,
10 PARTICULARLY SLASHINGS, WERE ABOUT -- PROBABLY AROUND -- MAYBE
11 FOUR-TO-FIVE FULL -- EVEN ABOUT 400 A YEAR, THAT WENT DOWN
12 QUITE A BIT IN THE FEW YEARS I WAS THERE.

13

14 **MIRIAM A. KRINSKY:** WHEN YOU SAID 65-TO-70, WAS THAT A
15 PERCENTAGE? WHAT STRATEGIES DID YOU USE TO BRING ABOUT CHANGES
16 IN REGARD TO REDUCTION AND USE OF FORCE AND VIOLENCE IN THE
17 JAILS?

18

19 **MICHAEL JACOBSON:** WELL, THERE WERE A FEW, I GUESS I SHOULD SAY
20 BEFORE I TALK ABOUT THE SPECIFIC STRATEGIES, I MEAN, THE FIRST
21 AND, PROBABLY IN SOME WAYS, THE MOST IMPORTANT STRATEGY WAS
22 THAT IT WAS CLEAR BOTH FROM THE MAYOR ON DOWN THAT THE
23 REDUCTION OF VIOLENCE WAS INCREDIBLY IMPORTANT. IT WAS
24 IMPORTANT TO THE MAYOR. IT WAS IMPORTANT TO THE MAYOR AS A
25 RESULT OF THE OFFICERS ON THE GROUND. SO THERE WAS CERTAINLY

1 CONSENSUS AMONG THE MANAGEMENT AND ELECTED OFFICIALS OF THE
2 CITY THAT THAT HAD TO HAPPEN. SO ONE OF THE FIRST THINGS -- WE
3 DIDN'T REALIZE -- WAS THE DATA NOT ONLY ON VIOLENCE, CERTAINLY
4 ON VIOLENCE, WAS INCREDIBLY INSUFFICIENT. WE REALLY, OTHER
5 THAN HAVING A SENSE OF HOW MUCH THERE WAS, WE COULDN'T TELL
6 YOU WHERE IT WAS, WHAT TIME IT OCCURRED AND WHAT SHIFT,
7 WHETHER IT WAS GANG- INVOLVED OR NOT, ET CETERA, ET CETERA.
8 THEN IT RAPIDLY BECAME CLEAR THAT JUST THE SORT OF PREDICTION
9 UNDERSTANDING AND REACTION TO DATA WAS A HUGE PROBLEM IN THE
10 DEPARTMENT. SO THAT LED US TO INSTITUTE WHAT IS CALLED
11 "TEAMS," AGAIN, CONTINUES TODAY, I'M SURE MARTY WILL TALK
12 ABOUT IT. AND SIMPLIFIED TERMS, "TEAMS" WAS A SORT OF
13 CORRECTIONAL VERSION OF WHAT THE POLICE HAVE LONG DONE WITH
14 COMPSTAT. IT WAS CLEAR WE NOT ONLY HAD NO DATA, BUT THERE WAS
15 NO APPRECIATION FOR DATA AND THE USE OF DATA, AMONG --
16 CERTAINLY AMONG THE MANAGEMENT STAFF AND THAT WAS A HUGE
17 PROBLEM.

18

19 **MIRIAM A. KRINSKY:** SO DURING YOUR TENURE WITH THIS TEAMED
20 APPROACH -- YOUR OWN VERSION OF THE COMPSTAT TRACKING -- WHAT
21 SORTS OF THINGS DID YOU BEGIN TO TRACK?

22

23 **MICHAEL JACOBSON:** AGAIN, BEFORE WE GET TO THE TRACKING PIECE,
24 IT WAS ONE OF THE THINGS WE ALSO REALIZED PRETTY EARLY IS THAT
25 THERE WERE SOME STAFF AND MANAGEMENT STAFF. AGAIN, ONE OF THE

1 WAYS WE GOT TO THE REALIZATION THAT THERE WAS A PROBLEM IS
2 THAT WE HAD A WARDEN, A DEPUTY WARDENS WHO COULDN'T EVEN TELL
3 US WHAT THEIR COUNT WAS IN THE JAIL OR WHAT GENERAL TRENDS
4 WERE IN VIOLENCE, UP OR DOWN, OR WHAT THEIR SICK LEAVE RATES
5 WERE. THERE WAS A LACK OF BASIC UNDERSTANDING. AND SO, WE
6 DECIDED BOTH WE NEEDED TO HAVE PEOPLE THAT COULD UNDERSTAND
7 DATA. THEY COULD USE DATA IN FORMING MANAGEMENT DECISIONS THAT
8 APPRECIATED THE USE OF DATA, THAT UNDERSTOOD THAT YOU CAN --
9 YOU CAN'T BE ACCOUNTABLE FOR SOMETHING YOU CAN'T MEASURE AND
10 YOU CAN'T CHANGE THINGS IF YOU DON'T KNOW, IF YOU DON'T HAVE
11 EMPIRICAL DATA. SO WE MADE A NUMBER OF CHANGES IN DATA AND TOP
12 AND MANAGEMENT LEVELS BECAUSE THERE WERE PEOPLE WE JUST
13 THOUGHT COULD NOT SORT OF COMPORT THEMSELVES TO USE AND
14 UNDERSTAND DATA. THEN WE MADE A PRETTY SIGNIFICANT INVESTMENT
15 IN STAFF, BOTH UNIFORMS AND I THINK IMPORTANTLY NON-UNIFORM
16 STAFF THAT WERE ESSENTIALLY THE STAFF OF "TEAMS" -- THAT IS
17 THE DATA-GATHERING UNIT IN CORRECTIONS. WE HAD BOTH UNIFORM
18 AND NON-UNIFORMS, VERY INTENTIONALLY DOING THAT. SO WE BEGAN
19 TO COLLECT DATA ON EVERYTHING THAT WAS, WE FELT, IMPORTANT FOR
20 A CORRECTIONAL AGENCY. UNTIL... OBVIOUSLY INMATE-ON-INMATE
21 VIOLENCE AND NOT LIMITED TO THOSE THINGS, SICK TIME, EXAM
22 PROJECTS, ALL THOSE THINGS, WE STARTED TO COLLECT THE DATA AND
23 GET IT OUT TO FOLKS. WE HAD AN EXPECTATION OF LINE MANAGERS ON
24 UP WOULD KNOW THE DATA AND BE ABLE TO MAKE DECISION BASED ON
25 THE DATA. IT WAS A PRETTY LARGE, I THINK, CULTURE SHIFT IN

1 THE.... AGAIN, THAT CONTINUES TO THIS DAY, OVER A DECADE LATER.

2

3 **MIRIAM A. KRINSKY:** WHEN YOU SAY "WE" BEGAN TO COLLECT THE
4 DATA. WAS THE DATA USED AND REVIEWED BY YOU AS WELL, AS THE
5 HEAD OF THE ENTIRE DEPARTMENT OF CORRECTIONS?

6

7 **MICHAEL JACOBSON:** YES, SO ALL THE MANAGEMENT STAFF. WHEN I SAY
8 MANAGEMENT STAFF, ME, THE STRUCTURE IS OBVIOUSLY DIFFERENT
9 THAN THE L.A. SHERIFF'S OFFICE. BUT WE HAD THE CHIEF OF
10 DEPARTMENT, THE HIGHEST UNIFORM POSITION. THE HIGHEST DEPUTY,
11 THE HIGHEST CIVILIAN IN THE DEPARTMENT, AS WELL AS THE UNIFORM
12 MANAGEMENT STAFF, THEY WOULD GO OVER THE DATA. YOU'D HAVE
13 SOMETIMES BIWEEKLY, SOMETIMES WEEKLY, SOMETIMES MONTHLY
14 MEETINGS THAT WOULD OCCASIONALLY HAVE A THEME, SO THERE COULD
15 BE A MEETING JUST ON VIOLENCE, OR USE OF FORCE OR SICK LEAVE.
16 WE'D CALL IN OUR COMMANDERS AND THEIR STAFF AND THE LINE
17 OFFICERS, GO OVER THE DATA, WANT TO KNOW IF THERE WAS A SPIKE
18 IN VIOLENCE OR OVERTIME OR SICK TIME, WHERE IT WAS HAPPENING,
19 AND, MORE IMPORTANTLY, WHAT THEY WERE GOING TO DO ABOUT IT.
20 THE ISSUES ABOUT THE DATA -- GATHERING AND UNDERSTANDING
21 STUFF. YOU HAVE TO HAVE THE DATA. YOU HAVE TO BE ABLE TO
22 UNDERSTAND THE DATA AND KNOW WHAT'S HAPPENING. BUT YOU HAVE TO
23 BE ABLE TO USE THE DATA AND PROCESS IT AND USE IT IN A WAY TO
24 MAKE CHANGES AND MANAGEMENT DECISIONS. IT'S NOT ENOUGH TO
25 SIMPLY KNOW, ALTHOUGH, IT'S A NECESSARY, NOT A SUFFICIENT,

1 CONDITION. YOU HAVE... TO KNOW WHAT'S HAPPENING, CERTAINLY IN
2 YOUR INSTITUTION, BASED ON THE DATA, BUT UNLESS YOU KNOW IN A
3 COUPLE AREAS YOU SEE A SPIKE IN VIOLENCE ON A THURSDAY, IT'S
4 THE 3:00 TO 7:00 SHIFT, WHAT, IN FACT, ARE YOU GOING TO DO
5 ABOUT IT? HOW IS IT GOING TO WORK, HOW WILL YOU MEASURE HOW OR
6 WHY IT WORKS?

7

8 **MIRIAM A. KRINSKY:** YOU INDICATED EARLIER YOU NEEDED A CULTURE
9 SHIFT IN THE WILLINGNESS TO USE DATA ROBUSTLY. WAS THERE ALSO
10 A CULTURE SHIFT IN REGARDS TO THE RIGOR AND DILIGENCE IN
11 REPORTING AND TRACKING USE OF FORCE?

12

13 **MICHAEL JACOBSON:** IT WAS INCREDIBLY IMPORTANT. AGAIN, IT'S ONE
14 OF THE MANY WAYS IN WHICH THE CITY'S -- THE STRUCTURAL SYSTEM
15 IS DIFFERENT THAN LOS ANGELES. I MEAN, WE WERE VERY
16 INTENTIONAL ABOUT HAVING AS MUCH INFORMATION THAT WE COULD
17 DEVELOP INTERNALLY AS THE TEAM'S PROCESS BUT ALSO USING
18 INFORMATION THAT CAME TO US THROUGH OTHER SOURCES. IT'S VERY
19 ACTIVE AND KNOWLEDGEABLE, PRISONER'S LEGAL RIGHTS UNITS AND
20 THE LEGAL AID SOCIETY. THE CITY BOARD OF CORRECTIONS, THE
21 STATE BOARD OF CORRECTIONS. WE HAVE A NUMBER OF VERY GOOD
22 OVERSIGHT AGENCIES AND WE MADE CLEAR TO THEM THAT WE WERE
23 GOING TO COLLECT AND MANAGE THE DATA. WE WANTED TO SEE THEIR
24 DATA ALSO. BUT IT WAS -- WE TRIED TO MAKE IT AS CLEAR AS
25 POSSIBLE THAT THERE WERE SEVERAL PRIORITIES THAT WE HAD IN

1 MANAGING THE JAILS AND THAT STAFF AT CERTAINLY EVERY
2 MANAGERIAL LEVEL WAS EXPECTED TO KNOW EXACTLY WHAT WAS
3 HAPPENING IN THEIR JAIL, YOU KNOW, 30 OR 40 DIFFERENT
4 CATEGORIES AND/OR EXPECTED TO HAVE PLANS TO ADDRESS EACH
5 PROBLEM AND, FOR STUFF THAT THEY DID SUCCESSFULLY, WE EXPECTED
6 AND PROMOTED THEM TO GET AROUND THE DEPARTMENT. WHAT THEY DID,
7 HOW IT WORKED AND WHY IT WORKED.

8

9 **MIRIAM A. KRINSKY:** MR. JACOBSON, YOU HAVE A NOTEBOOK IN FRONT
10 OF YOU. IF I COULD ASK TO YOU TURN TO TAB 12 OF THE NOTEBOOK.
11 EITHER NOTEBOOK.

12

13 **MICHAEL JACOBSON:** I DON'T THINK MY NOTEBOOK HAS TABS.

14

15 **MIRIAM A. KRINSKY:** IF YOU PREFER, THE ONE TO YOUR RIGHT DOES
16 HAVE TABS. BUT IF I COULD ASK YOU, AT TAB 12, THAT DATA IS
17 FROM OUR LOS ANGELES SHERIFF'S DEPARTMENT. OKAY?

18

19 **MICHAEL JACOBSON:** I GOT IT.

20

21 **MIRIAM A. KRINSKY:** IF YOU COULD TAKE A LOOK AT THE 3rd PAGE OF
22 THAT, IT HAS SOME BAR CHARTS THAT REFLECT YEARLY TRENDS OF
23 SIGNIFICANT FORCE EVENTS. THE FIRST PAGE HAS SIGNIFICANT FORCE
24 INMATE INJURIES. AND THEN THERE IS SOME BAR CHARTS THAT
25 SIMILARLY, FOR SUBSEQUENT YEARS' PERIOD, LOOK AT SIGNIFICANT

1 FORCE AS A PERCENTAGE OF TOTAL FORCE.

2

3 **MICHAEL JACOBSON:** RIGHT.

4

5 **MIRIAM A. KRINSKY:** ALSO LOOK AT INMATE INJURIES AND TASER
6 EVENTS, HIGH ALTITUDES DATA, OBVIOUSLY. I KNOW YOU ARE
7 FAMILIAR WITH OUR SHERIFF'S DEPARTMENT, ITS SIZE, ITS BREADTH.
8 HOW IMPORTANT DO YOU THINK IT IS FOR THE VERY TOP MANAGEMENT,
9 ASSISTANT SHERIFF IN CHARGE OF CUSTODY AND PERHAPS THE
10 SHERIFF, HIMSELF, TO BE LOOKING AT THIS KIND OF DATA ON A
11 YEARLY BASIS?

12

13 **MICHAEL JACOBSON:** WELL, IT'S IMPORTANT. TO ADD, IT DOESN'T
14 MATTER WHERE IT IS. IT'S IMPORTANT TO ANY SHERIFFS IN THE
15 CORRECTIONS DEPARTMENT, WHETHER IT'S A SHERIFF OR THE TOP
16 APPOINTED OFFICIAL OR COMMISSIONER OR A SECRETARY, HIMSELF OR
17 HERSELF, TO KNOW THIS KIND OF DATA. I MEAN, NOT JUST THIS KIND
18 OF DATA THAT YOU SHOULD KNOW, YOU SHOULD OBVIOUSLY KNOW WHAT
19 HAS BEEN HAPPENING IN YOUR FACILITIES OVER THE LAST TWO,
20 THREE, FOUR, FIVE, TEN YEARS. WE ALSO WANT TO KNOW WHAT'S
21 HAPPENING OVER THE LAST TWO OR THREE MONTHS, WHAT'S HAPPENING
22 OVER THE LAST TWO, THREE WEEKS. THE LAST WEEK. OBVIOUSLY, THE
23 PERSON WHO LEADS THE DEPARTMENT, THAT PERSON HAS A LOT OF
24 STUFF TO DO. YOU DON'T EXPECT THAT PERSON TO KNOW THE LEVEL OF
25 GRANULAR DETAIL THAT YOU WOULD AS YOU GO DOWN THE CHAIN. TO

1 NOT ONLY KNOW WHAT'S BEEN HAPPENING IN THE LAST FEW WEEKS BUT
2 WHERE, WHAT TOUR, WHAT HOUSING AREA AND IS IT HIGH IN MINIMUM
3 SECURITY? IS IT AN OLDER BUILDING, A NEWER BUILDING, CAPITAL
4 PROJECTS WHERE INMATES CAN GET WEAPONS? BUT THERE IS SOME
5 LEVEL OF KNOWLEDGE, BASIC TREND KNOWLEDGE AND REAL TIME DATA
6 THAT YOU EXPECT YOUR TOP LEADER TO KNOW WHEN ACTED ON AND,
7 OBVIOUSLY, AT A MINIMUM, IT'S THIS. BUT IN MY OPINION, IT
8 SHOULD BE MORE THAN THIS.

9

10 **MIRIAM A. KRINSKY:** I THINK THIS, AND YOU INDICATED, EVEN MORE
11 QUICKLY. YOU DON'T HAVE TO WAIT FOR YEAR'S END?

12

13 **MICHAEL JACOBSON:** WELL, YOU DON'T WANT TO BE IN A POSITION TO
14 LOOK AT SOMETHING FOR THE LAST YEAR AND REALIZE, OOPS, THERE
15 IS SOMETHING GOING ON. YOU WANT TO HAVE SOMETHING. EASY TO
16 SAY REAL TIME, BUT THAT IS HARD TO DO. IN AS REAL A TIME OR AS
17 FAST AS POSSIBLE. YOU WANT THESE AS FAST AS POSSIBLE. YOU WANT
18 THESE JAIL SYSTEMS THAT HISTORICALLY HAS PROBLEMS. WHEN THERE
19 IS A PROBLEM, YOU WANT TO BE ON TOP OF IT AS SOON AS YOU CAN.

20

21 **MIRIAM A. KRINSKY:** WHY WOULDN'T IT BE SUFFICIENT FOR A CAPTAIN
22 OR COMMANDER OR CHIEF TO KNOW THIS INFORMATION AND PASS IT UP
23 THE CHAIN WHEN A PROBLEM COMES UP?

24

25 **MICHAEL JACOBSON:** WELL, FIRST OF ALL, IF ARE YOU A CAPTAIN OR

1 A DEPUTY WARDEN OR A WARDEN, YOU CERTAINLY HAVE TO KNOW A
2 FINER LEVEL OF DETAILS THAN THIS. SO, I EXPECT THEM TO KNOW A
3 LOT MORE THAN THIS. ALSO, IN THESE KIND OF ORGANIZATIONS, I
4 MEAN, OBVIOUSLY YOU WANT INFORMATION TO GO FROM THE BOTTOM UP,
5 BUT YOU CAN'T RELY ON THAT. THAT'S THE WAY INFORMATION TRAVELS
6 IN THESE PARAMILITARY AGENCIES. BUT YOU CAN'T WAIT TO GET THAT
7 INFORMATION FROM THE STREET LEVEL BUREAUCRATS, FROM THE
8 OFFICERS WHO ARE DOING THE TOUGH WORK TO GET TO YOU. IF YOU'RE
9 A COMMISSIONER. IF YOU'RE A SHERIFF, A MANAGER OF ONE OF THESE
10 ACTIONS, YOU HAVE TO HAVE YOUR OWN ABILITY TO GET DATA,
11 PROBABLY FROM MULTIPLE SOURCES, ONE OF WHICH MAY BE YOUR, YOU
12 KNOW, UNIFORM STAFF AND INSTITUTIONS, BUT YOU CAN'T RELY ON
13 INFORMATION COMING TO YOU FROM YOUR INSTITUTIONS AS TO WHAT'S
14 GOING ON. EVEN THOUGH THE DATA, ITSELF, FROM "TEAMS," WAS
15 OBVIOUSLY GENERATED AT AN INSTITUTION FROM USE OF FORCE
16 REPORTS OR FROM COMPLAINTS OR FROM SICK LEAVE RATES THAT WE'VE
17 COLLECTED FROM OUR PERSONNEL OFFICE. BUT I THINK YOU HAVE TO
18 BE MORE PROACTIVE THAN WAIT UNTIL INFORMATION FLOATS UP FROM
19 THE BOTTOM TO THE TOP. SOME INFORMATION FLOATS UP. SOME
20 INFORMATION NEVER FLOATS. SOME OF IT FLOWS OUT, SOME OF IT IS
21 DIFFERENT BY THE TIME YOU GET IT. SO YOU HAVE TO HAVE -- IT'S
22 VERY IMPORTANT TO HAVE DIFFERENT STRATEGIES FOR GETTING
23 INFORMATION AGAIN FROM AS MANY MULTIPLE SOURCES AS POSSIBLE.

24

25 **MIRIAM A. KRINSKY:** I BELIEVE YOU TESTIFIED EARLIER THAT ONE OF

1 THE USES YOU MADE OF DATA WAS TO USE IT FOR DISCIPLINE, FOR
2 CONSEQUENCES. AS YOU WERE ADDRESSING THE ISSUES THAT YOU
3 IDENTIFIED THAT EXISTED WHEN YOU CAME INTO YOUR POSITION, DID
4 YOU BECOME AGGRESSIVE ABOUT DISCIPLINE IN TERMS OF MISCONDUCT?

5

6 **MICHAEL JACOBSON:** WE DID. AGAIN, WE DID A NUMBER OF THINGS. WE
7 BEEFED UP OUR INVESTIGATIVE -- AGAIN, THE CITY STRUCTURE IS A
8 LITTLE DIFFERENT. WE HAVE A DEPARTMENT OF INVESTIGATION, WHICH
9 IS A SEPARATE AGENCY THAT HAS OUR INSPECTOR GENERAL. WE ALSO
10 HAVE OUR OWN INTERNAL INVESTIGATORS WHO WORK FOR THE DEPUTY
11 COMMISSIONER, THAT REPORTED DIRECTLY TO THE COMMISSIONER. WE
12 VERY INTENTIONALLY GAVE THE OFFICE MORE RESOURCES. WE TRIED TO
13 BE AS ATTENTIVE AS WE COULD TO LOOKING AT -- HAVING, YOU KNOW,
14 NOT JUST A FIRST LINE SUPERVISOR, BUT HAVING MANAGERIAL STAFF,
15 MYSELF INCLUDED, THE CHIEF, THE DEPARTMENT, LOOK AT
16 COMPLAINTS. WE TRIED TO BE, YOU KNOW, IT'S ALWAYS A FINE LINE.
17 YOU WANT TO SUPPORT YOUR STAFF. YOU ALWAYS HAVE AN
18 UNDERSTANDING THAT, THERE WILL BE USES OF FORCE. YOU WANT THEM
19 TO BE AS MINIMIZED AS POSSIBLE, RECOGNIZING, THOUGH, THERE
20 WILL BE USES OF FORCE. AGAIN, BOTH A NUANCE THING THIS USE OF
21 FORCE STUFF. THERE ARE USE OF FORCES THAT BY THE TIME THE USE
22 OF FORCE OCCURS IT'S A PERFECTLY GOOD USE OF FORCE, BUT IT MAY
23 HAVE BEEN A USE OF FORCE THAT NEVER SHOULD HAVE OCCURRED IN
24 THE FIRST PLACE BECAUSE THE OFFICER DIDN'T REALLY KNOW HOW TO
25 DEESCALATE A SITUATION, BUT BY THE TIME FORCE OCCURRED, THAT

1 WAS GOOD USE OF FORCE. SO EVEN IF IT'S A GOOD USE OF FORCE, IT
2 DOESN'T MEAN THERE ARE NOT ISSUES THERE CERTAINLY, IN TERMS OF
3 TRAINING OR IF THERE ARE BAD USES OF FORCE AND THEY'RE
4 DOCUMENTED AND, AGAIN, NEW YORK CITY HAS A LOT MORE NOW. BUT
5 WE INSTALLED A TON OF CAMERAS ALL OVER THE PLACE, SO IT'S A
6 LITTLE EASIER TO DOCUMENT USES OF FORCE. WE TRIED TO BE VERY
7 CLEAR, BOTH OURSELVES, FOR THE PUBLIC, FOR THE STAFF, THAT,
8 YOU KNOW, THAT CERTAINLY ANYTHING THAT WAS UNJUSTIFIED
9 WOULDN'T BE TOLERATED.

10

11 **MIRIAM A. KRINSKY:** YOU REFERENCED TRAINING IN PASSING. DID YOU
12 PUT IN PLACE ANY CHANGES IN TERMS OF TRAINING?

13

14 **MICHAEL JACOBSON:** WE -- I CAN'T REMEMBER HOW LONG THE TRAINING
15 ACADEMY WAS WHEN I GOT THERE. I THINK IT MIGHT HAVE BEEN TEN
16 OR 11 WEEKS. I THINK BY THE TIME I LEFT, IT WAS PROBABLY ABOUT
17 14 WEEKS AND I THINK IT'S BEEN FURTHER LENGTHENED AND I THINK
18 IT'S PROBABLY ABOUT 16 WEEKS NOW. SO WE MADE AN INVESTMENT IN
19 THE UP FRONT TRAINING ACADEMY AND ALSO IN IN-SERVICE TRAINING
20 AS WELL.

21

22 **MIRIAM A. KRINSKY:** WHEN YOU SAY TRAINING ACADEMY, WE -- WHEN
23 WE TALK ABOUT "ACADEMY" HERE, IT'S A GENERAL ACADEMY, FOCUSING
24 ON DEPUTIES IN PATROL. IS YOUR ACADEMY CUSTODY FOCUSED?

25

1 **MICHAEL JACOBSON:** YES. THIS IS NO SMALL ISSUE FOR YOU TO
2 WRESTLE WITH. BUT NEW YORK, AGAIN, THERE IS NOT A SHERIFF IN
3 NEW YORK. IT'S A CIVILIAN POSITION WHO RUNS THE DEPARTMENT OF
4 CORRECTION. THE TRAINING ACADEMY IS A PROFESSIONAL ACADEMY FOR
5 PEOPLE WHO ARE GONNA BE WORKING IN OR AROUND THE JAILS FOR THE
6 REST OF THEIR PROFESSIONAL CAREER.

7

8 **MIRIAM A. KRINSKY:** WE'VE HEARD TESTIMONY THAT CUSTODY-SPECIFIC
9 TRAINING IN LOS ANGELES THAT FOLLOWS THE GENERAL ACADEMY IS
10 ANYWHERE FROM ONE-TO-FOUR WEEKS. DO YOU HAVE A VIEW ON WHETHER
11 THAT'S ADEQUATE CUSTODY FOCUSED TRAINING?

12

13 **MICHAEL JACOBSON:** IT IS NOT ADEQUATE. AGAIN, I'M NOT -- THERE
14 ARE PEOPLE THAT CAN AUDIT THIS AND TELL YOU WITH A GREAT
15 DEGREE OF SPECIFICITY WHAT IT OUGHT TO BE. I'M NOT SURE WHAT
16 THE EXACT AMOUNT OF TIME REQUIRED IS. AGAIN, I'M NOT SURE WHAT
17 ONE-TO-FOUR WEEKS EVEN MEANS. IF IT'S A PROFESSIONAL TRAINING
18 ACADEMY, OR A SPECIFIC PERIOD OF TIME. SOMEONE SHOULD KNOW,
19 HERE IS A TRAINING CUSTODY OFFICERS GET. BUT MY OWN PERSONAL
20 OPINION IS WHETHER IT'S TWO, ONE, TWO OR THREE WEEKS, WHATEVER
21 THE NUMBERS ARE, THAT IS NOT ENOUGH FOR AN INCREDIBLY
22 DIFFICULT, HIGH STRESSED PROFESSION. IF THEY ARE GOING TO BE
23 PROFESSIONALS, YOU NEED TO TREAT THEM AND TRAIN THEM AS
24 PROFESSIONALS. YOU -- IN MY OPINION, YOU SIMPLY CAN'T DO THAT
25 IN A COUPLE OF WEEKS AND SEND SOMEONE INTO A JAIL.

1

2 **MIRIAM A. KRINSKY:** WHAT ABOUT THOSE WHO SAID THAT PATROL, THE
3 ACADEMY THEY HAVE BEEN THROUGH, THE SKILLS THEY LEARN THERE,
4 ARE ALREADY EQUIPPING THEM TO KNOW THOSE SORTS OF THINGS AND
5 BE ABLE TO PRACTICE THEM IN THE JAILS.

6

7 **MICHAEL JACOBSON:** I DON'T BUY IT. YOU KNOW, IT'S NOT LIKE -
8 AGAIN, I SAY THIS COMPLETELY UNDERSTANDING THAT I DON'T KNOW
9 WHAT YOUR PATROL ACADEMY CURRICULUM IS, I AM SURE THERE ARE
10 THINGS IN THERE THAT MAY WELL BE APPLICABLE TO A CORRECTIONAL
11 SETTING, BUT THERE ARE SO MANY ISSUES THAT ARE ATTENDANT AND
12 SPECIFIC TO JAIL OPERATIONS THAT WEIGH COMPLETELY OUTSIDE.
13 THEY MAY BE RELATED AT SOME -- SOMETIMES DIRECT, SOMETIMES
14 EPHEMERAL LEVELS OF WHAT HAPPENS ON PATROL. BUT THERE ARE SO
15 MANY JAIL-RELATED ISSUES NOW, ESPECIALLY IN A JAIL. NEW YORK,
16 THE SAME AS L.A. HAVING THE INCREDIBLE CHURNING THAT YOU HAVE
17 HERE, YOU KNOW, HUNDREDS OF THOUSANDS OF PEOPLE COMING IN WITH
18 HUGELY HIGH LEVELS OF MENTAL ILLNESS, DRUG USE. ALL SORTS OF
19 ISSUES, YOU KNOW, HANDLING AND MANAGING THAT POPULATION IS
20 JUST AN INCREDIBLY DIFFICULT TASK AND WHILE THERE MAY BE
21 THINGS IN AN ACADEMY THAT ADDRESSES SOME OF THOSE, I CAN'T
22 IMAGINE THERE ARE ENOUGH OF THEM THAT WOULD ALLOW YOU TO ONLY
23 HAVE A COUPLE OF WEEKS OF TRAINING AFTERWARDS. AGAIN, I SAY
24 THAT AS SOMEONE WHO HAS NOT AUDITED THE CURRICULUM. YOU KNOW,
25 I SUPPOSE I COULD BE WRONG ABOUT THAT. BUT IT JUST STRIKES ME

1 -- IT STRIKES ME VERY STRONGLY AT A MINIMUM, THAT IS SOMETHING
2 FOR YOU FOLKS TO LOOK AT. BECAUSE I JUST CAN'T IMAGINE IF YOU
3 HAVE A BASELINE ACADEMY TRAINING, ADDING ON A COUPLE WEEKS OF
4 SPECIFIC CORRECTIONAL TRAINING ON TOP OF THAT IS ADEQUATE.

5

6 **MIRIAM A. KRINSKY:** NOW, MR. JACOBSON, YOU MENTIONED EARLIER,
7 OBVIOUSLY, THE STARTING POINT IS DIFFERENT IN NEW YORK. YOU
8 HAVE CORRECTIONS OFFICERS. YOU ARE AWARE THAT OUR STARTING
9 POINT IS VERY DIFFERENT. IS IT YOUR VIEW THAT THE PROFESSION
10 AND ROLE OF THE CORRECTIONS OFFICER IS DIFFERENT THAN THE
11 PROFESSION OF THE PATROL DEPUTIES?

12

13 **MICHAEL JACOBSON:** IN THE SAME WAY IT'S DIFFERENT THAN
14 PROBATION AND A PAROLE OFFICER. THEY ALL HAVE SOME PERHAPS
15 OVERLAPPING, YOU KNOW MISSIONS. THEY MAY EVEN HAVE SOME
16 OVERLAPPING EXPERTISE, BUT ON THE WHOLE, BEING A PATROL
17 OFFICER ON THE STREET, IT'S A DIFFERENT JOB THAN WORKING IN A
18 FACILITY. AGAIN, I SHOULD SAY WORKING WITHIN A FACILITY COVERS
19 A WIDE RANGE OF DIFFERENT KIND OF WORK. THERE IS THE SECURITY
20 WORK THAT OFFICERS DO, THERE IS PROGRAM WORK, THERE IS
21 TRANSPORTATIONS, COUNSELING. ALL SORTS OF THINGS, IT'S NOT
22 JUST ONE JOB. IT IS -- IT'S A VERY MULTI-FACETED, COMPLEX JOB
23 TO WORK IN THESE FACILITIES.

24

25 **MIRIAM A. KRINSKY:** WE HEARD THIS MORNING FROM REPRESENTATIVES

1 FROM ALADS, HAVING PEOPLE WORK IN CUSTODY FIRST MAKES THEM
2 BETTER PATROL OFFICERS. I BELIEVE THAT WAS IN RESPONSE TO
3 JUSTICE MORENO'S QUESTIONS. DO YOU AGREE WITH THAT?

4

5 **MICHAEL JACOBSON:** I DON'T SEE WHY THAT WOULD BE? AT THE END OF
6 THE DAY, EVEN IF YOU COULD MAKE SOME KIND OF -- FOR ME A
7 TENUOUS ARGUMENT -- IT DOESN'T RISE TO THE POWER OF ENOUGH TO
8 NOT HAVE A SEPARATE, PROFESSIONAL ENTITY THAT DEALS WITH
9 CORRECTIONS. IT'S NOT, I DON'T THINK, THE WAY YOU SHOULD LOOK
10 AT PEOPLE WHO WORK IN THESE FACILITIES AS, WELL, THEY'RE
11 GETTING GOOD TRAINING. THAT WILL HELP THEM DO THIS OTHER
12 THING. YOU KNOW, THE THING INSIDE THESE FACILITIES, IS SO
13 IMPORTANT, SO COMPLEX, YOU KNOW. ARGUABLY, IN A LOT OF WAYS
14 MORE COMPLEX THAN BEING A PATROL OFFICER. YOU CAN HAVE THAT
15 ARGUMENT. SO EVEN IF PARTS OF THAT WERE TRUE, I DON'T SEE HOW
16 THAT IS AN ARGUMENT FOR NOT HAVING, IN ONE WAY OR ANOTHER, AN
17 ORGANIZATION WHERE YOU COME INTO THAT ORGANIZATION, YOU ARE
18 TRAINED FOR IT AND HAVE AN EXPECTATION OF BEING THERE FOR YOUR
19 PROFESSIONAL LIFE.

20

21 **MIRIAM A. KRINSKY:** LET ME ASK YOU TO, FINALLY, REFLECT ON THE
22 SITUATION WE ARE FACING IN LOS ANGELES. DO YOU HAVE
23 RECOMMENDATIONS, I KNOW, YOU HAVE ALREADY REFERENCED A FEW OF
24 THEM, BUT WHAT DO YOU THINK IS MOST IMPORTANT FOR US TO BE
25 THINKING ABOUT AS WE TRY TO GRAPPLE WITH SOME OF THE

1 CHALLENGES THAT HAVE BEEN DESCRIBED TO THIS COMMISSION IN
2 REGARD TO ALLEGED EXCESSIVE USE OF FORCE IN OUR JAILS AND
3 EXCESSIVE USE OF FORCE?

4

5 **MICHAEL JACOBSON:** WELL, THERE ARE A FEW. I GUESS THERE ARE A
6 FEW. I ABSOLUTELY SAY THIS, BY NO MEANS AM I AN EXPERT IN THE
7 OPERATIONS OF THE L.A. JAIL SYSTEM. I KNOW SHERIFF BACA. I
8 HAVE KNOWN HIM FOR A WHILE. I HAVE A LOT OF RESPECT FOR HIM.
9 HE HAS AN INCREDIBLY DIFFICULT JOB TO DO. I THINK THERE ARE A
10 FEW BASELINE ISSUES. ONE IS -- ONE IS WE TALKED ABOUT THE SORT
11 OF COMMITMENT AND EXPECTATION OF ACCOUNTABILITY FROM THE
12 LEADER ON DOWN AND THE USE OF DATA TO SORT OF MANAGE YOUR
13 OPERATIONS. AND, AGAIN, AS PART OF THAT COMMITMENT, I THINK
14 IT'S A LITTLE BIT MORE OF A LEVEL OF DETAIL I'M TALKING ABOUT,
15 BUT INCREDIBLY IMPORTANT FROM THE SHERIFF'S COMMISSIONER,
16 SECRETARY ON DOWN, TO BE IN THEIR JAIL. IT'S VERY IMPORTANT
17 FOR THE STAFF AND THE INMATES TO SEE THOSE FOLKS IN THE JAIL.

18

19 **MIRIAM A. KRINSKY:** HOW OFTEN WERE YOU PERSONALLY, AS THE HEAD
20 OF THE DEPARTMENT, IN THE JAILS?

21

22 **MICHAEL JACOBSON:** MARTY AND I HAD OFFICES -- THEY'RE DIFFERENT
23 NOW. WE HAD OFFICES, ADMINISTRATIVE OFFICES, DOWNTOWN THERE AT
24 CITY HALL. BUT MARTY MOVED THEM -- THOSE OUT TO BE CLOSER TO
25 THE JAIL. BUT THEN, ALSO, OFFICES ON RIKERS ISLAND ITSELF. SO

1 DEPENDING ON THE MONTH OR WEEK OF WHAT WAS GOING ON, I WAS
2 THERE PRETTY OFTEN, YOU KNOW. SOMETIMES ANNOUNCED, SOMETIMES
3 UNANNOUNCED, AND I EXPECTED MY SECURITY STAFF TO DO THE SAME
4 THING AND THEY DID. SO IT'S TANGENTIAL, BUT IT'S NOT
5 UNIMPORTANT. SO, AGAIN, THAT KIND OF COMMITMENT, ALSO AGAIN,
6 THE COMMITMENT, THE TRAINING, THINKING ABOUT THAT JOB. IT'S A
7 PROFESSIONAL JOB. TO HAVE A PROFESSIONAL TRAINING ACADEMY, YOU
8 KNOW, LIKE POLICE HAVE, I THINK, IS JUST SORT OF ESSENTIAL FOR
9 CORRECTIONS AND, AGAIN, YOU KNOW, THERE ARE -- NEW YORK CITY
10 IS A DIFFERENT SYSTEM. I THINK ONE OF THE DISADVANTAGES THE
11 CITY HAS IS THAT WE ARE -- AND THIS COMES FROM ALL SORTS OF
12 PROBLEMS AT THE NEW YORK CITY JAIL SYSTEM HAS HAD OVER THE
13 YEARS -- WE WERE PROBABLY THE MOST CONSENTED SYSTEM IN THE
14 COUNTRY FOR A VERY LONG TIME.

15

16 **MIRIAM A. KRINSKY:** BY THAT YOU MEANT CONSENT DECREE?

17

18 **MICHAEL JACOBSON:** YES. AS A RESULT, WE HAD STRONG AND PUBLIC
19 OVERSIGHT. THE NEW YORK CITY BOARD OF CORRECTIONS HAS
20 INVESTIGATORS THAT CAN COME INTO THOSE JAILS ANY TIME THEY
21 WANT. THEY ARE EMPOWERED BY THE CITY CHARTER TO DO SO. WE HAVE
22 A STATE COMMISSION THAT OVERSEES NOT ONLY THE STATE PRISONS
23 BUT THE LOCAL JAILS. LIKE I SAID, WE HAVE ACTIVE PRISONER
24 RIGHTS UNIT. WE HAVE A CITY COUNCIL THAT TAKES A GREAT
25 INTEREST IN THIS. SO PROBLEMS TEND TO BE PICKED UP PRETTY

1 QUICKLY. EVEN IF THE DEPARTMENT MISSES IT, EVEN WITH ALL THIS,
2 SOMEONE ELSE IS LIKELY TO CATCH IT PRETTY QUICKLY. SO THAT'S -
3 - YOU, OBVIOUSLY, HAVE SOME OF THAT HERE. BUT THAT SORT OF
4 STRUCTURE IN THE CITY IS PROBABLY AN ADVANTAGE. YOU KNOW,
5 FRANKLY, ONE OF THE ADVANTAGES, I KNOW PEOPLE HAVE TALKED
6 ABOUT THIS HERE, YOU MAY OR MAY NOT THINK THIS IS DIRECTLY
7 RELATED TO YOUR TASK HERE, BUT, YOU KNOW, THE FACT THAT THE
8 CITY, YOU KNOW, L.A. AND NEW YORK BOTH START AS -- THEY'RE
9 VERY DIFFERENT. THEY BOTH HAVE ABOUT 400,000 ARRESTS A YEAR
10 GIVE OR TAKE WHEN YOU LOOK AT THE COUNTY. IN NEW YORK CITY
11 ABOUT 100,000 OF THOSE FOLKS MAKE THEIR WAY INTO THE CITY JAIL
12 SYSTEM. IN L.A., I LOSE THESE NUMBERS A LITTLE. IT'S AT LEAST
13 TWICE THAT AT LEAST A COUPLE HUNDRED THOUSAND. THAT'S A REAL
14 PROBLEM. YOU DO NOT USE PRE-TRIAL ENOUGH OR RELEASED-ON-
15 RECOGNIZANCE ENOUGH. YOU HAVE TOO MANY LOW-LEVEL PEOPLE
16 CHURNING THROUGH THAT JAIL SYSTEM THERE. IT'S ALL OF THE
17 PIECE. IT'S NOT JUST ABOUT MONEY. IT'S NOT JUST ABOUT BED
18 USAGE. IT'S ALL OF THE PIECE WHEN YOU THINK ABOUT, WHEN YOU
19 THINK ABOUT VIOLENCE OR, YOU KNOW, A LOT OF THE OTHER
20 FUNCTIONS THAT JAIL SYSTEM HAS. BUT, CERTAINLY, HAVING A
21 RECOGNIZED PROFESSIONAL STAFF WITH LEADERSHIP AT THE TOP, NOT
22 JUST THE SHERIFF BUT, YOU THE COUNTY, IS INCREDIBLY IMPORTANT.
23 YOU KNOW, I SHOULD -- I KNOW THIS CAME UP A COUPLE OF TIMES,
24 AND I'M SURE IT'S SOMETHING YOU STRUGGLE WITH IN L.A. AND NEW
25 YORK IN TERMS OF STAFFING. IT IS TRUE, NO MATTER HOW YOU LOOK

1 AT THESE NUMBERS, NEW YORK CITY IS WAY MORE RICHLY STAFFED,
2 EVEN WHEN YOU ARE LOOKING AT THIS WITHIN THE JAILS. PROBABLY
3 MY GUESS IS CLOSER TO THREE TIMES THE STAFFING. AGAIN,
4 RESOURCES ARE NEVER THE ANSWER TO ANY OF THESE SORTS OF
5 THINGS. BUT I WOULD BE CONCERNED ABOUT YOUR LEVEL OF STAFFING.
6 IT SEEMS TO ME ON THE FACE OF IT NOT DOING AUDITS, HOW BIG IT
7 IS, HOW FLEXIBLE AND COMPLEX IT IS, THE NUMBER OF ADMISSIONS
8 COMING IN, I'D TAKE A LOOK AT THAT STAFFING. THESE ARE,
9 OBVIOUSLY, HUGE RESOURCE ISSUES, BUT AGAIN, I THINK IT'S TOO
10 BIG AN ISSUE NOT TO AT LEAST TALK ABOUT.

11

12 **MIRIAM A. KRINSKY:** THANK YOU. I THINK I'D LIKE TO MOVE TO MR.
13 HORN AND WE'LL OPEN IT UP FOR QUESTIONS. MR. HORN, YOU ARE
14 CURRENTLY DISTINGUISHED LECTURER AT THE JOHN JAY COLLEGE AND
15 EXECUTIVE DIRECTOR OF THE NEW YORK SENTENCING COMMISSION.

16

17 **MARTY HORN:** YES.

18

19 **MIRIAM A. KRINSKY:** WHAT DO YOU TEACH?

20

21 **MARTY HORN:** CORRECTIONS, PAROLE.

22

23 **MIRIAM A. KRINSKY:** YOU HAVE BEEN IN CORRECTIONS OVER 40 YEARS?

24

25 **MARTY HORN:** YES.

1

2 **MIRIAM A. KRINSKY:** DID YOU ALSO SERVE UNDER GOVERNOR TOM
3 RIDGE?

4

5 **MARTY HORN:** YES, AS SECRETARY OF CORRECTIONS FOR THE
6 COMMONWEALTH OF PENNSYLVANIA.

7

8 **MIRIAM A. KRINSKY:** FOR WHAT PERIOD OF TIME?

9

10 **MARTY HORN:** I THINK SIX-AND-A-HALF, SEVEN YEARS.

11

12 **MIRIAM A. KRINSKY:** WERE YOU ALSO A WARDEN?

13

14 **MARTY HORN:** I WAS WITH THE CORRECTIONAL SERVICES, YES.

15

16 **MIRIAM A. KRINSKY:** I BELIEVE YOU FOLLOWED MR. JACOBSON AS HEAD
17 OF THE NEW YORK DEPARTMENT OF CORRECTIONS?

18

19 **MARTY HORN:** IT WAS MY GREAT GOOD FORTUNE TO BUILD ON THE WORK
20 THAT COMMISSIONER JACOBSON DID, INTERRUPTED BY ONLY TWO PEOPLE
21 IN BETWEEN.

22 **MIRIAM A. KRINSKY:** WHEN DID YOU HOLD THAT POSITION?

23

24 **MARTY HORN:** I WAS APPOINTED JUNE 1st, 2003. I SERVED UNTIL THE
25 END OF AUGUST 2009.

1

2 **MIRIAM A. KRINSKY:** DID YOU SERVE UNDER MORE THAN ONE
3 ADMINISTRATION?

4

5 **MARTY HORN:** I SERVED UNDER TWO BLOOMBERG ADMINISTRATIONS, BUT
6 UNDER ONE MAYOR.

7

8 **MIRIAM A. KRINSKY:** HAVE YOU DONE SCHOLARSHIP AND WRITTEN
9 REPORTS ON THESE ISSUES?

10

11 **MARTY HORN:** YES, I HAVE.

12

13 **MIRIAM A. KRINSKY:** LOOKING AT THE RIKERS ISLAND FACILITIES,
14 THERE ARE HOW MANY JAILS NOW?

15

16 **MARTY HORN:** THERE ARE TEN FACILITIES, NINE OF WHICH ARE
17 OPERATIONAL.

18

19 **MIRIAM A. KRINSKY:** WHAT'S THE AVERAGE DAILY NUMBER OF INMATES?

20

21 **MARTY HORN:** ACCORDING TO LAST MANAGEMENT REPORT, IT WAS
22 12,500. LET ME POINT OUT, THERE ARE MANY JAILS: RIKERS ISLAND,
23 THE CITY DEPARTMENT OF CORRECTIONS OPERATES A JAIL, BROOKLYN,
24 A JAIL IN MANHATTAN, A JAIL LOCATED ON A BARGE, IN THE BRONX
25 AND NEW YORK IS REOPENING A SMALL JAIL IN QUEENS.

1

2 **MIRIAM A. KRINSKY:** WHEN YOU TOOK OVER, WERE THERE ONGOING
3 PROBLEMS IN REGARDS TO FORCE AND VIOLENCE IN THOSE JAILS?

4

5 **MARTY HORN:** YES.

6

7 **MIRIAM A. KRINSKY:** I KNOW MR. JACOBSON HAD A NUMBER OF
8 STRATEGIES. IF I COULD FOCUS FIRST ON DATA AND TRACKING. DID
9 YOU BUILD OUT THAT "TEAM" HE HAD STARTED TO PUT IN PLACE?

10

11 **MARTY HORN:** YES.

12

13 **MIRIAM A. KRINSKY:** TELL US WHAT YOU DID.

14

15 **MARTY HORN:** I WAS GOING TO SAY, TEAMS IS A VERY POWERFUL TOOL.
16 WE USED IT TO FOCUS ON THE USES OF FORCE. I THINK WHEN IT WAS
17 BEGUN, IT WAS REALLY FOCUSING ON INMATE STABBING AND
18 SLASHINGS, INMATE-ON-INMATE VIOLENCE, INMATE ASSAULTS ON
19 STAFF. BY THE TIME I GOT THERE, AS MICHAEL HAS SAID, THOSE
20 ISSUES HAD BEEN SUBSTANTIALLY REDUCED, BUT THE QUESTION OF THE
21 USE OF FORCE REMAINED. WE USED THIS PRINCIPLE OF PERFORMANCE
22 MANAGEMENT AND MANAGEMENT ACCOUNTABILITY AS A WAY OF LOOKING
23 AT HOW FORCE WAS USED, WHERE FORCE WAS USED, WHY FORCE WAS
24 USED, WHEN FORCE WAS USED. WHAT THE VARIOUS VECTORS LEADING TO
25 THE USE OF FORCE WERE, WHO WAS USING THE FORCE AND SO ON.

1

2 **MIRIAM A. KRINSKY:** AS PART OF THAT EXTENSIVE BUILDOUT THAT YOU
3 HAVE DESCRIBED, DID YOU PUT IN PLACE AN EARLY WARNING SYSTEM
4 THAT WOULD TRIGGER SOME RESPONSE WHEN CORRECTIONS OFFICERS HAD
5 A CERTAIN NUMBER OF USES OF FORCE?

6

7 **MARTY HORN:** I THINK THE DEPARTMENT HAD ADOPTED A POLICY THAT,
8 AFTER A THIRD USE OF FORCE, AN OFFICER WAS TO BE INTERVIEWED
9 BY THE WARDEN OF THE FACILITY, A COMMAND WHERE HE OR SHE
10 WORKED, WITH THE PURPOSE OF DETERMINING WHETHER MORE TRAINING
11 WAS REQUIRED, WHETHER REASSIGNMENT WAS REQUIRED, WHETHER THE
12 OFFICER WAS TRAUMATIZED, WHETHER THE OFFICER WAS APPROPRIATELY
13 RE-ASSIGNED, WHETHER THE OFFICER NEEDED RESPITE AND SO ON.
14 WHEN I GOT THERE I FOUND IT WAS NOT BEING ACTIVELY USED. SO --
15 WE PUT GREATER EMPHASIS ON THAT. AND WE ALSO PUT IN PLACE THE
16 CAPACITY FOR OUR INTERNAL AFFAIRS DIVISION TO TRACK OFFICER'
17 USES OF FORCE, SO WHEN A USE OF FORCE OCCURRED, WE COULD LOOK
18 AT AN OFFICER'S HISTORY AND WE COULD CROSS-REFERENCE THAT BY
19 THE LOCATIONS AND BY THE INMATES WHO WERE INVOLVED IN THOSE
20 USES OF FORCE.

21

22 **MIRIAM A. KRINSKY:** DID YOUR INTERNAL AFFAIRS DIVISION ALSO
23 TRACK INMATE'S COMPLAINTS BY DEPUTY?

24

25 **MARTY HORN:** YES. SO IF AN INMATE MADE A COMPLAINT WE COULD --

1 AGAINST A SPECIFIC OFFICER -- WE COULD SEE OTHER COMPLAINTS BY
2 THAT OFFICER, OTHER COMPLAINTS BY THAT INMATE AGAINST OTHER
3 OFFICERS AND ALL USES OF FORCE BY THE OFFICER WHO IS THE
4 SUBJECT OF COMPLAINT.

5

6 **MIRIAM A. KRINSKY:** THAT WAS SOMETHING YOU WERE DOING AS OF
7 2000 - AND ?

8

9 **MARTY HORN:** PROBABLY 2006/2007. IT WAS FULLY IN PLACE WHEN I
10 LEFT IN 2009.

11

12 **MIRIAM A. KRINSKY:** YOU SAID THERE WAS REVIEW IF THERE WERE
13 THREE USES OF FORCE. WHY THREE?

14

15 **MARTY HORN:** BECAUSE TWO WERE TOO FEW AND FOUR TOO MANY.

16

17 **MIRIAM A. KRINSKY:** SO WOULD TEN BE A TRIGGER, BE "TOO MANY" IN
18 YOUR MIND?

19

20 **MARTY HORN:** I THINK THE POINT MICHAEL WAS RIGHT ABOUT WAS
21 ANALYZING DATA. YOU HAVE TO LOOK AT SITUATIONS IN REAL TIME:
22 WEEKLY, MONTHLY AND, WITH SOME PROGRAMS, EVEN SOMETIMES
23 HOURLY.

24

25 **MIRIAM A. KRINSKY:** SO AND IN TERMS OF YOUR TRACKING OF THE

1 INMATE COMPLAINTS, THAT WOULD BE INMATE COMPLAINTS AGAINST A
2 PARTICULAR OFFICER THAT YOU WOULD TRACK BY THAT OFFICER; IS
3 THAT CORRECT?

4

5 **MARTY HORN:** YES.

6

7 **MIRIAM A. KRINSKY:** I KNOW THAT MR. JACOBSON INDICATED THERE
8 WERE INCREASING NUMBERS OF VIDEO CAMERAS BEING PUT UP AROUND
9 THE JAIL. HOW WOULD THE FILM OF THOSE VIDEO CAMERAS BE USED?

10

11 **MARTY HORN:** THE FILMS ARE USED IN A VARIETY OF WAYS.
12 PRIMARILY, WHERE THERE WAS A USE OF FORCE, THE VIDEO WAS
13 REVIEWED AS PART OF THE INVESTIGATION. IT WAS REVIEWED
14 INITIALLY BY THE FACILITY MANAGERS, THE WARDENS. IT WAS
15 REVIEWED BY -- IF THERE WAS AN INJURY, SIGNIFICANT FORCE WAS
16 USED BY THE INTERNAL AFFAIRS PART OF THEIR INVESTIGATION TO
17 DETERMINE WHETHER THE USE OF FORCE WAS APPROPRIATE. IT WAS
18 REVIEWED WHERE THEY DEEMED IT NECESSARY BY THE CITY'S
19 INSPECTOR GENERAL, THE DEPARTMENT OF INVESTIGATION. IT WAS
20 MADE AVAILABLE, OF COURSE TO PROSECUTORS. ULTIMATELY, IF THERE
21 WAS LITIGATION, IT WAS MADE AVAILABLE TO PLAINTIFF'S COUNSEL.
22 IF DISCIPLINE WAS MADE AGAINST THE OFFICER, IT WAS MADE
23 AVAILABLE TO THE ATTORNEYS REPRESENTING THE OFFICERS. AND
24 DURING THE TERM OF THE SETTLEMENT AGREEMENT IN THE CASE IT WAS
25 MADE AVAILABLE ON A QUARTERLY BASIS TO PLAINTIFF'S COUNSEL TO

1 ENABLE THEM TO DETERMINE WHETHER ASSESSMENTS OF USE OF FORCE
2 WAS SIGNIFICANT OR NOT SIGNIFICANT OR APPROPRIATE OR NOT
3 APPROPRIATE IN REQUIRING DISCIPLINARY ACTION. IT WAS MADE
4 AVAILABLE ROUTINELY TO PLAINTIFF'S COUNSEL AND IN ADDITION, IT
5 WAS AVAILABLE FOR YOU BY THE CITY BOARD OF CORRECTION AS WELL
6 AS THE NEW YORK STATE COMMISSION ON CORRECTION.

7

8 **MIRIAM A. KRINSKY:** SO JUST TO TEASE THAT OUT A LITTLE BIT,
9 THOSE LAST TWO GROUPS, THE CITY BOARD AND STATE BOARD, THOSE
10 WERE CIVILIAN COMMISSIONS?

11

12 **MARTY HORN:** YES, CIVILIAN OVERSIGHT.

13

14 **MIRIAM A. KRINSKY:** THEY HAD ACCESS TO THE FILM?

15

16 **MARTY HORN:** THEY HAD ACCESS TO THE FILM.

17

18 **MIRIAM A. KRINSKY:** YOU MENTIONED THE DEPARTMENT OF
19 INVESTIGATION WAS SEPARATE AND APART FROM THE DEPARTMENT OF
20 CORRECTIONS, CORRECT?

21

22 **MARTY HORN:** YES.

23

24 **MIRIAM A. KRINSKY:** DID THEY HAVE ACCESS TO THE FILM?

25

1 **MARTY HORN:** IN FACT THEY -- AS WELL AS MYSELF AND OTHER
2 MEMBERS OF MY EXECUTIVE STAFF, MY DEPUTY COMMISSIONER FOR
3 INVESTIGATIONS AND EACH OF THE WARDENS -- ACTUALLY HAD ON
4 TIME, ONLINE REAL TIME ACCESS, SO YOU COULD ACTUALLY SIT AT
5 YOUR DESK AND TUNE IN TO WHAT WAS GOING ON IN A PARTICULAR
6 JAIL IN THE MOMENT OR IF THERE HAD BEEN AN INCIDENT, YOU COULD
7 GO BACK. AND IT WAS ALL DIGITAL AND IT WAS ALL WEB-BASED AND
8 YOU COULD CALL UP THE VIDEO OF SOMETHING THAT HAD HAPPENED AS
9 RECENTLY AS AN HOUR AGO.

10

11 **MIRIAM A. KRINSKY:** WAS THE FILM SPOT-CHECKED BY SUPERVISORS?

12

13 **MARTY HORN:** YES.

14

15 **MIRIAM A. KRINSKY:** WERE DEPUTIES ALLOWED TO REVIEW THE FILM
16 BEFORE WRITING REPORTS?

17

18 **MARTY HORN:** NO.

19

20 **MIRIAM A. KRINSKY:** THERE WAS SOME DISCUSSION OF USE OF FORCE
21 POLICIES. DID YOU PUT IN PLACE CHANGES IN TERMS OF USE OF
22 FORCE POLICIES OR TRAINING AS PART OF YOUR EFFORTS TO REDUCE
23 USE OF FORCE IN THE JAILS?

24

25 **MARTY HORN:** AGAIN, I DON'T WANT TO CHARACTERIZE INDUCED USE OF

1 FORCE. IT WAS A TRIGGER WHEN FORCE WAS USED, IT WAS
2 APPROPRIATE TO USE IT AND THAT IT WAS USED IN AN APPROPRIATE
3 FASHION CONSISTENT WITH THE LAWS AND OUR REGULATIONS. AS
4 MICHAEL SAID, FORCE IS A REALITY IN A JAIL. BUT, YES, WE WERE
5 CONCERNED THAT FORCE WAS BEING USED MORE FREQUENTLY THAN WAS
6 NECESSARY AND THAT WHERE IT WAS BEING USED IT WAS NOT BEING
7 USED CONSISTENT WITH THE OUR RULES AND REGULATIONS. AND SO WE
8 DID MAKE CHANGES BOTH TO OUR POLICY AND TO OUR TRAINING.

9

10 **MIRIAM A. KRINSKY:** I ASKED MR. JACOBSON ABOUT THE LENGTH OF
11 THE TRAINING. DO YOU HAVE AN OPINION ABOUT WHETHER FROM ONE-
12 TO-FOUR WEEKS OF CUSTODY TRAINING A DEPUTY ISSUFFICIENT?

13

14 **MARTY HORN:** YES, I DO.

15

16 **MIRIAM A. KRINSKY:** WHAT IS YOUR OPINION?

17

18 **MARTY HORN:** MY OPINION IS IT IS WOEFULLY INADEQUATE.

19

20 **MIRIAM A. KRINSKY:** WHAT IS YOUR TRAINING IN NEW YORK?

21

22 **MARTY HORN:** IN NEW YORK, NOT THE STATE OF PENNSYLVANIA, THEY
23 ARE JAIL SYSTEMS. IN THE CITY OF NEW YORK, TRAINING TYPICALLY
24 IS A MINIMUM OF THREE MONTHS AND IN THE CITY OF NEW YORK, IT'S
25 16 WEEKS. I BELIEVE ACTUALLY IN THE STATE OF NEW YORK, THE

1 TRAINING ACADEMY, THE DEPARTMENT OF CORRECTIONS IS SIX MONTHS
2 LONG.

3

4 **MIRIAM A. KRINSKY:** COMMISSIONERS, I WOULD AT THIS POINT CALL
5 YOUR ATTENTION TO TAB 18 OF THE NOTEBOOK. WE PUT TOGETHER A
6 COMPARISON CHART OF SOME OF THE OTHER ENTITIES THAT WE HAD THE
7 OPPORTUNITY TO GAIN INFORMATION FROM. YOU'LL SEE THAT IN LOS
8 ANGELES, I BELIEVE OUR COMMANDER MANAGEMENT TASK FORCE
9 TESTIFIED THAT THERE WAS ONE WEEK OF CUSTODY-SPECIFIC TRAINING
10 ADDED TO THE ACADEMY TO SUPPLEMENT A PREEXISTING 8-HOUR
11 TRAINING. SHERIFF BACA TESTIFIED LAST WEEK THE TRAINING IS TWO
12 WEEKS EXTENSION IN THE ACADEMY. ANOTHER TWO WEEKS AFTER. SO
13 THAT'S WHY WE PUT IT AT 2-TO-FOUR WEEKS.

14

15 **THE HON. ROBERT BONNER:** COULD I ASK COUNSEL OR THE EXECUTIVE
16 DIRECTOR TO GET US THE SYLLABUS FROM THE TRAINING COURSE SO WE
17 CAN SEE EXACTLY HOW MUCH TIME IS DEVOTED TO CUSTODY TRAINING
18 AS OPPOSED TO OTHER GUIDANCE?

19

20 **MIRIAM A. KRINSKY:** WE WILL. BASED ON OUR REVIEW OF THE
21 SYLLABUS, IT IS TWO WEEKS. OUR TEAM HAS BEEN LOOKING AT THAT.
22 SO, IS IT YOUR VIEW, MR. HORN, THAT TRAINING PEOPLE FOR
23 CUSTODY IS DIFFERENT FROM TRAINING THEM FOR PATROL?

24

25 **MARTY HORN:** VERY MUCH SO.

1

2 **MIRIAM A. KRINSKY:** HOW SO?

3

4 **MARTY HORN:** I THINK THE MOST IMPORTANT DISTINCTION IS THAT IN
5 A JAIL SETTING, YOU HAVE TO LIVE WITH THE INMATES EVERY DAY. A
6 POLICE OFFICER, A DEPUTY ON PATROL HAS AN ENCOUNTER WITH A
7 CRIMINAL, A PERPETRATOR, AN ALLEGED PERPETRATOR, DOES WHAT
8 THEY'RE GOING TO DO: MAKES AN ARREST, DOESN'T MAKE AN ARREST,
9 PARTS COMPANY AND OTHER THAN PERHAPS RUNNING INTO THEM AT A
10 COURT HEARING, PROBABLY WON'T SEE THAT INDIVIDUAL AGAIN.
11 MOREOVER, WON'T HAVE TO LIVE WITH ALL THE OTHER PEOPLE WHO ARE
12 AROUND IN THE MOMENT WHEN THE ENCOUNTER OCCURS. IN A JAIL,
13 IT'S VERY DIFFERENT. A JAIL IS A COMMUNITY OF SORTS. IF
14 OFFICERS WORK THE SAME CELL BLOCKS, THE SAME CELL HOUSE, SAME
15 DORMTORY, THEY'RE GOING TO BE BACK THERE THE NEXT DAY AND THE
16 INMATE THAT DAY DEALT WITH EITHER HELPFULLY OR IN AN ADVERSE
17 ENCOUNTER YESTERDAY, THEY'RE GOING TO HAVE TO LIVE WITH
18 TOMORROW, UNLESS THE INMATE IS LOCKED UP IN SEGREGATION AND
19 EVEN THEN, BECAUSE I THINK SEGREGATION IS NOT APPROPRIATE IN
20 ALL CASES, AND THE INMATE WILL COME OUT OF SEGREGATION. THEY
21 WILL COME BACK. IN ADDITION, ALL THE OTHER INMATES ARE
22 STANDING AROUND WATCHING THE ENCOUNTER. THEY'RE WATCHING HOW
23 YOU HANDLE IT. THEY'RE JUDGING YOU. SO THE SKILL SET THAT YOU
24 NEED AND THE ATTITUDE THAT YOU HAVE TOWARDS THE PEOPLE IN YOUR
25 CUSTODY HAS TO BE VERY DIFFERENT IF IT IS ANYWHERE TRUE THAT

1 WE GOVERN BY THE CONSENT OF THE GOVERNED THAT IS NO MORE TRUE
2 THAN IN A JAIL SETTING. ON ANY GIVEN DAY IN ANY GIVEN MOMENT,
3 THERE ARE MORE OF THEM THAN THERE ARE OF US. AND A JAIL
4 OFFICER, A PRISON OFFICER MANAGES HIS GROUP OF INMATES,
5 SOMETIMES 50 OR MORE INMATES THROUGH THE LEGITIMACY THAT THE
6 INMATES CONFER UPON HIM OR HER. THE INMATES LISTEN TO WHAT WE
7 DO. THEY GO BACK IN THEIR CELLS WHEN WE ASK THEM TO. THEY GO
8 TO THE YARD, TURN THEIR LIGHTS OFF BECAUSE THEY ACCEPT THE
9 REASONABLENESS OF THE DEMAND WE MAKE OF THEM OR THE REQUESTS
10 WE MAKE OF THEM. THEY NEED TO UNDERSTAND THAT WE DO THE THINGS
11 WE DO, NOT TO HARASS THEM BUT BECAUSE WHEN YOU ARE DEALING
12 WITH LARGE NUMBERS OF PEOPLE IN CONGREGATE SETTINGS THERE ARE
13 CERTAIN THINGS YOU HAVE TO DO TO GET EVERYBODY FED AND LAUNDRY
14 DONE AND SO ON AND SO FORTH. I THINK IT'S A DIFFERENT SKILLSET
15 THAN A POLICE OFFICER CONFRONTING AN INDIVIDUAL ON THE STREET,
16 AN INDIVIDUAL WHO MAY OR MAY NOT BE ARMED, WHEREAS IN A JAIL
17 SETTING, AN OFFICER CAN HAVE A REASONABLE DEGREE OF CONFIDENCE
18 THE INDIVIDUAL THAT HE'S CONFRONTING IS NOT ARMED. THE JAIL
19 OFFICER LIKELY WILL KNOW A GREAT DEAL MORE ABOUT THE
20 INDIVIDUAL WITH WHICH HE OR SHE IS HAVING THAT ENCOUNTER. IT'S
21 A VERY DIFFERENT SET OF CIRCUMSTANCES AND A VERY DIFFERENT
22 SKILL SET.

23

24 **MIRIAM A. KRINSKY:** YOU REFERENCED A BIT AGO FORCE PREVENTION
25 POLICIES. IF I CAN ASK YOU TO TURN, IN THE NOTEBOOK IN FRONT

1 OF YOU, TO TAB 14. THERE WAS ALSO DISCUSSION THIS MORNING
2 ABOUT THE FORCE PREVENTION POLICY. YOU WILL SEE THAT POLICY
3 CONTAINS THE PRINCIPLES THAT OFFICERS SHOULD ONLY USE THAT
4 FORCE THAT'S REASONABLY NECESSARY, THAT FORCE SHOULD BE A LAST
5 RESORT, AND THAT WHEN FORCE IS NECESSARY, YOU SHOULD USE THE
6 MINIMUM AMOUNT OF FORCE NEEDED TO CONTROL THE SITUATION.

7

8 **MARTY HORN:** YES.

9

10 **MIRIAM A. KRINSKY:** DID NEW YORK HAVE THOSE PRINCIPLES IN PLACE
11 IN ITS USE OF FORCE POLICY?

12

13 **MARTY HORN:** NEW YORK AND MOST JURISDICTIONS. NEW YORK STATE,
14 COMMONWEALTH OF PENNSYLVANIA HAVE HAD THOSE POLICIES IN PLACE
15 FOR AT LEAST 20 YEARS. IT'S THE LEGAL STANDARD FOR THE USE OF
16 FORCE. AND IT'S CONSISTENT WITH THE ACCREDITATION STANDARDS OF
17 THE AMERICAN CORRECTIONS ASSOCIATION COMMISSION ON
18 ACCREDITATION FOR CORRECTIONS. THAT'S THE COMMON STANDARD FOR
19 THE USE OF FORCE. THAT'S TRUE WITH RESPECT TO THE USE OF
20 FORCE, WHETHER YOU ARE A JAIL OFFICER OR A POLICE OFFICER THAT
21 IS THE DEFINITION OF WHEN FORCE MAY BE USED.

22

23 **MIRIAM A. KRINSKY:** SO IT WOULD BE FAIR TO SAY THOSE ARE PRETTY
24 BASIC PRINCIPLES?

25

1 **MARTY HORN:** YES.

2

3 **MIRIAM A. KRINSKY:** YOU HEARD THIS MORNING THE NOTION OF AN
4 OBJECTIONABLY REASONABLE STANDARD IS CONFUSING.

5

6 **MARTY HORN:** NO.

7

8 **MIRIAM A. KRINSKY:** WHY NOT?

9

10 **MARTY HORN:** AS ONE OF THE JUDGES POINTED OUT, IT IS THE LEGAL
11 STANDARD. IT HAS BEEN FOR MANY YEARS AND WHILE, YOU KNOW, THE
12 OFFICER WHO USES FORCE UNDER ANY CIRCUMSTANCE ON PATROL OR IN
13 A JAIL HAS TO BE ABLE TO ARTICULATE THE REASONS FOR THE
14 DECISION, TO ARTICULATE THE REASONS WHY THE LEVEL OF FORCE OF
15 WHICH THEY INITIALLY INTERVENED WAS APPROPRIATE GIVEN THE
16 THREAT THAT THEY FACED, AND THERE HAS TO BE AN ARTICULATABLE
17 RESULT. IT'S WHAT OFFICERS ARE TRAINED TO DO. ULTIMATELY, AS
18 THE JUDGE SAID, THE JURY DETERMINES WHETHER OR NOT IT APPEARS
19 REASONABLE IN THE EYES OF A JURY I. -- BUT, IT'S SORT OF A
20 REASONABLE MAN TEST. THAT'S WHAT WE'VE ALL BEEN TRAINED TO DO.

21

22 **MIRIAM A. KRINSKY:** IS IT CONCERNING, IN YOUR MIND, THE
23 DEPUTIES WHO HAVE BEEN TRAINED TO OPERATE WITHIN A JAIL WOULD
24 FIND THAT NOTION CONFUSING?

25

1 **MARTY HORN:** I'M NOT SURE THE DEPUTIES DO. THE UNION ALWAYS
2 WANTS TO DEFEND OFFICERS WHO HAVE CHARGED WITH USING FORCE
3 UNREASONABLY AND SO IT'S A GOOD DEFENSE TO SAY THE STANDARD,
4 ITSELF, IS CONFUSING, BUT I'M NOT SURE. INDIVIDUAL OFFICERS
5 HAVE BEEN TRAINED AND TESTED IN IT. RIGHT? I MEAN, WHEN WE
6 GRADUATE OFFICERS FROM OUR ACADEMY, THEY HAVE TO TAKE A TEST
7 AND SHOW THEY UNDERSTAND THESE CONCEPTS.

8

9 **MIRIAM A. KRINSKY:** NOW, MR. JACOBSON DISCUSSED THE IMPORTANCE
10 OF ENGAGED LEADERSHIP AND PRESENCE OF LEADERSHIP IN THE JAIL.
11 HOW IMPORTANT DO YOU THINK THAT WAS IN NEW YORK?

12

13 **MARTY HORN:** I THINK COMMITTED, ENERGIZED LEADERSHIP IS THE
14 SINGLE MOST IMPORTANT FACTOR IN SOUND MANAGEMENT OF A PRISON
15 OR A JAIL. I BELIEVE THE TOTAL INSTITUTION, WHICH IS WHAT
16 JAILS ARE, ULTIMATELY TAKE ON THE PERSONALITY OF THEIR
17 LEADERSHIP. AND LEADERSHIP CONVEYS ITS VALUES, ITS
18 EXPECTATIONS TO STAFF BASED UPON NOT ONLY WHAT THEY SAY BUT
19 WHAT THEY DO, WHERE THEY GO, WHERE THEY VISIT, WHAT THEY LOOK
20 AT, WHAT QUESTIONS THEY ASK, WHAT DATA THEY ASK FOR, WHAT
21 ISSUES THEY RESPOND TO. THE STAFF WATCH US. THEY ARE LOOKING
22 TO US FOR CLUES. IF, WHENEVER I VISIT A JAIL, I NEVER GO TO,
23 FOR EXAMPLE, THE PUNITIVE SEG UNIT, STAFF WILL SAY, HE MUST
24 NOT CARE ABOUT PUNITIVE CARE. IF I MAKE A POINT TO THE VISIT
25 EVERY TIME, WE WANT TO MAKE SURE, THAT'S WHAT'S IMPORTANT TO

1 HIM. RIGHT? IF I NEVER GO TO THE KITCHEN, THEY'LL SAY, HE
2 DOESN'T CARE IF THE KITCHEN IS DIRTY AND THE FOOD IS LOUSY.
3 BUT IF EVERY TIME I GO TO THE JAIL, I VISIT THE KITCHEN AND
4 EVERY TIME I GO TO THE JAIL, I TASTE THE FOOD AND GO, YUCK,
5 WHEN IT'S BAD, STAFF QUICKLY -- KNOW, IF THERE ARE
6 CONSEQUENCES AND PEOPLE ARE HELD ACCOUNTABLE, AND
7 ACCOUNTABILITY DOESN'T MEAN "PUNITIVE." SOMETIMES IT MEANS A
8 CORRECTIVE INTERVIEW, SAYING TO SOMEBODY, THIS IS NO GOOD, YOU
9 GOT TO DO BETTER. THEN STAFF FIGURES THAT OUT. THERE IS NO
10 SUBSTITUTE FOR IT. AND THE STAFF KNOWS WHO IS IN CHARGE. THEY
11 KNEW WHO WAS THE COMMISSIONER. THEY KNEW THAT MICHAEL WAS A
12 COMMISSIONER. THEY WATCHED WHAT WE DID. I THINK THE SINGLE
13 MOST IMPORTANT THING I DID WAS TO MOVE MY OFFICE FROM LOWER
14 MANHATTAN, WHERE THERE WAS ONE JAIL, A FEW BLOCKS AWAY,
15 PHYSICALLY ONTO RIKERS ISLAND SO I COULD BE THERE EVERY DAY
16 AND WALK TO EACH OF THE JAILS.

17

18 **MIRIAM A. KRINSKY:** WOULD IT BE YOUR VIEW, CONSISTENT WITH
19 THAT, THE FAILURE OF THE HIGHEST LEVEL OF LEADERSHIP, TO KNOW
20 ABOUT OR TO RESPOND TO FORCE AND PROBLEMS, SIGNAL MORE THAN --
21 .

22

23 **MARTY HORN:** I THINK THIS GETS TO THE POINT MICHAEL WAS MAKING,
24 IN THE TEAM'S PROCESS, AT LEAST AS I USED IT, WE CONVENE
25 MONTHLY WITH THE ENTIRE SENIOR STAFF IN THE DEPARTMENT AS WELL

1 AS ALL OF THE WARDENS AND THEIR DEPUTIES AND OTHER STAFF IN A
2 BIG ROOM. AND EACH MONTH, WE REVIEWED THE DATA, SOMETIMES FOR
3 INDIVIDUAL FACILITIES, SOMETIMES MICHAEL SAID THEMATICALLY
4 ACROSS ALL FACILITIES. WE GRILLED THE MANAGERS AND EXPECTED
5 THEM TO OWN THEIR DATA, EXPLAIN THEIR DATA. NOT ONLY TO MAKE
6 EXCUSES OR EXPLANATIONS FOR WHY NUMBERS SPIKED BUT TO GIVE
7 EXPLANATIONS OF HOW TO FIX IT. WE DID THAT NOT LESS THAN
8 MONTHLY. AND I THINK THERE ARE THOSE WHO WOULD ARGUE THAT EVEN
9 MONTHLY IS NOT FREQUENT ENOUGH.

10

11 **MIRIAM A. KRINSKY:** SO IT IS YOUR VIEW THAT THAT'S AN IMPORTANT
12 FUNCTION FOR THE HIGHEST LEVEL OF LEADERSHIP NOT TO DELEGATE
13 DOWNWARD?

14

15 **MARTY HORN:** ABSOLUTELY. IT'S A MATTER OF PRIDE TO ME THAT I
16 NEVER MISSED A TEAM'S MEETING. IF MY FAMILY WAS TAKING A
17 VACATION, WE ADJUSTED THE TEAM'S MEETING TO MAKE SURE I
18 PRESIDED OVER THE TEAMS' MEETINGS. AND MY PREDECESSORS DID
19 LIKEWISE.

20

21 **MIRIAM A. KRINSKY:** LET'S MOVE TO THE INVESTIGATIVE PROCESS?

22

23 **MARTY HORN:** YES.

24

25 **MIRIAM A. KRINSKY:** COULD YOU TELL US ABOUT THE PERSONNEL YOU

1 PUT IN PLACE TO LEAD THAT DIVISION?

2

3 **MARTY HORN:** WHEN I TOOK OVER THE DEPARTMENT, THE
4 INVESTIGATIONS DIVISION WAS HEADED BY A CAREER DEPARTMENT
5 EMPLOYEE. I REPLACED THAT INDIVIDUAL WITH AN OUTSIDE
6 INDIVIDUAL, A FORMER PROSECUTOR, AN ASSISTANT DISTRICT
7 ATTORNEY WITH EXPERIENCE IN THE HOMICIDE BUREAU. I BROUGHT IN
8 OUTSIDE INDIVIDUALS WHO HAD NOT COME UP THROUGH THE
9 PROSECUTION DEPARTMENT. WE RECRUITED FORMER FBI AGENTS TO WORK
10 SIDE-BY-SIDE WITH OUR CAREER EMPLOYEES. I HAD THAT PERSON
11 REPORTING DIRECTLY TO ME. WE CONTRACTED OUT FOR A TRAINING FOR
12 OUR INVESTIGATORS. WE COMMISSIONED A TRAINING MANUAL AND WE
13 ALSO WROTE A MANUAL FOR INVESTIGATORS, AS WELL AS A MANUAL FOR
14 FIRST RESPONDERS. IN OTHER WORDS, WHEN AN INCIDENT OCCURS -- A
15 STABBING, A SLASHING, INMATE ASSAULT, SEXUAL ASSAULT OR USE
16 OF FORCE BY AN OFFICER -- THE FIRST RESPONDER, TYPICALLY IN
17 THE NEW YORK CITY JAILS WAS A CAPTAIN, AND FIRST LINE
18 SUPERVISORS. AND WE -- AND WHAT THAT PERSON DOES IN THAT
19 MOMENT IS CRITICALLY IMPORTANT IN INSURING THERE IS NO
20 COLLUSION AMONG THE STAFF WITH RESPECT TO PREPARATION OF
21 REPORT. PRESERVING THE CRIME SCENE, COLLECTING EVIDENCE,
22 SECURING THE INMATES AND SO ON. SO WE WROTE A TRAINING MANUAL
23 TO ENSURE THAT WAS DONE APPROPRIATELY AND CONSISTENTLY.

24

25 **MIRIAM A. KRINSKY:** WHY DID YOU THINK IT WAS IMPORTANT TO BRING

1 IN THAT OUTSIDE LEADERSHIP, A FORMER PROSECUTOR?

2

3 **MARTY HORN:** A COUPLE REASONS, INDEPENDENT JUDGMENT, FIRST OF
4 ALL. SKILLS, SECOND OF ALL, SOMEONE WHO HAS COME UP IN THE
5 CORRECTIONS DEPARTMENT, WHETHER THEY'VE TAKEN COURSES, WHETHER
6 THEY HAVE A LAW DEGREE, DOES NOT NECESSARILY MAKE THEM THE
7 RIGHT PERSON OR GIVE THEM THE RIGHT SKILLSET TO MANAGE THESE
8 KIND OF INVESTIGATIONS AND HAVE A SENSE OF WHEN OUTSIDE LAW
9 ENFORCEMENT AGENCIES NEED TO BE BROUGHT IN AND SO I FELT THAT
10 IT WAS IMPORTANT THAT WE BRING IN SOMEONE WITH EXPERIENCE IN
11 THE COURTS AS A PROSECUTOR.

12

13 **MIRIAM A. KRINSKY:** EARLIER, YOU TALKED ABOUT THE INSPECTOR
14 GENERAL. WHAT SORT OF ACCESS AND AUTHORITY DID THE INSPECTOR
15 GENERAL HAVE?

16

17 **MARTY HORN:** IN NEW YORK CITY, THE INSPECTOR GENERAL'S OFFICE
18 HAD COMPLETE ACCESS TO EVERYTHING, TO EVERY JAIL, TO EVERY
19 PERSON, SUBJECT TO THEIR CIVIL SERVICE AND CONTRACTUAL RIGHTS
20 TO REPRESENTATION 24 HOURS A DAY, 7 DAYS A WEEK, THEY HAD
21 ACCESS TO EVERY DOCUMENT, EVERY FILE.

22

23 **MIRIAM A. KRINSKY:** MR. JACOBSON ALSO MENTIONED AS DID YOU AS
24 WELL, THESE VARIOUS CIVILIAN OVERSIGHT GROUPS. WHY DO YOU
25 THINK CIVILIAN OVERSIGHT IS IMPORTANT?

1

2 **MARTY HORN:** CONCEDED THAT FROM TIME TO TIME THEY WERE A PAIN
3 IN MY -- NONETHELESS I THINK, YOU KNOW, WE RUN JAILS. WE CAN
4 FIND PEOPLE IN THE NAME OF THE CITY, IN THE NAME OF THE PEOPLE
5 AND ON THEIR BEHALF AND THERE HAS TO BE TRANSPARENCY. MOST
6 PEOPLE, ALL THEY BELIEVE TO BE TRUE ABOUT PRISONS AND JAIL IS
7 WHAT THEY SEE ON TV ON "OZ," ON "LAW AND ORDER." AND SOME OF
8 IT IS TRUE, SOME OF IT IS EXAGGERATED. BUT THINK IT IS --
9 THERE ARE JAILS, THE PEOPLE'S JAILS. THE PEOPLE IN THEM ARE
10 OUR CITIZENS, OUR FELLOW CITIZENS. THEY ARE THE SONS AND
11 DAUGHTERS OF OUR COMMUNITIES, OF OUR NEIGHBOURS AND THEY'RE
12 ALL COMING BACK. AND HOW THEY'RE RUN AND HOW THE PEOPLE IN
13 THEM ARE TREATED IS NOT JUST A MATTER OF CONCERN TO THE
14 COMMISSIONER OR TO THE SHERIFF. IT'S A MATTER OF CONCERN TO
15 ALL OF THE CITIZENS. SO I THINK THAT TRANSPARENCY AND
16 OVERSIGHT KEEPS US ALL HONEST AND I THINK IT, QUITE FRANKLY,
17 IS RE-ASSURING AND I WAS ALWAYS PLEASED WHEN I GOT A CLEAN
18 BILL OF HEALTH WHEN I GOT OUTSIDE HELP. PEOPLE COULD CRITICIZE
19 THEM AND SAY THEY ARE NOT AGGRESSIVE ENOUGH. SOME WILL SAY
20 THEY WERE TOO AGGRESSIVE. I AM SURE THERE ARE IMPROVEMENTS
21 THAT CAN BE MADE. I WAS A PART OF THE SUBCOMMITTEE THAT WROTE
22 ABA RESOLUTION 10E 4-B, THAT KOWALSKI FOR PRISON OVERSIGHT
23 THROUGHOUT THE COUNTRY. I BELIEVE VERY STRONGLY IN THAT THE
24 PUBLIC CAN'T SIMPLY WALK AWAY FROM THE JAILS.

25

1 **MIRIAM A. KRINSKY:** MR. HORN, YOU HEARD TESTIMONY THIS MORNING
2 ABOUT THE NEED FOR IMPACT WEAPONS, INCLUDING FLASHLIGHTS BY
3 DEPUTIES IN JAIL. DO YOU HAVE A VIEW ON THAT?.

4
5 **MARTY HORN:** YES.

6
7 **MIRIAM A. KRINSKY:** WHAT IS YOUR VIEW?

8
9 **MARTY HORN:** I WORKED IN THE NEW YORK STATE DEPARTMENT OF
10 CORRECTIONAL SERVICES, THE PENNSYLVANIA STATE DEPARTMENT OF
11 CORRECTIONS, AND NEW YORK CITY. IN NONE DID THEY CARRY IMPACT
12 WEAPONS. I DON'T BELIEVE OUR OFFICERS WERE UNSAFE. I DON'T
13 BELIEVE OUR INMATES WERE UNSAFE. OBVIOUSLY, INCIDENTS OCCUR.
14 BAD THINGS DO HAPPEN IN PRISONS AND JAILS. MY GREATER FEAR
15 WOULD BE IMPACT WEAPONS WOULD BE TAKEN AWAY FROM THE OFFICER
16 AND USED AGAINST HIM. I NEVER FELT THE NEED.

17
18 **MIRIAM A. KRINSKY:** ONE OTHER AREA, ARE THERE RECOMMENDATIONS
19 THAT YOU WOULD HAVE THAT YOU COULD LEAVE US WITH AS WE TRY TO
20 ADDRESS THE ISSUES THAT ARE BEFORE US?

21
22 **MARTY HORN:** WELL, I THINK -- I THINK, UNQUESTIONABLY -- AND
23 MIKE -- MICHAEL AND I SEE EYE-TO-EYE ON THIS -- IS ABOUT
24 LEADERSHIP, TAKING OWNERSHIP. SOMEONE IN THE JURISDICTION HAS
25 TO BE HELD ACCOUNTABLE AND ACCOUNTABLE PUBLICLY FOR THE

1 MANAGEMENT OF CUSTODIANIAL FACILITY -- CUSTODIAL FACILITIES.
2 SOMEONE'S JOB SHOULD BE DEPENDENT ON THE PERFORMANCE IN
3 MANAGING JAILS. I THINK, TOO, THAT MANAGING PRISONS AND JAILS
4 IS A PARTICULAR PROFESSION. IT'S NOT SOMETHING SOMEONE CAN DO
5 AS A SIDELINE. IT'S SOMETHING THAT ONE PREPARES FOR OVER A
6 PERIOD OF YEARS. I THINK THAT IT'S IMPORTANT THAT WE
7 UNDERSTAND AND USE DATA. AS I LIKE TO SAY, IF YOU CAN'T
8 MEASURE IT, YOU CAN'T MANAGE IT. SO IT'S IMPORTANT THAT WE
9 TRACK WHAT'S GOING ON, AS MICHAEL SAID, IN REAL TIME. I THINK
10 THAT IT'S IMPORTANT AND THIS WAS, I THINK, IT BEARS REPEATING
11 THAT THE CRITICAL THING TO UNDERSTAND ABOUT TEAMS AND COMPSTAT
12 BEFORE IT IS THAT MANAGERS ARE HELD ACCOUNTABLE FOR THEIR
13 PERFORMANCE. THEIR PROMOTION, DEMOTIONS ARE DETERMINED BY HOW
14 WELL THEY MANAGE OUTCOMES AS REFLECTED BY THE DATA. AND SO A
15 WARDEN'S FUTURE MIGHT NOT BE DETERMINED BY A SINGLE MONTH'S
16 DATA, BUT IF OVER A PERIOD OF TIME THE NUMBERS DID NOT GO IN
17 THE DIRECTION THAT YOU WOULD HOPE THEY WOULD, THAT INDIVIDUAL
18 WOULD BE REMOVED FROM COMMAND AND WOULD NOT BE CONSIDERED FOR
19 PROMOTION. I THINK THAT ONE OF THE MOST TELLING THINGS TO ME -
20 - AND IT WAS IN A DRAFT OF THE ALADS' STATEMENT THAT WAS
21 SHARED WITH ME, WAS A VERY, I THINK, REVEALING STATEMENT. IF I
22 CAN FIND IT HERE. I KNOW I HAD IT BOOKMARKED. BUT I THINK IT'S
23 VERY TELLING. BEAR WITH ME. IT SAYS, AT LEAST ON THIS DRAFT ON
24 PAGE 10 AND I QUOTE, "DEPUTIES BELIEVE THAT -" OH, NO IT'S
25 THIS ONE.

1

2 **MIRIAM A. KRINSKY:** TAB 1.

3

4 **MARTY HORN:** PAGE 1, "MANY DEPUTIES AND SUPERVISORS VIEW THE
5 TIME IN CUSTODY AS NON-PRODUCTIVE AND NEGATIVE FOR PROMOTIONAL
6 PURPOSES." IT IS THAT MINDSET THIS IS A SECOND CLASS JOB THAT
7 I THINK IS VERY CORROSIVE AND SELF-FULFILLING. CORRECTIONS, AS
8 MICHAEL SAID, IS A VERY, IT'S A DIFFICULT TASK. WE ASK THESE
9 OFFICERS TO DEAL WITH PEOPLE WHO MANY OF WHOM HAVE COMMITTED
10 CRIMES, ALL OF WHOM HAVE BEEN ACCUSED OF CRIMES MANY OF WHOM
11 ACCUSED AND NOT YET CONVICTED HAVE PREVIOUSLY BEEN CONVICTED
12 OF CRIMES AND, INCREASINGLY, WITH THE MENTALLY ILL, I THINK
13 IT'S THE GREAT TRAGEDY OF OUR AGE THAT THE L.A. COUNTY JAIL
14 AND RIKERS ISLAND, NEW YORK CITY JAILS PROVIDE MORE ACUTE
15 MENTAL HEALTH CARE THAN MOST ACTUAL MENTAL HEALTHCARE
16 HOSPITALS IN THIS COUNTRY. AND WE OUGHT TO BE CONCERNED ABOUT
17 THAT. IT'S A VERY COMPLICATED JOB AND IT IS A PROFESSION THAT
18 SHOULD BE VENERATED AND NOT A PROFESSIONAL IDENTITY THAT
19 SHOULD BE DENEGRATED. THE FACT THAT THEIR OWN MEMBERS
20 DENIGRATE CUSTODY, I THINK IT'S TELLING AND A PART OF THE
21 PROBLEM.

22

23 **MIRIAM A. KRINSKY:** I HAVE NO FURTHER QUESTIONS.

24

25 **HON. LOURDES BAIRD, CHAIR:** MR. MURRAY.

1

2 **REV. CECIL L. MURRAY:** THANK YOU. DOES NEW YORK HAVE AN
3 EXISTING AND ACKNOWLEDGED PROBLEM OF JAIL VIOLENCE AT THIS
4 MOMENT?

5

6 **MARTY HORN:** CERTAINLY, THERE ARE PEOPLE WHO WOULD SAY YES.

7

8 **REV. CECIL L. MURRAY:** YOU MENTIONED REFORM. THE TWO OF YOU.
9 HOW DID YOU SELL IT AND WAS TIME A FACTOR IN RENOVATION OF
10 ATTITUDES AMONG PRISON GUARDS?

11

12 **MICHAEL JACOBSON:** WELL, YOU KNOW, IN THIS RESPECT, NOT JUST
13 THE CITY, BUT THE CITY AND LOS ANGELES ARE VERY DIFFERENT. I
14 MEAN, YOU DO HAVE WHAT CAN BE A REAL ADVANTAGE HERE, WHICH IS,
15 YOU KNOW, YOU HAVE A POSITION WHICH CAN DO THIS JOB FOR A LONG
16 TIME, BY THAT I MEAN, I WAS -- I SERVED FOR THREE YEARS AS
17 CORRECTIONS COMMISSIONER IN THE CITY AND THAT WAS CONSIDERED A
18 FAIRLY LONG-TERM APPOINTMENT. MARTY SERVED FOR ALMOST SEVEN
19 YEARS, PROBABLY ONE OF IF NOT THE LONGEST SERVING. AND THAT'S
20 A PROBLEM. AND I SAY IT'S A PROBLEM BECAUSE YOU KNOW, TURNING
21 THIS SHIP AROUND IS NOT AN EASY THING TO DO. YOU KNOW, PEOPLE
22 CAN TALK ABOUT CULTURE SHIFTS ALL THEY WANT. IT TAKES A WHILE.
23 IT TAKES LEADERSHIP. IT TAKES CONSISTENT LEADERSHIP. AND IT
24 TAKES LEADERSHIP OVER, YOU KNOW, A TIME PERIOD WHEN, YOU KNOW,
25 THOSE JOBS ARE PURELY AT THE WHIM OF THE NEXT ELECTED

1 OFFICIAL, FROM OUR CASE, THE MAYOR. IT CAN BE A REAL PROBLEM.
2 RIGHT. SO IT WAS I THINK THE CITY REALLY BENEFITTED FROM
3 MARTY'S LONG-TERM APPOINTMENT. RIGHT? WE HAD, YOU KNOW, WHEN I
4 WAS THERE WITH MY STAFF, WE WERE ABLE TO DO A FEW THINGS. BUT,
5 YOU KNOW, THREE YEARS, FRANKLY, WOULD NOT HAVE BEEN ENOUGH TO
6 SAY, OKAY, NOW WE'RE DONE, WE'RE GOOD TO GO. THIS THING WILL
7 RUN ITSELF. I THINK THERE WAS A REALIZATION WE HAD HUGE
8 PROBLEMS WE NEEDED TO PUT A DENT IN QUICKLY. BUT TO REALLY
9 CHANGE HOW, AGAIN, WHETHER IT'S VIOLENCE ISSUES OR INMATE-ON-
10 INMATE VIOLENCE, THE USE OF FORCE, TO INCREASE TRAINING, TO
11 CHANGE HOW OFFICERS DO THEIR JOB ON A DAY-TO-DAY BASIS. IT
12 TAKES ALL THE THINGS I THINK WE TALKED ABOUT, BUT IT DOES TAKE
13 SOME TIME. THAT IS NOT GOING TO HAPPEN QUICKLY AND IN A PLACE
14 WHERE YOU HAVE SOME CONSISTENCY OF LEADERSHIP, THAT CAN BE A
15 REAL BENEFIT TO TURNING THE SYSTEM AROUND.

16

17 **MARTY HORN:** IF I MAY ADD TO THAT, IF YOUR QUESTION IS ABOUT
18 STEMMING IT, CREDIT WHERE CREDIT IS DUE, IT BELONGS TO
19 MICHAEL, ACTUALLY, A LOT OF THE INVESTMENTS MADE DURING THE
20 BEGINNING OF MICHAEL'S TENURE TO IMPROVE STAFFING AND TRACKING
21 AND EQUIPMENT AND SO ON, THE EFFORT TO REDUCE JAIL VIOLENCE,
22 MICHAEL WAS ABLE TO DEMONSTRATE THAT AS THE CONDITIONS IN THE
23 JAILS IMPROVED, THE USE OF SICK LEAVE BY OFFICERS DROPPED AS
24 HIGH AS 15 DAYS PER YEAR IN CALENDAR '98 TO JUST ABOUT 11 DAYS
25 IN CALENDAR '09. THAT YIELDED TREMENDOUS SAVINGS. WHEN THE

1 JAILS AREN'T SAFE, STAFF DOESN'T WANT TO COME TO WORK. STAFF
2 COMES TO WORK AS THE JAIL GETS SAFER. THE MORE STAFF COMES TO
3 WORK, THE LOWER YOUR COSTS GET.

4

5 **CHIEF JIM McDONNELL:** THANK YOU BOTH FOR COMING HERE TODAY AND
6 INSIGHTFUL TESTIMONY. VERY HELPFUL. ONE OF THE QUESTIONS FOR
7 EITHER OR BOTH OF YOU. IN DEALING WITH SOME OF YOUR REFORM
8 EFFORTS, WHAT KIND OF UNION ISSUES DID YOU DEAL WITH? LOOKING
9 RETROSPECTIVELY, LESSONS LEARNED?

10

11 **MICHAEL JACOBSON:** IT'S A GOOD CHANGE. NORM -- NORMAN SEABROOKE
12 WAS HEAD OF THAT UNION FOR MY TENURE AND MARTY'S. YOU KNOW,
13 IT'S --.

14

15 **MICHAEL JACOBSON:** IT'S A MIXTURE. I THINK THE KEY WAS BOTH
16 MARTY AND I HAD A COMMITMENT TO WORK WITH THE UNION LEADERSHIP
17 WITH THE UNION AND RECOGNIZED UP FRONT THERE ARE THINGS WE
18 WILL AGREE ON, THERE ARE THINGS WE WON'T AGREE ON. BEING
19 TRANSPARENT AND OPEN IS A GOOD POLICY. A LOT OF THINGS WE HAVE
20 BEEN TALKING ABOUT ARE IN THE UNION'S OWN SELF-INTEREST RIGHT?
21 MORE STAFFING, LESS SICK TIME. SAFER JAILS. YOU KNOW, IN A LOT
22 OF WAYS, IT'S ALL ABOUT WORKING CONDITIONS. YOU DON'T WANT TO
23 WORK, AS MARTY SAID. YOU DON'T WANT TO COME TO WORK IN A PLACE
24 WHERE YOU FEEL UNSAFE. THAT DOESN'T MEAN WE DIDN'T FIGHT ABOUT
25 INDIVIDUAL CASES. I'M SURE MARTY HAD THE SAME THING IF I FIRED

1 AN OFFICER FOR FORCE. YOU WILL HAVE THOSE KIND OF FIGHTS. BUT
2 I THINK THE TOUGH ISSUES -- OF COMMON GROUND AND SELF-INTEREST
3 THAT WE COULD AGREE ON A VARIETY OF THESE SORT OF MATTERS. AS
4 LONG AS WE PUT THE RESOURCES INTO IT. WE AREN'T MAKING
5 COMPLETELY UNREASONABLE EXPECTATIONS, THAT OFFICERS WOULD DO
6 THINGS WE WOULDN'T PROVIDE THE STAFF OR TRAINING OR BACKUP
7 FOR. I DON'T WANT TO BE TO SANGUIN HERE AND SAY WE ALL HELD
8 HANDS AND SANG KUMBAYA. IT WAS A PRODUCTIVE RELATIONSHIP
9 USUALLY ON THE MARGINS.

10

11 **CHIEF JIM McDONNELL:** YOU MENTIONED STAFFING ISSUES AND
12 COMPARING NEW YORK WITH L.A., A BIG DIFFERENCE THERE. A BIG
13 GAP. DO YOU SEE STAFFING AS A CAUSATION FOR SOME OF THE ISSUES
14 RELEVANT TO THE USE OF FORCE, IN PARTICULAR?

15

16 **MICHAEL JACOBSON:** MY PERSONAL OPINION IS, I DON'T WANT TO MAKE
17 STATEMENTS THAT I CAN'T BACK UP. MY CONCERN WOULD BE THAT AT
18 SOME POINT, WHEN YOU HIT SOME THRESHOLD LOW LEVEL OF STAFF, DO
19 YOU BEGIN TO LOSE SOME AMOUNT OF CONTROL AND OVERSIGHT OF YOUR
20 FACILITIES. I'M NOT SAYING THAT L.A. HAS REACHED THAT POINT. I
21 JUST DON'T KNOW. AND, YOU KNOW, BECAUSE AS YOU SAY THE
22 DIFFERENCES IN NEW YORK AND L.A. STAFFING IS SO GREAT. BUT MY
23 -- YOU KNOW, MY FEAR IS THAT ONCE YOU LOOK AT THINGS LIKE
24 TRANSPORTATION AND PERIMETER SECURITY AND YOU ARE REALLY
25 LOOKING AT THE FOLKS IN THOSE JAILS WHO ARE WORKING THE CELLS

1 AND DORMS IN THOSE JAILS. YOU HAVE TO HAVE ENOUGH, AS MARTY
2 SAID, TO MAKE IT CLEAR THAT YOU HAVE SOME LEGITIMACY, SOME
3 AUTHORITY ARE YOU ABLE TO DO WHAT YOU SAY YOU ARE GOING TO DO,
4 BECAUSE IF STAFFING IS STRETCHED TOO THIN, YOU DO WORRY ABOUT
5 NON-JUSTIFIABLE USE OF FORCE, BECAUSE IT IS SUCH A HIGH STRESS
6 OCCUPATION. IT'S NOT EASY TO MANAGE, AS MARTY SAID, WHEN THERE
7 IS 50-1, 100-1, 200-1. THERE ARE ALWAYS GOING TO BE MORE. AT
8 SOME POINT, IT'S TOO MUCH. I DON'T KNOW THAT YOU'RE AT THAT
9 POINT. I DO KNOW THAT SOMETHING, IF WE WERE ASKING MY
10 ORGANIZATION, YOU KNOW, WHAT WILL WE THINK? WE'D LOOK AT THAT
11 PRETTY CLOSELY. FOR ME, IT'S AT LEAST A CONCERNING FACTOR.

12

13 **MARTY HORN:** I AGREE. I THINK THERE IS A REDUCEABLE MINIMUM. I
14 BELIEVE OFFICERS ARE TERRIFIED. THEY GO TO WORK. THEY ARE
15 TERRIFIED. I HAVE BEEN IN OPEN DORMITORIES IN THE NEW YORK
16 CITY JAILS ON A SUMMER NIGHT WHEN IT'S 12:00/ 1:00 AND THERE
17 IS A SINGLE OFFICER IN THERE WITH 50 OR 60 INMATES. AND THAT
18 OFFICER HAS TO MAKE A CHOICE AND SOMETIMES WHEN THE OFFICER
19 FEELS BACKED INTO A CORNER, THEY'RE GOING TO DO SOMETHING YOU
20 WOULDN'T WANT THEM TO DO, WHEREAS IF THERE WAS AN EXTRA
21 OFFICER THERE TO BACK THEM UP, TWO OFFICERS, I THINK THAT THE
22 CHOICE, TO USE A LESSER DEGREE OF FORCE MIGHT BE MADE.

23

24 **CHIEF JIM McDONNELL:** ONE FINAL ONE -- YOU MENTIONED HAVING
25 IMPACT WEAPONS IN THE JAIL, SPECIFICALLY FLASHLIGHTS. TWO

1 ISSUES. ONE, YOU BASICALLY ARE FEELING THAT WAS NOT A BEST
2 PRACTICE FOR ILLUMINATION PURPOSES IN A DARK PLACE LIKE OLD
3 MEN'S CENTRAL JAIL. HOW WOULD YOU ADDRESS THAT? SECONDARILY,
4 WITHOUT AN IMPACT WEAPON, DO YOU RELY MORE HEAVILY ON A TASER
5 OR WHAT OTHER TYPE OF OPTION DO YOU USE?
6

7 **MARTY HORN:** FIRST OF ALL IN NEW YORK CITY, IN PENNSYLVANIA,
8 TASERS ARE NOT USED TO THE BEST OF MY KNOWLEDGE. OFFICERS NEED
9 AN ILLUMINATION DEVICE. MINI-MAG LIGHTS ARE NO MORE THAN 3-5
10 INCHES. DOUBLE AA BATTERIES ARE SUFFICIENT TO SEE IF AN INMATE
11 IS IN BED. SO OFFICERS NEED ILLUMINATION DEVICES. IN NEW YORK,
12 THEY ARE REQUIRED TO CARRY A SMALL ILLUMINATION DEVICE. IN NEW
13 YORK CITY, EVERY OFFICER, FIRST OF ALL, IS EQUIPPED WITH A
14 PERSONAL BODY ALARM. ON THEIR BELT, THEY HAVE A DEVICE THEY
15 CAN, IT'S SOMETIMES ON THE HIP, SOMETIMES MORE LIKE A BEEPER.
16 THEY PRESS THE BUTTON, IT IS PICKED UP. THEY SEND AN ALARM,
17 BACKUP IS DISPATCHED IMMEDIATELY. THAT GIVES OFFICERS A
18 TREMENDOUS SENSE OF SECURITY. SECONDLY IN NEW YORK CITY, ALL
19 OFFICERS ARE EQUIPPED WITH DEPARTMENT-ISSUED OC-SPRAY. IN A 5%
20 WATER-BASED SOLUTION. THEY ARE TRAINED IN HOW AND WHEN TO USE
21 IT. AND IF AND WHEN IT IS USED, IT IS TREATED AS A USE OF
22 FORCE AND ESCALATED AS THE APPROPRIATENESS OF THAT USE OF
23 FORCE. AND OFFICERS ARE ENCOURAGED, THAT IS ONE OF THE STEPS
24 ALONG THE FORCE CONTINUUM THAT WE TEACH -- CONTINUUM THAT WE
25 TEACH OFFICERS.

1

2 **ALEXANDER BUSANKSY:** THANK YOU BOTH FOR COMING. HAVING WORKED
3 FOR HIM, I PROBABLY HEARD SOME OF IT BEFORE SOMEWHERE. I DO
4 APPRECIATE YOU BOTH COMING. I JUST WANT TO GO BACK TO THE
5 STAFFING QUESTION THAT YOU RAISED. THE CHIEF ALSO ASKED YOU
6 ABOUT. IT SEEMS YOU CAN SORT OF IMPACT THAT STAFFING RATIO BY
7 EITHER INCREASING THE NUMBER OF STAFF OR DECREASING THE
8 INMATES. YOU SORT OF MADE REFERENCE TO THAT. CAN YOU TALK
9 ABOUT THAT AND I KNOW VERA HAS DONE SOME WORK ON THIS IN L.A.
10 HOW IS THAT POSSIBLE? WE HEARD FROM DR. AUSTIN BACK A NUMBER
11 OF MONTHS AGO ABOUT HIS WORK HERE.

12

13 **MICHAEL JACOBSON:** OR JIM AS WE LIKE TO CALL HIM. AS YOU SAY,
14 YOU CAN, TO THE EXTENT YOU WANT TO MAKE THE RATIO MORE
15 FAVORABLE, ADD MORE STAFF AND/OR DECREASE THE JAIL POPULATION.
16 THAT GOES TO THE BODIES OF WORK WE HAVE BEEN DOING FOR A
17 WHILE. IT GOES TO THE HEART WHY, AT THIS POINT, NEW YORK CITY
18 AND YOUR POPULATION HAS GONE DOWN HERE BEFORE IT STARTED TO
19 TREND UP BECAUSE OF THE A.B. 109 STUFF. BUT WHY THE NEW YORK
20 CITY SYSTEM IS SO MUCH SMALLER EVEN GIVEN THE SORT OF SAME
21 WORK LOAD AT THE FRONT END. THERE ARE SOME REAL STRUCTURAL
22 DIFFERENCES AND A LOT OF THAT HAS TO DO WITH HOW MANY PEOPLE
23 PROCEED INTO JAILS ON THE FRONT END IN THE FIRST PLACE THAT
24 THERE ARE A FEW BIG THINGS THAT CAN LOWER THE JAIL POPULATION.
25 ONE OF THE ISSUES OF CORE PROCESSING. THE ISSUES OF CORE

1 PROCESSING. THE BIGGEST ONE IS PROBABLY THE ISSUE AROUND PRE-
2 TRIAL, WHICH I AM SURE JIM AUSTIN TALKED ABOUT. NEW YORK CITY
3 MAKES HUGE USE OF PRE-TRIAL. ABOUT 60% OF EVERYONE IS RELEASED
4 ON OWN RECOGNIZANCE. 50% OF ALL FELONY ARRESTS GET RELEASED.
5 THOSE ARE DIFFERENT THAN LOS ANGELES'S NUMBERS. I DON'T KNOW
6 WHAT THE RIGHT NUMBERS FOR L.A. ARE. I DON'T KNOW THAT L.A.
7 SHOULD DO THAT LEVEL, BUT THERE IS A LOT OF WORK TO BE DONE
8 THERE. AGAIN, YOU DON'T WANT MORE PEOPLE IN THE JAIL THAN YOU
9 NEED FOR SEVERAL REASONS. ONE, BECAUSE IT'S A WASTE OF MONEY.
10 TWO, BECAUSE WE KNOW IF YOU CORRECTLY TARGET THE RIGHT PEOPLE,
11 THEY WILL COME BACK FOR THEIR COURT DATE JUST LIKE YOU WILL
12 COME BACK FOR YOUR COURT DATE. THREE, BECAUSE WE KNOW ALL THE
13 RESEARCH SAYS THAT IF YOU OVERPUNISH, IF YOU INCARCERATE
14 PEOPLE WHO ARE ALOW SORT OF RISK AND LOW NEEDS, YOU WILL MAKE
15 THEM WORSE. YOU WILL SPEND MONEY TO CREATE A PUBLIC SAFETY
16 PROBLEM. THAT'S OBVIOUSLY NO WAY TO DO THAT. SO THERE ARE
17 STRATEGIES, WE BELIEVE, WE, VERA, BELIEVE, AND I PERSONALLY
18 BELIEVE AND AS OBVIOUSLY DR. AUSTIN DOES, TOO, THAT CAN
19 SIGNIFICANTLY LOWER THE POPULATION, WHICH IS A GOOD -- WHICH
20 IS A GOOD THING FOR PUBLIC SAFETY. IT'S A PURE PUBLIC SAFETY
21 ISSUE. IT'S ALSO A FISCAL ISSUE. IT'S ALSO A JAIL MANAGEMENT
22 ISSUE. ESPECIALLY IN THE CONTEXT OF RE-ALIGNMENT WHEN YOU KNOW
23 YOU HAVE MORE INMATES COMING. I THINK IT'S ESSENTIAL AND
24 INCUMBENT ON THE COUNTY TO LOOK AND SEE HOW YOU WILL ABSORB
25 THERE THAT. ONE OF THE THINGS YOU DON'T WANT FROM 109 IS

1 SIMPLY TO DRIVE UP YOUR RATIO MORE AND MORE AND MORE, BECAUSE
2 YOU WILL GET MORE OF THE PROBLEMS YOU ARE HERE TO THINK ABOUT.

3

4 **ALEXANDER BUSANKSY:** ONE QUESTION, I'M NOT SURE THERE IS AN
5 ANSWER FOR THAT I GIVE YOU THAT OPTION AT THE BEGINNING.

6

7 **MICHAEL JACOBSON:** THEN MARTY CAN ANSWER.

8

9 **ALEXANDER BUSANKSY:** YOU BOTH HAVE SPOKEN ABOUT THE CRITICAL
10 IMPORTANCE OF LEADERSHIP, MOVING THE OFFICE TO RIKERS. YOU CAN
11 WALK THROUGH. IF YOU LOOK AT SEGREGATION, IF YOU DON'T, THE
12 IMPORTANCE OF IT. CLEARLY LEADERSHIP IS SOMETHING WE HAVE BEEN
13 TALKING ABOUT AND LISTENING TO, NOT JUST TODAY BUT OVER THE
14 MONTHS WE HAVE BEEN TOGETHER AS A COMMISSION. SHERIFF BACA IS
15 THE LEADER OF THE INSTITUTION. WHAT CAN A COMMISSION DO TO
16 HOLD LEADERSHIP ACCOUNTABLE?

17

18 **MARTY HORN:** IF IT WERE ME -- AND I DON'T KNOW WHAT YOUR
19 STATUTORY LIMITATIONS ARE IN CALIFORNIA BUT FOR MYSELF LOOKING
20 FROM THE OUTSIDE AND TAKING NOTHING AWAY FROM SHERIFF BACA'S
21 INTEGRITY OR DECENCY OR COMMITMENT, I THINK THAT THERE SHOULD
22 BE A SEPARATE GROUP, A DETENTION SERVICES ADMINISTRATION. AND
23 IT SHOULD BE INDEPENDENT OF THE SHERIFF'S OFFICE. JUST AS THE
24 UNION VIEWS CUSTODIAL ASSIGNMENTS AS LOWER RUNG ON THE
25 PROFESSIONAL LADDER, I THINK THE SHERIFF'S BREAD AND BUTTER BY

1 THE NATURE OF AN ELECTED OFFICE, IT'S NOT UNIQUE HERE, IS ON
2 THE ROAD PATROL. THAT'S WHERE THE PUBLIC WANTS TO BE SAFE.
3 THEY WANT THE SHERIFF'S DEPARTMENT TO RESPOND WHEN THERE IS A
4 DOMESTIC DISPUTE. IT'S WHERE THE GLORY IS. IT'S ALSO WHERE THE
5 TERRIBLE THINGS ARE GOING TO HAPPEN BY AND LARGE MORE OFTEN IN
6 PUBLIC VIEW THAN IN THE JAILS. SO IT'S JUST IN THE NATURE TO
7 SPEND YOUR TIME AND ATTENTION THERE, WHEREAS, IF THERE WERE AN
8 INDEPENDENT SERVICES AGENCY, I DON'T KNOW IF YOU HAVE A COUNTY
9 COUNCIL, WHERE THE PERSON IN CHARGE WAS ACCOUNTABLE TO AND
10 THEIR FUTURE DEPEND ON UPON THEIR PERFORMANCE, I THINK THAT
11 WOULD BE A BETTER APPROACH. I KNOW FOR MYSELF, MAYOR BLOOMBERG
12 WAS VERY CLEAR WITH ME ABOUT WHAT MY EXPECTATIONS WERE. I KNEW
13 WHAT WOULD GET ME FIRED. I SERVED AT THE PLEASURE OF THE
14 MAYOR. I KNOW THAT RUDY GUILIANI WAS VERY CLEAR WITH MICHAEL
15 ABOUT HIS EXPECTATIONS. WE WERE ACCOUNTABLE. AND OUR FUTURE,
16 OUR JOBS, DEPENDED UPON OUR PERFORMANCE AS JAIL
17 ADMINISTRATORS. AND I WOULD ADVOCATE THAT KIND OF AN APPROACH.
18

19 **MICHAEL JACOBSON:** YOU KNOW, THE ADVANTAGE, YOU KNOW, AS I SAID
20 BEFORE, I LIKE AND ADMIRE HIM. HE HAS AN UNBELIEVEABLY
21 COMPLICATED JOB. A LOT MORE COMPLICATED THAN MY JOB WAS. HE'S
22 RESPONSIBLE FOR THE JAILING FUNCTION IN 88 COUNTIES, DOES LAW
23 ENFORCEMENT AS WELL AS CONTRACT ENFORCEMENT IN OTHER COUNTIES.
24 GEOGRAPHIC REACH IS HUGE. HE HAS A TREMENDOUS AMOUNT TO DEAL
25 WITH AND HAS TO WORRY ABOUT THINGS THAT I NEVER HAD TO WORRY

1 ABOUT. SO SOMEHOW RATIONALIZING A SEPARATE AGENCY, AS MARTY
2 SAID, OR CHANGES TO THE CURRENT STRUCTURE THAT WOULD MAKE IT
3 EASY FOR HIM TO DEAL WITH SOME OF THESE ISSUES I THINK IS KEY.
4 BECAUSE STRUCTURALLY, GIVEN THE MAGNITUDE AND SCOPE OF HIS
5 RESPONSIBILITIES, THAT'S JUST AN AWFULLY BIG JOB.

6

7 **ALEXANDER BUSANSKY:** THANK YOU.

8

9 **HON. LOURDES BAIRD, CHAIR:** COMMISSIONER BONNER.

10

11 **THE HON. ROBERT BONNER:** THANK YOU. FIRST OF ALL, I DO WANT TO
12 EXPRESS MY APPRECIATION TO BOTH YOU GENTLEMAN FOR BEING HERE
13 AND ASSISTING OUR STAFF, TOO, WITH RESPECT TO THE PROCESS OF
14 ANALYZING AND DEVELOPING THE RECOMMENDATIONS THAT THIS
15 COMMISSION IS TASKED WITH PRESENTING TO THE BOARD OF
16 SUPERVISORS AND, OF COURSE. I HAVE A COUPLE QUESTION AREAS.
17 ONE IS ON THE TEAMS OR COMPSTAT APPROACH THAT WAS IMPLEMENTED
18 AND STILL IS BEING USED. I'M WONDERING WHETHER EITHER ONE OF
19 YOU KNOW ENOUGH ABOUT THE STRUCTURE OF THE L.A. COUNTY
20 SHERIFF'S DEPARTMENT, JUST TO GIVE US AN IDEA OF HOW IT SHOULD
21 WORK HERE? I MEAN, I SAY THAT BECAUSE I THINK BOTH OF YOU
22 INDICATED AS TYPICALLY AS THE ENTIRE DEPARTMENT OF
23 CORRECTIONS, THE CITY OF NEW YORK, YOU TYPICALLY WOULD BE AS
24 PART OF THE PROCESS, ITSELF, LOOKING AT DATA, HOLDING THE
25 PEOPLE THAT ARE RUNNING THE VARIOUS JAILS OF THE NEW YORK CITY

1 JAIL SYSTEM TO ACCOUNT. IN OTHER WORDS, TO EXPLAIN, I MEAN, IF
2 THERE IS A THIN LINE SHOWING THE USE OF FORCE INCIDENTS ARE
3 GOING UP, WHY IS THIS? WHAT KIND ARE THEY? YOU WANT TO MAKE
4 SURE THAT THE PERSON THAT'S RUNNING THAT JAIL IN THIS CASE, IN
5 OUR STRUCTURE, THAT WOULD BE A CAPTAIN, A CAPTAIN LEVEL OF THE
6 SHERIFF'S DEPARTMENT, THAT THEY'RE DOING THEIR JOB AND THEY'RE
7 ON TOP OF IT. AND, PROPHYLACTICALLY, THAT THEY'RE, HOPEFULLY,
8 GETTING THE GRANT MONEY TO MOVE IN THE OTHER DIRECTION, AND
9 YOUR POLICY IS YOU WANT TO TRY TO REDUCE USE OF FORCE
10 INCIDENTS. CAN EITHER ONE OF YOU -- DO YOU KNOW ENOUGH? WHO
11 WOULD BE THERE? HOW WOULD YOU DO THIS, IF YOU WERE TRYING TO
12 IMPLEMENT COMPSTAT AT THE -- WITHIN THE L.A. COUNTY SHERIFF'S
13 DETECTIVES, AND IN PARTICULAR THE PART OF THE SHERIFF'S
14 DEPARTMENT THAT DEALS WITH CUSTODY?

15

16 **MICHAEL JACOBSON:** YEAH. I PROBABLY WON'T ANSWER YOUR QUESTION
17 WITH ANY SPECIFICITY.

18

19 **THE HON. ROBERT BONNER:** YOU WON'T BE THE FIRST WITNESS.

20

21 **MICHAEL JACOBSON:** GOOD POINT. I AM NOT EXPERT IN THE L.A.
22 SYSTEM. I DO THINK THERE ARE STRUCTURAL ESSENTIAL ELEMENTS IN
23 A SYSTEM, ALMOST REGARDLESS OF WHAT YOUR, HOW YOUR SYSTEM IS
24 LAID OUT. SO ONE OF THE DECISIONS WE MADE EARLY ON, AS I SAID
25 -- FIRST OF ALL, IT REQUIRES SOME RESOURCE, LIKE I WANTED A

1 SEPARATE TEAM OF PEOPLE THAT REPORTED, IN MY CASE, UP TO A
2 CIVILIAN DEPUTY ECONOMIST TO BE THE ONES TO CAPTURE AND PUT
3 THAT DATA TOGETHER. I DIDN'T WANT TO GET IT FROM OTHER PLACES.
4 I WANTED STAFF THAT WORKED FOR ME, BOTH FROM OUR, TO EXTRACT
5 THAT DATA FROM OUR ADMINISTRATIVE DATA SYSTEMS BUT TO GO IN
6 THE JAIL AND GET ME THE DATA I NEEDED IF WE DIDN'T HAVE IT,
7 WHETHER IT WAS, YOU KNOW A PAPER-BASED DATA LYING IN A FILE
8 CABINET IN A JAIL SYSTEM. SO I THINK ONE OF THE ESSENTIAL
9 FACTORS IS HAVING THAT TOGETHER BY A TEAM OF PEOPLE THAT YOU
10 TRUST THAT IS APPOINTED BY AND REPORTS TO YOU. I THOUGHT THAT
11 WAS HUGEY IMPORTANT. AND THAT'S GOING TO, ONCE YOU HAVE THE
12 DATA, OTHERS. WHETHER, IN OUR CASE IT'S THE WARDEN, OR IN YOUR
13 CASE, IT MIGHT BE A CAPTAIN. IT'S AS MARTY AND I HAVE SAID,
14 IT'S ESSENTIAL WHETHER A SHERIFF IN THIS CASE, COMMANDERS,
15 CAPTAINS, TO BE INCREDIBLY FAMILIAR WITH THAT DATA, TO BE AS
16 FAMILIAR WITH IT AS POSSIBLE IN A REAL TIME BASIS. AND AS I
17 THINK WE ARE BOTH SAYING FOR EVERYONE UP AND DOWN THE LINE TO
18 BEING HELD ACCOUNTABLE FOR THAT DATA. I DON'T WANT TO BE SO
19 SANGUINE. IT'S EASY IN THE SYSTEM NOW, BECAUSE WE PUT
20 RESOURCES IN IT. IT HAS BEEN GOING ON 12 OR 14 YEARS. BUT A
21 LOT OF THIS DATA SIMPLY MAY NOT EXIST OR MAY EXIST
22 SPORADICALLY OR NOT IN A UNIFORM FASHION OVER TIME OR YOU WANT
23 TO DRILL DOWN TEN LEVELS WHERE YOU ARE NOW. THAT'S BOTH A
24 RESOURCE COMMITMENT AND A COMMITMENT FROM THE TOP THAT YOU
25 NEED TO DO WHATEVER YOU NEED TO DO TO GET DATA. IT HAS

1 LEGITIMACY. EVERYONE WILL BELIEVE THAT DATA IS REAL AND
2 REFLECTS WHAT IS GOING ON. THERE WON'T BE QUESTIONS WHERE IT
3 CAME FROM, THE CAPTAIN, A COMMANDER, A SHERIFF, A
4 COMMISSIONER, RIGHT. EVERYONE IS GOING TO BE MEASURED ON THE
5 OUTCOME MEASURES THAT FLOW FROM IT.

6

7 **THE HON. ROBERT BONNER:** I UNDERSTAND THE IMPORTANCE OF HAVING
8 GOOD, RELIABLE DATA IF YOU ARE GOING TO MANAGE BASED UPON
9 METRICS. LET'S ASSUME -- LET ME ASK MR. HORN THIS QUESTION,
10 GOING TO FOLLOW YOUR PRINCIPLES OF LEADERSHIP THAT BOTH OF YOU
11 ESPOUSED HERE AND IF YOU CONSIDER CUSTODY TO BE AN IMPORTANT
12 PART OF THE SHERIFF'S DEPARTMENT, THE SHERIFF SHOULD BE AT THE
13 TEAM'S MEETING, THE COMPSTAT MEETING, SHOULD HE NOT?

14

15 **MARTY HORN:** THAT'S WHAT I UNDERSTOOD YOU TO BE READING, IT'S
16 STRUCTURAL. IT IS REASONABLE AND FAIR TO EXPECT THE SHERIFF TO
17 BE AT EVERY ONE OF THESE MEETINGS THAT TAKES AT LEAST HALF A
18 DAY ONCE OR TWICE A MONTH, I'M NOT SURE. BUT I THINK IT BEGS
19 THE QUESTION THAT THERE SHOULD BE SOMEONE IN THE SHERIFF'S
20 DEPARTMENT WHO IS ACCOUNTABLE TO AN ELECTED OFFICIAL, IN THIS
21 CASE, THE SHERIFF, FOR THE PERFORMANCE OF THE JAILS IN L.A.
22 COUNTY AND THAT PERSON SHOULD PRESIDE OVER THESE MEETINGS AND
23 SHOULD BE PRESENT. IN ADDITION, OF COURSE, THE COMMANDING
24 OFFICER OF EACH JAIL SHOULD BE PRESENT. IN ADDITION, THEY
25 SHOULD BE FREE TO BRING THOSE MEMBERS OF THE TEAM, WHETHER

1 IT'S THEIR MAINTENANCE SUPERVISORS OR UNIFORMED SUPERVISORS
2 WITH THEM TO HELP THEM TO EXPLAIN THE DATA, IN ADDITION,
3 PEOPLE FROM THE CENTRAL ADMINISTRATION SHOULD BE THERE, SO IF
4 THE COMMANDING OFFICER OF THE JAIL SAYS, WELL, WE HAD "X"
5 NUMBERS OF USES OF FORCE, AT LEAST WAY I DID IT WAS MY DEPUTY
6 COMMISSIONER FOR INTERNAL AFFAIRS WAS THERE, TOO. HE WOULD
7 STAND UP AND SAY, YES, WE LOOKED AT ALL TEN USES OF FORCE.
8 NINE OF THEM WERE APPROPRIATE, WE HAVE CONCERNS ABOUT ONE. I
9 WOULD SAY, WHAT WERE THE CIRCUMSTANCES THEREIN OR IF THERE
10 WERE MORE THAT WERE INAPPROPRIATE, WE WOULD BEGIN TO SAY WHY
11 IS YOUR STAFF USING FORCE INAPPROPRIATELY. IF THE WARDEN SAID,
12 WELL, I HAVE THIS PROBLEM. THE INMATES, AS MICHAEL POINTED
13 OUT, THE INMATES ARE RIPPING UP THE RADIATORS AND TURNING
14 PIECES OF THE RADIATORS INTO WEAPONS, THEN I WANT THE PERSON
15 IN MY AGENCY WHO IS RESPONSIBLE FOR PHYSICAL MAINTENANCE TO BE
16 PRESENT AND TO BE PART OF THE CONCEPT OF TEAMS IS TO ADDRESS
17 PROBLEMS AND FIX PROBLEMS IMMEDIATELY TO, SO THAT YOU DON'T
18 WANT TO LEAVE THE CHARGED OFFICER OUT. THERE WAS A PROBLEM
19 THAT HE DOES NOT HAVE THE RESOURCES OR THE AUTHORITY TO FIX.
20 YOU WANT TO HAVE IN THE ROOM THE PEOPLE WHO YOU, AS THE HEAD
21 PERSON, CAN POINT TO AND SAY THAT WARDEN SHOULD NOT HAVE TO
22 SUFFER WITH THE FACT THAT HE'S GOT WELDING PROBLEMS THAT NEED
23 TO BE ADDRESSED.

24

25 **THE HON. ROBERT BONNER:** IF THAT CAMP OR THAT WARDEN HAS THE

1 RESOURCES OR THE AUTHORITY, HE'S NOT GETTING THE JOB DONE,
2 THEN YOU HAVE A CHANCE TO REMOVE THAT WARDEN AND PUT SOMEBODY
3 IN.

4
5 **MARTY HORN:** THAT WAS A PART OF THE ETHIC IN NEW YORK CITY.

6
7 **THE HON. ROBERT BONNER:** AT A MINIMUM, EITHER THE SHERIFF OR
8 SOMEBODY HIGH UP IN THE SHERIFF'S DEPARTMENT, UNDERSHERIFF,
9 THE ASSISTANT SHERIFF IN CHARGE OF CUSTODY, AMONG OTHER
10 THINGS, WOULD BE LEADING THIS AND THE CAPTAIN, THE HEAD OF THE
11 JAIL FACILITIES WOULD BE THERE WITH WHATEVER STAFF HE THINKS
12 HE SHOULD HAVE THERE. AND PRESUMABLY, EVERYBODY FROM THE CHAIN
13 OF COMMAND, WHICH IS BECAUSE THE CAPTAIN, ABOVE HIM IS THE
14 COMMANDER FOR CUSTODY OPERATIONS WITHIN THE SHERIFF'S
15 DEPARTMENT. ABOVE THE COMMANDER IN CHIEF AS PART OF HIS
16 RESPONSIBILITIES ARE CUSTODY. ABOVE THE CHIEF IS THE ASSISTANT
17 SHERIFF. PART OF HIS IS TO OVERSEE CUSTODY. YOU HAVE AN
18 UNDERSHERIFF AND A SHERIFF. BY THE WAY AS I OUTLINE THAT, WHAT
19 DOES THAT SAY ABOUT LAYERS OF SUPERVISION OR HIERARCHY IN THE
20 SHERIFF'S DEPARTMENT, IF YOU CARE TO COMMENT?

21

22 **MARTY HORN:** LOOK IN NEW YORK CITY THERE ARE WARDENS. FOUR OR
23 FIVE WARDENS WOULD REPORT TO A CHIEF, AN ASSISTANT CHIEF AND
24 THEN THERE WOULD BE TWO ASSISTANT CHIEFS WHO REPORTED TO A
25 SINGLE CHIEF OF OPERATION. WHO THEN REPORTED TO THE CHIEF OF

1 THE DEPARTMENT. SO THERE WERE LAYERS. I THINK THE FEWER LAYERS
2 THE BETTER. I INHERITED A SYSTEM. IN RETROSTREKT, I WOULD HAVE
3 FLATTENED IT OUT MORE THAN I DID. BUT AS A PRINCIPLE, YOU
4 DON'T NEED MORE LAYERS THAN CONTROL AND EXPAND ISSUES.

5

6 **MICHAEL JACOBSON:** YES.

7

8 **THE HON. ROBERT BONNER:** I HAVE ONE OTHER THING I NEED TO ASK
9 YOU ABOUT. THAT IS, WE WERE PRESENTED WITH SOMETHING CALLED A
10 COMMANDER MANAGEMENT TASK FORCE. THIS WAS SET UP BY SHERIFF
11 BACA. AND IT INCLUDES A LOT OF REALLY, I THINK, IMPORTANT
12 PERFORMANCE THAT THE SHERIFF, HIMSELF, HAS IMPLEMENTED OR IS
13 STARTING TO IMPLEMENT. BUT IN THIS REPORT IS A COMPARISON
14 AMONG OTHERS, THE COUNTY SHERIFF'S DEPARTMENT AND THE L.A.
15 COUNTY JAIL SYSTEM AND THE NEW YORK CITY DEPARTMENT OF
16 CORRECTIONS. AND I'M LOOKING AT THIS. I HAVE TO ASK A COUPLE
17 OF QUESTIONS ABOUT IT. I THINK IT'S UNFAIR IF YOU DON'T
18 ACTUALLY HAVE THIS IN FRONT OF YOU. SO COULD, -- I'M GOING TO
19 APPROACH, -- COULD I APPROACH THE WITNESS, YOUR HONOR?

20

21 **HON. LOURDES BAIRD, CHAIR:** OF COURSE. ACTUALLY--

22

23 **THE HON. ROBERT BONNER:** WHAT I'D LIKE TO, TO GET THAT IN
24 FRONTED OF YOU, APPENDIX O ON THE FIRST PAGE THERE IS THIS
25 CHART. IN ONE COLUMN IS THE COUNTY, L.A. COUNTY SHERIFF'S

1 DEPARTMENT. DROP DOWN TO NUMBER OF INMATES. THIS IS, BY THE
2 WAY, PRESUMABLY AROUND APRIL OF THIS YEAR. AND THE NUMBER OF
3 THE AVERAGE DAILY INMATE COUNT IS THE 15,013. ACROSS THE PAGE
4 THE DEPARTMENT OF CORRECTIONS IN NEW YORK CITY IS ABOUT
5 12,421. IF YOU DROP DOWN TO USE OF FORCE INCIDENTS, FURTHER
6 DOWN THE PAGE FOR L.A. COUNTY SHERIFF'S DETECTIVES, IT'S
7 INDICATING 585 USE OF FORCE INCIDENTS AS OPPOSED TO 1,973 USE
8 OF FORCE INCIDENTS IN NEW YORK CITY JAIL SYSTEM. NOW, MY
9 SIMPLE MATH WOULD INDICATE TO ME THAT THE NUMBER OF USE OF
10 FORCE INCIDENTS IN THE NEW YORK SYSTEM, JUST, BY THE WAY,
11 IGNORING INMATE COUNT IS THE ON THE ORDER OF MORE THAN THREE
12 TIMES THE NUMBER OF USE OF FORCE INCIDENTS IN L.A. COUNTY JAIL
13 SYSTEM AND IF YOU FACTOR IN IN ADDITION TO THAT, THE
14 DIFFERENCE IN THE INMATE LEVELS, IT'S ON THE ORDER OF FOUR
15 TIMES. MORE USE OF FORCE INCIDENTS IN THE NEW YORK CITY JAIL
16 SYSTEM THAN IN L.A. COUNTY. SO HOW DO YOU EXPLAIN THAT AND
17 DOESN'T THIS MEAN, JUST LOOKING AT THAT MACRODATA, THAT MAYBE
18 WE SHOULD IGNORE ALL OF YOUR RECOMMENDATIONS HERE AND SAY,
19 WE'RE DOING A PRETTY DARN GOOD JOB HERE IN L.A. COUNTY,
20 ANYWAY? ENLIGHTEN ME, IF YOU CAN, WITH RESPECT TO HOW WE
21 SHOULD LOOK AT THAT DATA?

22

23 **MICHAEL JACOBSON** IT'S AN EXCELLENT QUESTION AND IT IS PRETTY
24 STRIKING. I THINK THERE WERE A COUPLE. WE TALKED TO THE
25 COMMISSION STAFF ABOUT THIS A LITTLE BIT. ONE OF THE THINGS

1 THAT'S INTERESTING ABOUT THOSE NUMBERS IS THAT WITHOUT GETTING
2 TOO MUCH IN THE WEEDS, IT'S SIGNIFICANT THE WAY L.A. DEFINES
3 ITS USE OF FORCE, IS SIGNIFICANT AND NON-SIGNIFICANT. LIKE THE
4 WAY NEW YORK CITY DEFINES OURS AS "A" AND "B" AND NOW ACTUALLY
5 THERE IS A "C." FOR YEARS IT WAS "A", SERIOUS. "B," NON-
6 SERIOUS. SO ASSUMING THAT -- AND THIS IS NOT NECESSARILY A
7 GOOD ASSUMPTION -- ASSUMING OUR "A" USES OF FORCE, SERIOUS
8 USES OF FORCE WITH AN INJURY, OR SOMEWHAT AKIN, EXCUSE ME, TO
9 YOUR SIGNIFICANT USES OF FORCE AND THEY'RE PROBABLY NON-,
10 BECAUSE YOUR SIGNIFICANT USES OF FORCE COVER ALL OF OUR "A"
11 AND MAYBE THE HIGHEST LEVEL OF "B"s. BUT ASSUMING THEY'RE
12 ROUGHLY THE SAME, OUR NEW YORK CITY "A"s, RIGHT, HAVE A FEW --
13 WE'LL GO OVER THE LAST SEVEN OR EIGHT YEARS, FLUCTUATE BETWEEN
14 100 AND 150 A YEAR, RIGHT? SO THE SIGNIFICANT USES OF FORCE
15 HERE, I'M SAYING, ROUGHLY, MAYBE THE EQUIVALENTT OF OUR "A"s,
16 RIGHT ABOUT 400 OR 500 A YEAR. SO YOUR SIGNIFICANCE WERE TWO
17 OR THREE TIMES THE SIZE OF NEW YORK CITY'S "A"s. RIGHT? THE
18 HUGE DIFFERENCE YOU SEE HERE IS IN WHAT WE WOULD CALL THE
19 "B"s. RIGHT? THE LESS SERIOUS. WHAT YOU WOULD CALL THEM? YET,
20 A NON-SIGNIFICANT AND FOR ME, AND MAYBE THAT REFLECTS REALITY.
21 FOR ME IT RAISES THE QUESTION OF HOW IS IT THAT YOU HAVE TWO
22 OR THREE TIMES THE LEVEL OF WHAT WE WOULD CALL "A"s, WHAT YOU
23 CALL SIGNIFICANT, BUT SO MUCH LESS WHAT WE WOULD CALL "B"s AND
24 WHAT YOU WOULD CALL NON-SIGNIFICANT. MAYBE THAT'S CORRECT. FOR
25 ME IT RAISES AN ISSUE OF AT LEAST SOMETHING TO LOOK AT IN

1 TERMS OF DATA COLLECTION. BECAUSE YOU SHOULD, YOU KNOW, TO THE
2 EXTENT YOU HAVE SERIOUS USES OF FORCE, IT MAKES SENSE TO ME
3 THAT YOU ARE GOING TO HAVE SOME NUMBER MORE OF NON-SERIOUS
4 THAN SERIOUS, LET'S CALL IT 100 SIGNIFICANT USES OF FORCE,
5 YET, ARE YOU ONLY SHOWING 50 NON-SIGNIFICANTS. THAT, TO ME,
6 RAISES A QUESTION OF, "LET'S LOOK AT THE DATA." "LET'S LOOK AT
7 SOME DEFINITIONS." BECAUSE THE THING I CAN TELL YOU ABOUT NEW
8 YORK CITY, GOOD, BAD OR INDIFFERENT, THIS DATA IS LOOKED AT
9 AND VETTED BY SO MANY DIFFERENT ORGANIZATIONS. IT'S LOOKED AT
10 BY THE AGENCY, ITSELF. WE DO AUDITS OF ALL THESE USES OF FORCE
11 ON THE NEW YORK CITY BOARD OF CORRECTIONS. SO THE INSPECTOR
12 GENERAL -- MAYBE THAT'S TRUE HERE. BUT THAT DIFFERENCE OF NON-
13 -- WHEN HAVE YOU SO MUCH HIGHER OF THE SERIOUS AND SO MUCH
14 LOWER OF THE NON-SERIOUS, AGAIN, MAYBE IT'S CORRECT, BUT AT
15 LEAST TO ME IT POINTS TO THIS IS SOMETHING TO LOOK AT.

16

17 **THE HON. ROBERT BONNER:** THAT IS, IN FACT, ONE OF THE ISSUES
18 WE'RE LOOKING AT. IF YOU LOOK AT TAB 12 OF YOUR BOOK, YOU WILL
19 SEE THAT IN 2006, THE DEPARTMENT REPORTED ROUGHLY 50-50. 568
20 SIGNIFICANT USES OF FORCE, 582 LESS SIGNIFICANT USES OF FORCE.
21 THEN WHEN YOU DROP DOWN, MOVE FORWARD TO 2011, NOW, THEY'RE
22 REPORTING 418 SIGNIFICANT USE OF FORCE, A SLIGHT DROP A 20%
23 DROP FROM 2006, BUT THEY'RE REPORTING 163 LESS SIGNIFICANT
24 USES OF FORCE IN 2011. IT'S ROUGHLY A 70% DROP OVER THAT TIME
25 PERIOD. AND A SIGNIFICANT USE OF FORCE IS THE KIND OF THING

1 THAT IS MORE LIKELY TO GET REPORTED BECAUSE IT'S MORE LIKELY
2 TO HAVE WITNESSES. IT'S MORE LIKELY TO HAVE INJURIES, THINGS
3 LIKE THAT LESS SIGNIFICANT FORCE IS THE KIND OF THING THAT MAY
4 NOT GET REPORTED IN THE SAME WAY.

5

6 **MICHAEL JACOBSON:** IT'S MORE RELIABLE. IT MIGHT BE A BETTER
7 INDICATOR TO LOOK AT SIGNIFICANT USE OF FORCE. THE PROBLEM IS
8 GOING TO BE ARE WE COMPARING APPLES TO APPLES?

9

10 **MARTY HORN:** AND, IF ANYTHING, IN NEW YORK, THE STAFF HAS BEEN
11 CONDITIONED TO OVER-REPORT RATHER THAN UNDER-REPORT.

12

13 **MICHAEL JACOBSON:** AND THAT COULD BE AN ISSUE THAT AFFECTS
14 THAT, RIGHT? WHETHER IT'S REPORTED OR NOT.

15

16 **THE HON. ROBERT BONNER:** THAT'S ALL. I TURN IT OVER TO JUDGE
17 TEVRIZIAN.

18

19 **HON. DICKRAN M. TEVRIZIAN:** IF I UNDERSTAND YOU RIGHT, ARE YOU
20 SUGGESTING THE CAPTORS SHOULDN'T BE THE KEEPERS?

21

22 **SPEAKER:** THAT'S EXACTLY RIGHT.

23

24 **HON. DICKRAN M. TEVRIZIAN:** L.A. COUNTY JAIL IS A MIXED USE
25 FACILITY BECAUSE THEY HOUSE PRE-SENTENCE AND HOUSE SENTENCED

1 PRISONERS.

2

3 **MICHAEL JACOBSON:** WHICH BY THE WAY IS TRUE IN NEW YORK CITY AS
4 WELL.

5

6 **HON. DICKRAN M. TEVRIZIAN:** IT IS? DO YOU HAVE EMPIRICAL DATA
7 THAT REGARDING PRE-TRIAL DETAINEES VS. SENTENCED PRISONERS
8 WITH REGARD TO THE USE OF FORCE STATISTICS?

9

10 **MICHAEL JACOBSON:** I DON'T HAVE IT. IT MAY BE AVAILABLE. THE
11 INMATES ARE KEPT IN A SEPARATE FACILITY. IT COULD BE OBTAINED.

12

13 **HON. DICKRAN M. TEVRIZIAN:** YOUR GUESS WOULD BE?

14

15 **MICHAEL JACOBSON:** I PROBABLY USED TO KNOW THIS, MY GUESS WOULD
16 BE IT'S THE LESS FORCE WITH THE SENTENCE OF THE LESS STABLE
17 POPULATION. THEY SORT OF KNOW WHEN THEY WILL LEAVE. THERE IS
18 USUALLY LESS STRESS. THEY MAY HAVE BEEN THERE LONG ENOUGH TO
19 GET SOME TREATMENT FOR WHATEVER THEY CAME IN OFF THE STREET
20 WITH. AND THE THING ABOUT HAVING SUCH A LARGE PRE-TRIAL
21 ORGANIZATION IN BOTH NEW YORK CITY AND CALIFORNIA, IS DEALING
22 WITH THAT RIGHT OFF THE STREET. IT'S A HUGE CHALLENGE, YOU
23 KNOW, PEOPLE WHO HAVE NEVER BEEN SEEN BEFORE WITH ISSUES THAT
24 YOU HAVE NO IDEA WHETHER THEY'RE SERIOUSLY MENTALLY ILL OR
25 NOT. ARE THEY NOT LISTENING TO ME BECAUSE THEY'RE BUSTING MY

1 CHOPS OR BIPOLAR AND DON'T KNOW ANYTHING I'M TALKING ABOUT.
2 THOSE ARE MORE APPARENT THAN A PRE-TRIAL POPULATION, SO MY
3 GUESS WOULD BE, IF YOU AGGRAVATED IT, YOU HAVE SEEN MORE ON
4 BOTH SYSTEMS LIKE A PRE-TRIAL DOES.

5

6 **HON. DICKRAN M. TEVRIZIAN:** I THINK YOU ANSWERED THIS, IN L.A.
7 COUNTY, APPROXIMATELY 80% OF THE INMATE POPULATION IS PRE-
8 TRIAL. YOU INDICATED IN NEW YORK YOU RELEASE A LOT MORE., YOU
9 KNOW WHAT YOUR PERCENTAGE OF PRE-TRIAL DETAINEES ARE IN NEW
10 YORK?

11

12 **MICHAEL JACOBSON:** IT'S AT 78%. WE HAVE LESS OF THEM. THE
13 NUMBER WOULD BE MUCH HIGHER, RIGHT, IF WE DIDN'T LET PEOPLE GO
14 THROUGH THE FRONT DOOR, RIGHT. SO BOTH SYSTEMS ARE SIMILAR IN
15 THAT REGARD. IN A LOT OF WAYS, BECAUSE SO MANY OF THESE PEOPLE
16 WOULD SERVE -- YOU KNOW, THE PEOPLE WE ARE RELEASING ON
17 RECOGNIZANCE, IT'S BOTH A JAIL BED USE ISSUE, BUT A LOT OF
18 THEM WOULD ONLY STAY ONE DAY, TWO DAYS, THREE DAYS. IN ANY
19 CASE, THERE IS NO PURPOSE IN ANY LEVEL OF HOUSING THOSE FOLKS.
20 IT'S NOT THAT IT'S A BED SAVER WHICH DOESN'T CHANGE YOUR
21 PERCENTAGES, FROM A MANAGEMENT POINT OF VIEW. THE LESS YOU
22 HAVE OF THAT SHORT-TERM CHURNING POPULATION TO MANAGE, THE
23 BETTER. BUT OVERALL THEY'RE SORT OF SIMILAR.

24

25 **HON. DICKRAN M. TEVRIZIAN:** DO YOU HAVE STATISTICS SHOWING

1 RECIDIVISM RELEASING PEOPLE AS OPPOSED TO KEEPING THEM THIS IN
2 PRE-TRIAL CUSTODY?

3

4 **MICHAEL JACOBSON:** YES, NEW YORK HAS THEM. WE DON'T HAVE THEM
5 NOW, WE CAN GET THEM TO YOU. NEW YORK HAS HIGH RETURN RATES. I
6 WANT TO SAY 92%, BUT I WON'T.

7

8 **HON. DICKRAN M. TEVRIZIAN:** WHEN YOU SAY, SHOW UP FOR TRIAL?

9

10 **MICHAEL JACOBSON:** SHOW UP FOR THEIR TRIAL. I WAS TALKING WHEN
11 SOMEBODY IS RELEASED OR WHETHER OR NOT THEY COME BACK AGAIN
12 BEFORE THEIR ORIGINAL TRIAL DATE AS A RESULT OF AN ADDITIONAL
13 -- THE RE-ARREST RATE AND THE FAILURE TO APPEAR RATE IN NEW
14 YORK IS QUITE LOW AND, AGAIN, ONE OF THE REASONS FOR THAT --
15 THIS IS A DIFFERENCE BETWEEN NEW YORK AND L.A. NEW YORK HAS A
16 SEPARATE NOT-FOR-PROFIT ENTITY, INDEPENDENTLY FUNDED AND RUN
17 THAT'S BEEN IN EXISTENCE. IT WAS THE FIRST PRE-TRIAL AGENCY IN
18 THE UNITED STATES THAT HAS, OVER YEARS AND YEARS AND YEARS,
19 REFINED THEIR DATA. REFINED THEIR RISK INSTRUMENT BASED ON
20 HUNDREDS OF THOUSANDS OF CASES EACH YEAR. THEY CAN TELL YOU,
21 IT REALLY IS PRETTY MUCH OF A SCIENCE NOW. THEY CAN TELL YOU
22 VERY PRECISELY AND THEY DO IT IN THEIR RECOMMENDATIONS TO
23 JUDGES. AGAIN, IT'S A RECOMMENDATION. IT'S NOT A SENTENCING
24 GRID. BUT IN NEW YORK, JUDGES FOLLOW THOSE RECOMMENDATIONS
25 MOST OF THE TIME. THEY CAN TELL YOU WITH A FAIR DEGREE OF

1 CERTAINTY WHO IS GOING TO APPEAR AND WHO ISN'T. SO IT'S NOT IN
2 A NEW YORK CASE, IT'S NOT SURPRISING, SINCE WE HAVE SO MUCH
3 DATA YEARS AND YEARS OF KNOWLEDGE. WE REVALIDATE THAT
4 INSTRUMENT ALL THE TIME. SO THAT JUST HAPPENS, IT HAS NOT BEEN
5 THAT, YOU KNOW, THE FEAR, SURE WE'RE GOING TO LET THEM GO AND
6 THEY WILL RETURN TO COMMITTING NEW AND HEINOUS CRIMES.
7 OBVIOUSLY, THERE WILL ALWAYS BUSINESS CASES, BUT THAT HAS NOT
8 REMOTELY HAPPENED IN NEW YORK.

9

10 **HON. DICKRAN M. TEVRIZIAN:** THANK YOU. I WILL WITHDRAW A COUPLE
11 OF QUESTIONS I HAD, BECAUSE MY FELLOW COMMISSIONERS ANSWERED
12 THEM. I WANT TO MAKE THE OBSERVATION TO PROFESSOR HORN WITH
13 RESPECT -- ACTUALLY TO BOTH OF YOU WITH RESPECT TO THE UNION
14 ISSUES AND IMPACT ON MORALE AND SO FORTH. HERE IN CALIFORNIA,
15 THE OFFICERS HAVE SPECIFIC STATUTORY PROTECTIONS WITH
16 PERSONNEL RECORDS. IT SEEMS TO ME THAT THAT RESULTS IN A VERY
17 BIG CONCERN BY THE DEPUTIES IN QUESTION WITH RESPECT TO
18 TRACKING AND I WONDERED IF NEW YORK HAD THE SAME KIND OF
19 STATUTORY PROTECTION FOR ITS POLICE OFFICERS?

20

21 **MARTY HORN:** WELL, WITHOUT LOOKING I CAN'T SAY FOR CERTAIN. I
22 CAN TELL YOU, AS MICHAEL SAID, THE UNION IN NEW YORK IS
23 AGGRESSIVE. IT'S POWERFUL. IT ZEALOUSLY PROTECTS THE INTEREST
24 OF ITS MEMBERS AND THEY HAVE VERY ROBUST CIVIL SERVICE
25 PROTECTION AND I THINK THE POINT THAT WAS MADE THIS MORNING IS

1 AN IMPORTANT ONE. THIS TRACKING IS NOT FOR DISCIPLINARY
2 PURPOSES. THE TRACKING IS TO IDENTIFY AN OFFICER WHO MAY NEED
3 A CHANGE IN ASSIGNMENT, AN OFFICER WHO MAY NEED A RESPITE, WHO
4 MAY NEED RETRAINING. IT MAY IDENTIFY FAILURES IN SUPERVISION
5 OR COMMAND. IT IS NOT A DISCIPLINARY INTERVIEW BY ANY MEANS,
6 NOR IS IT USED FOR THAT.

7

8 **HON. DICKRAN M. TEVRIZIAN:** I HAVE BEEN INFORMED MR. HORN HAS A
9 PLANE TO CATCH. IF YOU LEAVE RIGHT NOW, YOU MIGHT MAKE IT. I
10 THANK YOU. THANK YOU VERY, VERY MUCH FOR YOUR TESTIMONY. IT
11 WAS EXCELLENT.

12

13 **MARTY HORN:** THANK YOU VERY MUCH

14

15 **HON. LOURDES BAIRD, CHAIR:** MR. JACOBSON, I THINK WE ARE
16 PROBABLY DONE FOR THE MORNING. I THANK YOU VERY MUCH FOR YOUR
17 TESTIMONY. IT HAS BEEN VERY, VERY HELPFUL. THANK YOU. VERY
18 WELL. WE WILL BREAK FOR LUNCH. WE WILL RESUME PROMPTLY AT 1:30
19 TO BE ABLE TO TAKE CARE OF OUR AFTERNOON.

20

21 **AFTERNOON SESSION**

22

23 **HON. LOURDES BAIRD, CHAIR:** THE MEETING IS, ONCE AGAIN IN
24 SESSION. WE HAVE MR. MATTHEW CATE HERE TO TESTIFY ON BEHALF OF
25 THE COMMISSION. HE IS GOING TO BE QUESTIONED BY BOBBY

1 SWERDLOW. DID I PRONOUNCE THAT CORRECTLY?

2

3 **BOBBY SWERDLOW:** Yes.

4

5 **HON. LOURDES BAIRD, CHAIR:** VERY WELL, GO AHEAD.

6

7 **BOBBY SWERDLOW:** GOOD AFTERNOON, MR. SECRETARY. YOU ARE
8 CURRENTLY THE SECRETARY OF THE CALIFORNIA DEPARTMENT OF
9 CORRECTIONS AND REHABILITATION?

10

11 **MATTHEW CATE:** I AM.

12

13 **BOBBY SWERDLOW:** HOW LONG HAVE YOU HELD THAT POSITION?

14

15 **MATTHEW CATE:** A LITTLE OVER FOUR YEARS.

16

17 **BOBBY SWERDLOW:** CAN YOU PLEASE GIVE THE COMMISSION A BRIEF
18 OVERVIEW OF THE WORK YOU DID PRIOR TO 2004?

19

20 **MATTHEW CATE:** SURE. I AM AN ATTORNEY BY TRADE. I BEGAN IN THE
21 PRIVATE SECTOR FOR A LARGE CIVIL LITIGATION FIRM IN
22 SACRAMENTO. I THEN SPENT TWO YEARS, TWO-AND-A-HALF YEARS AT
23 THE SACRAMENTO COUNTY D.A.'S OFFICE MATRICULATING THROUGH THE
24 SYSTEM - MISDEMEANORS, PRELIMINARY HEARINGS, FELONY TRIAL
25 CASELOAD - FINALLY A CASELOAD OF JUVENILE RAPE AND MURDER

1 CASES AND THEN WAS HIRED AT CALIFORNIA DEPARTMENT OF JUSTICE
2 IN 2006. FROM 2006 TO, I'M SORRY, FROM 1996 TO 2004, I WAS AT
3 THE CALIFORNIA DEPARTMENT OF JUSTICE. THERE, I WAS A
4 PROSECUTOR ALSO. PRIMARILY, I SPECIALIZED IN PUBLIC CORRUPTION
5 AND CRIMES COMMITTED BY PUBLIC OFFICIALS. IN 2004, I'M SORRY,
6 I WAS APPOINTED BY GOVERNOR ARNOLD SCHWARZENEGGER TO BE THE
7 INSPECTOR GENERAL OF THE STATE OF CALIFORNIA.

8

9 **BOBBY SWERDLOW:** HOW LONG DID YOU SERVE AS THE INSPECTOR
10 GENERAL OF CALIFORNIA?

11

12 **MATTHEW CATE:** JUST OVER FOUR YEARS.

13

14 **BOBBY SWERDLOW:** IS THAT OFFICE RESPONSIBLE FOR OVERSEEING THE
15 DEPARTMENT OF CORRECTIONS?

16

17 **MATTHEW CATE:** IT IS.

18

19 **BOBBY SWERDLOW:** WILL YOU GIVE US A GENERAL OVERVIEW OF WHAT
20 THE IG'S RESPONSIBILITIES WERE FOR OVERSEEING THE CORRECTIONAL
21 DEPARTMENT IN 2004 WHEN YOU ARRIVED?

22

23 **MATTHEW CATE:** WHEN I ARRIVED IN 2004, THIS VERY SMALL NUMBER
24 OF STAFF, PRIMARILY THE INSPECTOR GENERAL REPORTED TO THE
25 GOVERNOR AND CONDUCTED INVESTIGATIONS AND AUDITS AT THE

1 GOVERNOR'S REQUEST AND THEN WROTE PRIVATE REPORTS TO THE
2 GOVERNOR ABOUT CONDITIONS IN THE PRISONS OR ABOUT SPECIFIC
3 MISCONDUCT THAT THE ADMINISTRATION WAS CONCERNED WITH.

4

5 **BOBBY SWERDLOW:** WHEN YOU BECAME INSPECTOR GENERAL IN 2004, WAS
6 THE STATE A PARTY TO THE MADRID VS. GOMEZ CASE?

7

8 **MATTHEW CATE:** IT WAS.

9

10 **BOBBY SWERDLOW:** THAT LAWSUIT WAS FOCUSED ON CONDITIONS AT
11 PELICAN BAY STATE PRISON?

12

13 **MATTHEW CATE:** IT BEGAN CONCERNING -- IT BEGAN THAT WAY. IT WAS
14 FOCUSED PRIMARILY ON USE OF FORCE, CODE OF SILENCE,
15 MISSTATEMENTS BY STAFF. THERE WERE FEDERAL PROSECUTIONS BASED
16 ON THE MISCONDUCT AT PELICAN BAY. BY THE TIME I WAS APPOINTED
17 TO BE THE INSPECTOR GENERAL, THE CASE HAD ALREADY TAKEN ON
18 STATE-WIDE SCOPE CONCERNING THE USE OF FORCE, STATE-WIDE
19 TRAINING ON USE OF FORCE, REPORTING OF USE OF FORCE. CODE OF
20 SILENCE. IT REALLY BECAME A QUESTION OF WHETHER THE INMATES IN
21 CALIFORNIA'S CONSTITUTIONAL RIGHTS WERE BEING SYSTEMATICALLY
22 DENIED THROUGH AN OFFICER DISCIPLINE PROCESS THAT WAS BROKEN.

23

24 **BOBBY SWERDLOW:** IT WAS ONE OF YOUR RESPONSIBILITIES TO HELP
25 THE STATE RESPOND TO THOSE ISSUES?

1

2 **MATTHEW CATE:** IT WAS. MY FIRST DAY ON THE JOB AS INSPECTOR
3 GENERAL I SPENT IN FRONT OF JUDGE FELTON HENDERSON IN NORTHERN
4 DISTRICT COURT, ALONG WITH THE GOVERNOR'S LEGAL AFFAIRS
5 SECRETARY AND THE SECRETARY OF THE DEPARTMENT OF CORRECTIONS
6 AT THE TIME, IN CHAMBERS DISCUSSING THE STATUS OF THE CASE AND
7 WHAT NEEDED TO BE DONE AT THE INSPECTOR GENERAL'S OFFICE TO
8 HELP TURN IT AROUND.

9

10 **BOBBY SWERDLOW:** DID THE STATE END UP MAKING CHANGES TO THE
11 INSPECTOR GENERAL'S OFFICE IN RESPONSE TO THAT CASE?

12

13 **MATTHEW CATE:** WELL, I THINK, YOU KNOW, IT WAS A NEW
14 ADMINISTRATION. THE ADMINISTRATION SAW THAT THERE WERE
15 DIFFICULTIES WITH CORRECTIONS, SPECIFICALLY WITH THE OFFICER
16 DISCIPLINE PROCESS AND IT SAW THE MADRID LAWSUIT, I THINK, AS
17 BOTH SOMETHING TO BE SOLVED AS AND AN OPPORTUNITY TO BE TAKEN,
18 AND SO IT WAS, ON THE ONE HAND IN RESPONSE TO THAT CASE. ON
19 THE OTHER HAND, IT WAS SEEN AS GOOD GOVERNMENT. AND SO WE
20 DEFINITELY LAUNCHED A COMPLETE REVISION OF THE ATTORNEY
21 GENERAL'S OFFICE, IN PART, DUE TO PUBLIC TESTIMONY BY THE
22 PREVIOUS INSPECTOR GENERAL ABOUT THE LIMITATIONS OF THE OFFICE
23 AT THAT TIME.

24

25 **BOBBY SWERDLOW:** I'D LIKE TO ASK YOU ABOUT SOME OF THE CHANGES

1 YOU MADE TO THE STRUCTURE OF THE INSPECTOR GENERAL'S OFFICE.
2 IN THE BINDER THAT YOU HAVE, AT TAB 8, THERE IS AN
3 ORGANIZATIONAL CHART, THE SECOND PAGE OF THAT TAB. IS THAT THE
4 ORGANIZATIONAL CHART FOR THE INSPECTOR GENERAL'S OFFICE FROM
5 APPROXIMATELY 2005?

6

7 **MATTHEW CATE:** IT IS.

8

9 **BOBBY SWERDLOW:** THAT WAS ABOUT A YEAR AFTER YOU HAD BEEN ON
10 THE JOB?

11

12 **MATTHEW CATE:** CORRECT.

13

14 **BOBBY SWERDLOW:** AND ONE OF THOSE BOXES AT THE BOTTOM IS THE
15 BUREAU OF INDEPENDENT REVIEW. WAS THAT ONE OF THE NEW ARMS OF
16 THE ORGANIZATION THAT CAME OUT OF THIS WORK YOU WERE
17 DESCRIBING?

18

19 **MATTHEW CATE:** YES.

20

21 **BOBBY SWERDLOW:** CAN YOU EXPLAIN HOW THE BUREAU -- THE PROCESS
22 BY WHICH THE BUREAU WAS BORN?

23

24 **MATTHEW CATE:** SURE. ACTUALLY, ANOTHER PERSON WHO WAS IN THAT
25 MEEING ON MY FIRST DAY ON THE JOB WAS MIKE GENNACO, WHO WAS

1 LEADING THE OIR AT THE TIME. AND DURING THE COURSE OF THAT
2 INITIAL MEETING, MR. GENNACO INTRODUCED HIMSELF AND WE HAD A
3 DISCUSSION ABOUT THE OFFICE OF INDEPENDENT REVIEW IN LOS
4 ANGELES COUNTY AND HE SUBSEQUENTLY CONTACTED SHERIFF BACA.
5 SHERIFF BACA INVITED ME TO COME TO HIS OFFICE AND WE SAT FOR
6 PROBABLY TWO HOURS AND TALKED ABOUT THE OFFICE OF INDEPENDENT
7 REVIEW, WHY IT HAD BEEN ORGANIZED, WHAT ITS PURPOSES WERE AND
8 THE SHERIFF'S VIEW ON TRANSPARENCY AND THE NEED FOR SOUND
9 OVERSIGHT.

10

11 **BOBBY SWERDLOW:** WHAT ARE THE BUREAU OF INDEPENDENT REVIEW'S
12 RESPONSIBILITIES NOW?

13

14 **MATTHEW CATE:** WELL, THE BUREAU OF INDEPENDENT REVIEW HAS LARGE
15 RESPONSIBILITIES. IT IS IN CHARGE OF OUR CENTRALIZED REVIEW
16 COMMITTEE, SO EVERY CASE THAT COMES THROUGH, THE DEPARTMENT'S
17 INTERNAL AFFAIRS DEPARTMENT GOES THROUGH THE CENTRAL INTAKE
18 PROCESS THAT THE BIR SITS IN ON AND REPORTS ON. IT HAS CRADLE-
19 TO-GRAVE CASE CONSULTATION, FROM THE VERY OUTSET OF THE CASE
20 TO FINAL DISPOSITION, COMPLETE ACCESS TO ALL RECORDS AND
21 INVESTIGATIVE MATERIALS IN THE DEPARTMENT. IT HAS A
22 COMPUTERIZED CASE MANAGEMENT SYSTEM TO MANAGE, OVERSEE AND
23 ORGANIZE AND REPORT ON THOSE CASES. IT REPORTS EVERY SIX
24 MONTHS ON OUR CASES. IT JUDGES EVERY ASPECT OF EVERY CASE AND
25 IT DOES THAT PUBLICLY. IT ALSO PRODUCES REPORTS ON WHAT IT

1 SEES AS SYSTEMIC STRENGTHS AND WEAKNESSES IN THE OFFICER
2 DISCIPLINE PROCESS. AND THEN IT ROLLS OUT ON EVERY SIGNIFICANT
3 INCIDENT THAT HAPPENS INSIDE ANY INSTITUTION IN THE STATE OF
4 CALIFORNIA. AND IT ALSO ENSURES THE CONSISTENT ADHERENCE TO
5 OUR DISCIPLINARY MATRIX.

6

7 **BOBBY SWERDLOW:** ALSO ON THE ARC CHART -- ORG CHART -- EXCUSE
8 ME, IS THE BUREAU OF AUDITS AND INVESTIGATIONS. WHAT DOES THAT
9 ARM OF THE INSPECTOR GENERAL'S OFFICE DO?

10

11 **MATTHEW CATE:** THAT ARM EXISTED ORIGINALLY IN THE INSPECTOR
12 GENERAL'S OFFICE AND IT HAS GROWN AND SHRUNK DEPENDING ON THE
13 NEED AT THE TIME AND -- BUT, TYPICALLY, IT HAS INDEPENDENT
14 INVESTIGATIVE AUTHORITY UNDER THE AUSPICES OF THE INSPECTOR
15 GENERAL, WHICH MEANS WHEN I WAS THERE I COULD JUST ORDER AN
16 INVESTIGATION--EITHER CRIMINAL OR AN ADMINISTRATIVE
17 INVESTIGATION--AT MY DISCRETION. AND SO, AS I WAS A PEACE
18 OFFICER, AND UNDER MY POLICY, BY POLICY WHICH I CREATED, WE
19 WOULD ONLY INVESTIGATE CASES INVOLVING HIGH-RANKING
20 CORRECTIONAL OFFICIALS, MEMBERS OF THE INTERNAL AFFAIRS
21 DEPARTMENT OF CORRECTIONS, OR CASES THAT WE THOUGHT WERE
22 PARTICULARLY EMBLEMATIC OF A PROBLEM OR WERE OF CONCERN TO THE
23 GOVERNOR, FOR EXAMPLE, OR THE LEGISLATURE. THE AUDIT TEAM
24 CONDUCTED BOTH REGULAR AUDITS, QUADRENNIAL AUDITS OF EVERY
25 INSTITUTION, WHICH WAS A THOROUGH SCRUBBING UP AND DOWN OF

1 EVERY PART OF THE INSTITUTION. AND THEY ALSO DID ANNUAL AUDITS
2 OF WARDEN PERFORMANCE. THAT DIVISION ALSO, EVER -- BEFORE YOU
3 COULD BECOME A WARDEN, AND IT'S STILL TRUE TODAY IN
4 CALIFORNIA, BEFORE YOU CAN RUN A CORRECTIONAL FACILITY, YOU
5 HAVE TO BE VETTED BY THE INSPECTOR GENERAL'S OFFICE, WHICH
6 REQUIRES A FULL BACKGROUND INVESTIGATION. IT REQUIRES
7 SOLICITING OPINIONS FROM ALL STAKEHOLDERS. IT'S A FULL WRITE-
8 UP OF AN INSPECTION OF YOUR FACILITY, USUALLY, THAT ARE YOU
9 RUNNING AS AN ACTOR. THEN A REPORT TO THE GOVERNOR ON YOUR
10 QUALIFICATIONS TO BE APPOINTED AS A WARDEN. THAT PART OF THE
11 ORGANIZATION DID THAT AS WELL. AND THEN IT WOULD WRITE SPECIAL
12 REPORTS ON INDIVIDUAL ISSUES AT THE DISCRETION OF THE
13 INSPECTOR GENERAL OR AT THE REQUEST OF THE GOVERNOR.

14

15 **BOBBY SWERDLOW:** SO THE INVESTIGATIONS THAT YOU DESCRIBED A
16 MOMENT AGO, THOSE INCLUDED INVESTIGATIONS OF INDIVIDUAL ACTS
17 OF MISCONDUCT BY PERSONNEL?

18

19 **MATTHEW CATE:** IT DID.

20

21 **BOBBY SWERDLOW:** DO YOU HAVE A SENSE OF HOW MANY OF THOSE TYPES
22 OF INVESTIGATIONS YOU WOULD GENERALLY LOOK AT OVER A YEAR,
23 WHILE YOU WERE AT THE INSPECTOR GENERAL'S OFFICE?

24

25 **MATTHEW CATE:** YEAH. IT'S -- THERE WERE CERTAINLY -- I WOULD

1 SAY OVER 100 ONGOING -- BETWEEN 50 AND 100 ONGOING AT ANY ONE
2 TIME. THEY WOULD COME AND GO. WE RECEIVED THOUSANDS OF INTAKE
3 COMPLAINTS SO WE ALSO HAD A HOTLINE WHICH INMATES OR THEIR
4 FAMILY MEMBERS OR STAFF OR MEMBERS OF THE PUBLIC AND SO WE
5 WOULD GET LITERALLY THOUSANDS OF COMPLAINTS BY MAIL OR BY
6 PHONE EVERY MONTH. WE'D CULL THROUGH THOSE, MOSTLY, WE'D REFER
7 THOSE TO THE INTERNAL AFFAIRS OFFICE IN THE DEPARTMENT TO BE
8 OVERSEEN BY THE BIR. BUT OCCASIONALLY, WE WOULD PICK UP SOME
9 HERE OR THERE. BUT MOSTLY IT WAS IN THE DOZENS. IT WAS MOSTLY,
10 AGAIN, JUST THOSE HIGH-RANKING OFFICIALS, INTERNAL AFFAIRS
11 AND, OCCASIONALLY, INDIVIDUAL CASES THAT WE THOUGHT WERE
12 MERITORIOUS.

13

14 **BOBBY SWERDLOW:** AND THE FACILITIES AUDITS YOU DESCRIBED? THOSE
15 WERE OF INDIVIDUAL PRISON FACILITIES?

16

17 **MATTHEW CATE:** CORRECT.

18

19 **BOBBY SWERDLOW:** WHO DID YOU REPORT YOUR AUDITS TO?

20

21 **MATTHEW CATE:** AFTER BECOMING INSPECTOR GENERAL, I WORKED WITH
22 THE LEGISLATURE AND THE GOVERNOR TO REWRITE THE CALIFORNIA LAW
23 COMPLETELY. AND WHAT WE DID WAS WE FLIPPED IT ON ITS HEAD FROM
24 A REPORTING STRUCTURE THAT WAS CONFIDENTIAL, EXCEPT FOR --
25 WITH CERTAIN EXCEPTIONS, TO ONE THAT WAS PUBLIC REPORTING WITH

1 CERTAIN EXCEPTIONS. AND SO ALL OF THOSE REPORTS WERE PUBLISHED
2 ON OUR WEBSITE. WE WOULD ISSUE A PRESS RELEASE DESCRIBING OUR
3 FINDINGS, POINTING THE PUBLIC TO THOSE SITES AND WITH -- I
4 DON'T THINK ANY EXCEPTION, THOSE REPORTS WERE ALL PUBLIC
5 RECORDS.

6

7 **BOBBY SWERDLOW:** WHEN WE INTERVIEWED YOU IN THE PROCESS OF OUR
8 INVESTIGATION, YOU DESCRIBED A NUMBER OF ELEMENTS THAT YOU
9 TOLD US YOU FELT CONTRIBUTED TO A ROBUST AND SUCCESSFUL
10 OVERSIGHT ORGANIZATION. WE'VE LISTED SOME OF THOSE AS BULLET
11 POINTS ON THE 2nd PAGE OF EXHIBIT, OR TAB 8, EXCUSE ME, THE
12 FIRST PAGE. I'D LIKE TO GO THROUGH SOME OF THOSE WITH YOU. THE
13 FIRST BULLET POINT IS THAT THE OVERSIGHT ORGANIZATION BE
14 INDEPENDENT FROM THE CORRECTIONAL AGENCY IT'S OVERSEEING. IS
15 THE OFFICE OF INSPECTOR GENERAL AND THE BIR INDEPENDENT AT THE
16 STATE LEVEL OF THE CORRECTIONAL DEPARTMENT?

17

18 **MATTHEW CATE:** I THINK IT'S AS INDEPENDENT AS IT CAN BE WHILE
19 STILL BEING WITHIN THE ADMINISTRATION. CERTAIN STEPS WERE
20 TAKEN TO GRANT AS MUCH INDEPENDENCE AS WE COULD THINK OF. SO,
21 FOR EXAMPLE, I WAS APPOINTED AS AN AT-WILL EMPLOYEE OF THE
22 GOVERNOR AND CONFIRMED BY THE SENATE, BUT I COULD --
23 OBVIOUSLY, YOU ARE ONLY ONE VOTE AWAY FROM FINDING YOUR NEXT
24 JOB. THAT WAS CHANGED TO A SIX-YEAR FIXED TERM. THE GOVERNOR,
25 FORTUNATELY, REAPPOINTED ME TO THE SIX-YEAR FIXED TERM. I WAS

1 RECONFIRMED BY THE SENATE UNDER THAT TERM AND I COULD NOT BE
2 REMOVED, EXCEPT FOR A SHOWING OF CAUSE AND, IN CALIFORNIA,
3 THAT CAUSE TYPICALLY YOU NEED TO SHOW MORE THAN JUST AN
4 ARBITRARY DECISION; YOU HAVE TO SHOW MISCONDUCT OF SOME KIND
5 IN PERFORMANCE OF YOUR OFFICE. SECONDLY, THE OTHER WAY THAT
6 THE STATE TYPICALLY MANAGES STATE AGENCIES IS THROUGH THE
7 BUDGET PROCESS AND A CASELOAD-BASED BUDGET WAS DEVELOPED UNDER
8 STATE LAW. I HAD ADVOCATED, FRANKLY, FOR A BUDGET BASED ON A
9 PERCENTAGE OF THE DEPARTMENT'S TOTAL FUNDING ON ANY GIVEN
10 YEAR, BECAUSE THEN IT WOULD BE JUST BLACK AND WHITE, NO
11 DISCRETION. ULTIMATELY, WE COMPROMISED ON A CASE-LOAD BASED
12 FUNDING MECHANISM, WHICH TURNED OUT TO BE JUST FINE. I WAS
13 PRETTY ROBUSTLY FUNDED AND STAFFED. SO THAT WAS SECOND. PUBLIC
14 REPORTING AS A FORM OF INDEPENDENCE, ESPECIALLY IF IT'S IF
15 THERE IS, IF IT'S COMPULSORY. SO EVERYBODY KNOWS THAT I HAVE
16 TO PUBLICLY REPORT SO NO ONE BOTHERS TO ASK YOU TO NOT DO SO.

17

18 **BOBBY SWERDLOW:** YOU FOUND ALL OF THESE ASPECTS TO ENHANCE YOUR
19 FUNCTION AS INSPECTOR GENERAL? IS THAT RIGHT?

20

21 **MATTHEW CATE:** SURE. I DID. I DIDN'T OPERATE VERY LONG UNDER
22 THE OLD MODEL. CALIFORNIA AT THAT TIME WAS UNDER SO MUCH
23 SCRUTINY AND HAD SO MANY PROBLEMS, THAT IT SEEMED LIKE BEST
24 PRACTICE TO TAKE IT AND GO AS FAR AS WE COULD POSSIBLY GO. AND
25 SO THAT'S WHAT WE DID. WHETHER WE COULD'VE MANAGED JUST AS

1 WELL WITH SLIGHTLY LESS INDEPENDENCE, I DON'T KNOW. BUT I'LL
2 TELL YOU THIS: THERE IS ALWAYS SOME THREAT TO YOUR
3 INDEPENDENCE, I DON'T CARE HOW MUCH YOU HAVE AT THE OUTSET.
4 THERE IS ALWAYS SOME JOB AROUND THE NEXT CORNER THAT YOU ARE
5 INTERESTED IN OR SOMEBODY FROM THE PRESS OR THE LEGISLATURE
6 THAT'S GOING TO TRY TO PRESSURE YOU ONE WAY OR THE OTHER. OR A
7 LAWSUIT OR LABOR OR THE COURTS. SO EVERY PUBLIC OFFICIAL HAS
8 TO MANAGE WITH THEIR OWN CONSCIENCE. BUT AS MANY OF THESE AS
9 YOU CAN PUT IN, THEN THAT GIVES -- IT COMES TO THE DEFENSE OF
10 YOUR INDEPENDENCE THAT MUCH EASIER.

11

12 **BOBBY SWERDLOW:** MICHELLE DEITCH IS A NATIONALLY RECOGNIZED
13 EXPERT IN OVERSIGHT ISSUES. ARE YOU FAMILIAR WITH HER?

14

15 **MATTHEW CATE:** YES. WE ARE FRIENDS.

16

17 **BOBBY SWERDLOW:** SHE IS SUBMITTED SOME WRITTEN TESTIMONY TO
18 THIS COMMISSION AND SHE HAS TESTIFIED THAT IT IS IMPORTANT FOR
19 A MONITORING ENTITY TO BE PERCEIVED AS INDEPENDENT, AND TO BE
20 INDEPENDENT, THERE NEEDS TO BE A SEPARATENESS OF FACILITIES.
21 DO YOU AGREE WITH THAT?

22

23 **MATTHEW CATE:** I DO.

24

25 **BOBBY SWERDLOW:** WHY?

1

2 **MATTHEW CATE:** WELL, FOR A COUPLE REASONS. I THINK IT'S
3 IMPORTANT TO HAVE BOTH THE -- LET ME ANSWER THE QUESTION
4 DIRECTLY AND THEN I'LL MAKE A SIDE COMMENT. IT'S IMPORTANT
5 THAT OFFICERS KNOW IF THEY COME TO WITH YOU AN ISSUE THAT YOU
6 HAVE THE REQUISITE INDEPENDENCE AND BACKBONE TO MAKE THE RIGHT
7 DECISION IN THAT CASE, BECAUSE NO ONE COMES FORWARD WITHOUT
8 PERSONAL AND PROFESSIONAL RISK. THE SAME THING IS TRUE FOR
9 INMATES, THE SAME THING IS TRUE FOR MEMBERS OF THE PUBLIC,
10 WHISTLEBLOWERS, THE LEGISLATURE. IT'S THAT MUCH EASIER FOR
11 PEOPLE TO COME TO YOU AND FEEL LIKE THEY CAN TELL YOU THE
12 TRUTH ABOUT WHAT'S REALLY HAPPENING. SECONDLY, IT'S THAT MUCH
13 EASIER TO TELL YOUR STAFF TO DO THE RIGHT THING. YOU KNOW, OUR
14 APPROACH WAS, WE FIND THE TRUTH AND WE PUBLICLY REPORT IT, AND
15 WE TRIED TO DO SO IN A WAY THAT WAS RESPECTFUL AND THAT SHOWED
16 CONTEXT AND THAT LACKED HYPERBOLE. BUT ALL THOSE THINGS ARE SO
17 MUCH EASIER IF EVERYONE AROUND THE BLOCK KNOWS THAT YOU ARE
18 INDEPENDENT OF EVERYBODY IN THE DEPARTMENT.

19

20 **BOBBY SWERDLOW:** THE SECOND BULLET POINT ON THE LIST IS THE
21 INDEPENDENT AUTHORITY TO INVESTIGATE AND CONDUCT REGULAR
22 INVESTIGATIONS. YOU WERE DESCRIBING SOME OF THE POWERS THAT
23 THE OIG'S OFFICE HAS NOW. DID YOU FIND THAT TO BE A VALUABLE
24 TOOL IN YOUR EXPERIENCE?

25

1 **MATTHEW CATE:** I DID, ESPECIALLY EARLY ON. ONCE THE PROCESS WAS
2 - ONCE WE STARTED, WHAT WE FOUND IS THAT IT HAD BEEN BROKEN
3 FOR SOME TIME. AND THAT'S THE WAY SYSTEMS THAT ARE, YOU KNOW -
4 - IT DOESN'T GET BROKEN OVERNIGHT. SO WHAT YOU FIND INITIALLY
5 IS THAT YOU HAVE A LOT OF WORK TO DO TO CLEAN OUT THOSE SPOTS
6 WHERE, EITHER SYSTEMS HAVE BEEN BROKEN FOR A LONG TIME AND
7 NEED A LOT OF ATTENTION OR INDIVIDUALS HAVE BEEN MISPLACED OR,
8 FRANKLY, YOU JUST HAD BAD APPLES THAT NEEDED TO BE CLEANED OUT
9 AND NO ONE PAID ATTENTION TO. SO IT WAS GOOD TO HAVE THAT
10 AUTHORITY, ESPECIALLY EARLY ON, TO BE ABLE TO ACT
11 INDEPENDENTLY AND GRAB THOSE UP. EVEN IF THE DEPARTMENT
12 SECRETARY DISAGREED WITH ME, YOU KNOW, I JUST DIDN'T ASK
13 PERMISSION FROM ANYBODY BEFORE LAUNCHING AN INVESTIGATION. WE
14 DID JUST WHAT WE THOUGHT WAS RIGHT. THE LONGER I WAS THERE,
15 THE MORE I DEFERRED TO THE DEPARTMENT AND I WOULD JUST REFER
16 CASES TO THE NORMAL INTERNAL AFFAIRS PROCESS, BECAUSE I KNEW I
17 HAD A STRONG OVERSIGHT MODEL THAT WOULD ENSURE THE CASE WOULD
18 BE DONE RIGHT. I DIDN'T NEED US TO HAVE AS BIG A -- YOU KNOW,
19 IT'S A REDUNDANT ORGANIZATION IN A SENSE, RIGHT? BECAUSE IF
20 INTERNAL AFFAIRS IS WORKING RIGHT, YOU DON'T NEED A VERY BIG
21 INDEPENDENT OVERSIGHT AGENCY. YOU CAN GET AWAY WITH HAVING A
22 VERY SMALL KIND OF INVESTIGATIVE ARM ON THE OUTSIDE. AND SO
23 THAT'S WHAT WE TRIED TO DO. WE TRIED TO SHRINK IT AS WE WENT
24 ALONG, AS WE GREW IN CONFIDENCE IN THE SYSTEM.

25

1 **BOBBY SWERDLOW:** AND IT SHRUNK OVER TIME BUT HAVE YOU EVER FELT
2 THAT AUDITING BY THE AGENCY, ITSELF, IS SUFFICIENT?

3

4 **MATTHEW CATE:** NO. IT'S - AT LEAST NOT IN THESE SETTINGS.
5 PRISONS AND JAILS ARE, BY THEIR NATURE, CLOSED-SETTINGS. AND
6 SO WHILE WE ENCOURAGE VISITORS, AND WE HAVE -- IT'S BEEN ONE
7 OF THE BIGGEST THINGS -- PUSHES THAT WE'VE TRIED TO MAKE IN
8 THE LAST FEW YEARS -- EVEN WITH THAT INITIATIVE, STILL, MOST
9 OF THE TIME, IT'S JUST INMATES AND STAFF. AND SO FROM MY
10 PERSPECTIVE, IT'S IMPORTANT TO HAVE AS MANY MONITORS AND
11 AUDITORS IN THE SYSTEM FROM AS MANY DIFFERENT VIEWPOINTS AS
12 YOU CAN GET. I THINK THAT'S HEALTHY FOR THE SYSTEM AS A WHOLE,
13 AND SO WE HAVE NOT ONLY THE INSPECTOR'S GENERAL AUDITORS, BUT
14 WE HAVE OUR OWN INDEPENDENT AUDITORS, I MEAN, SORRY, OUR
15 DEPARTMENT AUDITORS, INTERNAL AUDITORS AS WELL. WE FIND THAT
16 WE HAVE BEEN ABLE TO COMBINE THE TWO PRETTY WELL.

17

18 **BOBBY SWERDLOW:** THE THIRD BULLET POINT IS UNFETTERED ACCESS.
19 MICHELLE DEITCH HAS REFERRED TO THIS AS A GOLDEN KEY PASS.
20 WHAT KIND OF ACCESS DOES THE INSPECTOR GENERAL'S OFFICE HAVE,
21 OR THE BIR HAVE, UNDER YOUR WATCH?

22

23 **MATTHEW CATE:** IT WAS UNFETTERED. I STOLE THAT PHRASE FROM
24 MICHELLE A LOT. WE EXPLAINED TO PEOPLE WE HAD A GOLDEN KEY.
25 THE ONLY THING THAT WE HAD TO BE COGNIZANT OF IS THE FOURTH

1 AMENDMENT STILL APPLIED TO US, THE FIFTH AMENDMENT APPLIED TO
2 US, AND THE PEACE OFFICER BILL OF RIGHTS APPLIED TO US AND
3 COURTS HAVE RULED INDIVIDUAL EMPLOYEES HAVE SOME PRIVACY
4 RIGHTS AS WELL THAT WE HAD TO ADHERE TO. BUT, YOU KNOW, ANY
5 FILING CABINET. AT ANY TIME OF THE DAY OR NIGHT, WITH OR
6 WITHOUT A WARRANT, I WAS FREE TO WALK INTO THE HEADQUARTERS
7 UNIT AND OPEN FILES AND START READING OR WALK INTO ANY PRISON
8 WITHOUT NOTICE. OF COURSE, YOU UNDERSTAND, AS SOON AS MY CAR
9 HIT THE COUNTY LINE, THE PRISON KNEW I WAS COMING, BUT WITH
10 THAT PROVISIO, WE WOULD SHOW UP ANY TIME WITHOUT NOTICE AND
11 TALK TO ANY INMATE WE WANTED TO, IN THE ADMINISTRATIVE
12 SEGREGATION, THE KITCHEN, ANYWHERE. ANY STAFF MEMBER – ASK
13 STAFF TO SPEAK WITH US, AND THEY WERE ALL REALLY GREAT WITH
14 THAT.

15

16 **BOBBY SWERDLOW:** MOVING DOWN THE LIST, THE FOURTH BULLET POINT
17 HAS A NUMBER OF ELEMENTS. I THINK YOU ADDRESSED A COUPLE OF
18 THEM BUT CAN YOU TALK ABOUT ADEQUATE RESOURCES AND WHAT YOU
19 DID WHEN YOU TOOK OVER THE IG'S OFFICE TO ADDRESS THOSE
20 CONCERNS?

21

22 **MATTHEW CATE:** YOU KNOW, IN CALIFORNIA AT THE TIME, THE
23 LEGISLATURE WAS MAKING THIS ISSUE A PRIORITY. PRISONS AND
24 PRISON OVERSIGHT WAS A PRIORITY. SO I ACTUALLY TURNED DOWN
25 RESOURCES FOR THE FIRST THREE YEARS I WAS INSPECTOR GENERAL

1 BECAUSE I COULDN'T -- I DIDN'T FEEL COMFORTABLE THAT I COULD
2 GROW AS FAST AS THEY WANTED US TO GROW WITH FIDELITY TO OUR
3 SYSTEMS. BUT IN SUBSTANCE, WE RECEIVED EVERY RESOURCE WE ASKED
4 FOR, FOR PROBABLY THREE YEARS. SO AS A RESULT OF THAT, WE FELT
5 VERY COMFORTABLE THAT WE WERE GOING TO BE ADEQUATELY RESOURCED
6 AND WE HAD A VERY ROBUST MODEL. NOW, THE GOVERNOR WANTED TO
7 GET OUT OF THE MADRID CASE. HE WANTED TO DEMONSTRATE THAT WE
8 COULD POLICE OURSELVES. THAT WE HAD A SYSTEM THAT WAS
9 TRANSPARENT. SO HE MADE IT A PRIORITY. SO WE MADE IT A
10 PRIORITY AND THE LEGISLATURE AGREED. AND I THINK IT HASTENED
11 OUR WAY OUT OF THAT CASE AS A RESULT OF BEING ABLE TO BUILD
12 SOMETHING LIKE THE BIR, WHICH IS FIVE OR SIX TIMES AS LARGE AS
13 THE OIR REALLY, REALLY QUICKLY.

14

15 **BOBBY SWERDLOW:** THE LAST BULLET POINT IS PUBLIC REPORTING. YOU
16 SAID YOU TURNED THE SYSTEM OF REPORTING ON ITS HEAD. WHAT, IF
17 ANYTHING, DID YOU FIND-- WHAT DID YOU LEAVE IN PLACE IN TERMS
18 OF CONFIDENTIALITY THAT YOU THOUGHT WAS IMPORTANT TO PRESERVE?

19

20 **MATTHEW CATE:** ONLY THOSE THINGS THAT RELATED TO INDIVIDUAL
21 EMPLOYEE RIGHTS. THE ONLY PART THAT WE DECIDED NOT MAKE PUBLIC
22 WAS THESE WARDEN EVALUATIONS. WE FELT LIKE IF WE MADE WARDEN
23 EVALUATIONS PUBLIC, THERE WOULD BE A CHILLING EFFECT ON BEING
24 ABLE TO GET GOOD LEADERSHIP. AND THESE PEOPLE HADN'T BEEN
25 ACCUSED OF ANYTHING EXCEPT FOR BEING EXEMPLARY LEADERS IN THE

1 PAST. SO WHAT WE WOULD DO IS, WE WOULD WRITE -- THE RULE THERE
2 WAS WE WROTE -- WE INVESTIGATED THE CANDIDATE. WE WROTE THE
3 REPORT TO THE GOVERNOR. IT'S A LITTLE BIT LIKE I THINK THE WAY
4 THE JENNY COMMISSION OR THE JUDICIAL EVALUATION COMMISSION IN
5 CALIFORNIA WORKS. WE WOULD WRITE A REPORT TO THE GOVERNOR AND
6 FIND THAT INDIVIDUALLY THEY'RE NOT QUALIFIED, QUALIFIED, WELL
7 QUALIFIED OR EXCEPTIONALLY WELL QUALIFIED. IF WE FOUND THE
8 INDIVIDUAL UNQUALIFIED AND THE GOVERNOR APPOINTED ANYWAY, THEN
9 OUR REPORT BECAME PUBLIC. OTHERWISE, IF THE GOVERNOR DIDN'T
10 APPOINT, IT REMAINED PRIVATE. IF WE FOUND THE INDIVIDUAL
11 QUALIFIED, THEN THE GOVERNOR APPOINTED, IT REMAINED PRIVATE AS
12 WELL IN THOSE CIRCUMSTANCES. JUST REALLY IN THAT AREA. WE
13 OBVIOUSLY DIDN'T REPORT ANY OFFICERS' NAMES. WE DIDN'T REPORT
14 WITNESS' NAMES TO MAINTAIN THE OFFICER'S RIGHTS AND ALSO TO
15 TRY TO MAKE SURE THAT WITNESSES FELT COMFORTABLE COMING
16 FORWARD IN THE FUTURE.

17

18 **BOBBY SWERDLOW:** I WANT TO ASK YOU ABOUT ONE PARTICULAR ISSUE
19 NOW, THE SO-CALLED "CODE OF SILENCE." DID YOUR OFFICE NEED TO
20 ADDRESS THAT ISSUE WHEN YOU WERE INSPECTOR GENERAL?

21

22 **MATTHEW CATE:** WELL, IT WAS VERY HOTLY CONTESTED. WHETHER THERE
23 WAS A CODE OF SILENCE, HOW PERVASIVE IT WAS. IN MY VIEW, THERE
24 IS A CERTAIN CODE OF SILENCE IN EVERY PROFESSION. SO, YOU
25 KNOW, IF YOU HAVE A TEAM OF PIPE FITTERS WORKING ON A PROJECT

1 AND ONE OF THEM GETS THE PLANNING WRONG AND YOU HAVE A HUGE
2 LOSS, IT'S GOING TO BE DIFFICULT FOR THE OTHER PIPE FITTERS TO
3 SAY, YEAH, JOHN MESSED UP THE MEASUREMENTS AND NOW WE JUST
4 LOST THE MONEY ON THIS CASE, OR, ON THIS PROJECT. I THINK
5 THAT'S HARD FOR GROCERY CLERKS AND LAWYERS AND, YOU KNOW,
6 EVERYBODY. IT'S PARTICULARLY DIFFICULT IN LAW ENFORCEMENT
7 WHERE YOU KIND OF GROW UP TOGETHER, WHERE YOU TRAIN TOGETHER,
8 WHERE YOU PROTECT ONE ANOTHER OR AT THE VERY CORE, YOU ARE
9 TAUGHT TO LOOK OUT FOR EACH OTHER. YOU CAN -- YOU KNOW, YOUR
10 FAMILIES KNOW ONE ANOTHER, YOU GO TO THE SAME BIRTHDAY
11 PARTIES, ALL THOSE THINGS. IT JUST IS THAT MUCH DIFFICULT A
12 HURDLE TO GET OVER, AND SO, ULTIMATELY, WE DECIDED IT DIDN'T
13 MATTER TO MEASURE HOW PERVASIVE IT WAS. WHAT MATTERED IS IT
14 WAS TRUE IN EVERY PROFESSION. IT'S PARTICULARLY DANGEROUS IN A
15 PUBLIC SAFETY SETTING, AGAIN, WHERE THE LAW INVESTS IN A VERY
16 SMALL NUMBER OF PEOPLE, ME IN THIS CASE, NOW IN MY CURRENT JOB
17 WITH THIS RESPONSIBILITY -- FOR ANOTHER PERSON'S LIFE. AND SO
18 WHEN YOU ARE RESPONSIBLE FOR THAT LIFE, YOU HAVE TO HAVE ZERO
19 TOLERANCE IN TERMS OF BEING ABLE TO UNDERSTAND- WHAT IS
20 HAPPENING AND KNOW THAT WHAT'S BEING REPORTED ON THE GROUND IS
21 HONEST AND IT'S FULL AND YOU CAN -- YOU CAN'T MANAGE WITHOUT
22 INFORMATION. AND YOU HAVE THE RESPONSIBILITY FOR THOSE HUMAN
23 BEINGS' LIVES, BOTH YOUR OFFICERS AND THE INMATES. AND SO FROM
24 MY PERSPECTIVE, IT DIDN'T MATTER IF IT WAS JUST ONE, WE HAD TO
25 TAKE AS STRONG AN APPROACH AS WE COULD.

1

2 **BOBBY SWERDLLOW:** WAS ONE OF THE WAYS YOU RESPONDED TO THOSE
3 CONCERNS TO REVAMP THE DEPARTMENT'S DISCIPLINE POLICY?

4

5 **MATTHEW CATE:** IT IS.

6

7 **BOBBY SWERDLLOW:** CAN YOU TURN TO TAB 7 IN THE BINDER BEFORE
8 YOU? THIS IS A CHART THAT WE PREPARED, COMPARING SOME OF THE
9 L.A. SHERIFF DEPARTMENT'S POLICIES TO A FEW AREAS OF THE STATE
10 DEPARTMENT'S POLICIES. AND IF YOU COULD LOOK AT THE BOTTOM OF
11 THIS CHART. DOES THAT LIST THE BASE PENALTIES THAT THE STATE
12 MAY IMPOSE FOR DISHONESTY?

13

14 **MATTHEW CATE:** IT DOES. I HAVEN'T LOOKED AT THE -- I HAVEN'T
15 LOOKED AT THE SALARY REDUCTIONS OR SUSPENSION LEVELS TO MAKE
16 SURE THEY'RE EXACTLY RIGHT. BUT THAT'S -- I KNOW THEM TO BE
17 PROBABLY FAIRLY ACCURATE AND I'LL TAKE YOUR ASSERTION THE
18 NUMBERS ARE RIGHT. I KNOW THAT THE TERMINATION RANGE IS
19 CERTAINLY CORRECT.

20

21 **BOBBY SWERDLLOW:** AND THAT'S WHAT -- BEFORE YOU USED THE PHRASE
22 "ZERO TOLERANCE POLICY." THAT'S WHAT YOU ARE REFERRING TO IS
23 THAT TERMINATION CAN BE THE BASE LEVEL OFFENSE?

24

25 **MATTHEW CATE:** IT IS.

1

2 **BOBBY SWERDLOW:** WHAT DOES THAT MEAN IN TERMS OF
3 IMPLEMENTATION? WHEN IS TERMINATION APPROPRIATE?

4

5 **MATTHEW CATE:** TO TAKE A STEP BACK, THE MATRIX THAT WE ENDED UP
6 ACCEPTING, YOU KNOW, THIS ISN'T SOMETHING THAT I WROTE OUT YOU
7 KNOW, FROM WHOLE CLOTH OR JUST A FEW PEOPLE AROUND THE ROOM.
8 THIS WAS SOMETHING THE FEDERAL COURT WAS INVOLVED IN.
9 ATTORNEYS FROM THE PRISON LAW OFFICE WHO WERE SUING IN MADRID
10 WERE INVOLVED IN. THE GOVERNOR'S OFFICE WAS INVOLVED IN. YOU
11 KNOW, THE UNION MAY NOT HAVE WRITTEN IT, BUT WE CERTAINLY
12 TALKED TO THEM ABOUT THE MATRIX AND WHY WE WERE DOING IT AND
13 WHERE WE WERE GOING TO IMPOSE CERTAIN SANCTIONS. SO A LOT OF
14 PEOPLE HAD INPUT IN IT AND ULTIMATELY THE DECISION WAS MADE
15 THAT, IF YOU'RE MAKING INTENTIONALLY FALSE OR MISLEADING
16 STATEMENTS IN A REPORT OR DURING AN INVESTIGATION THAT THAT'S
17 TERMINATION. THAT'S THE BASE. SO IN OUR MATRIX, IT'S A LITTLE
18 BIT LIKE IN CALIFORNIA'S DETERMINANT SENTENCING LAW, THERE IS
19 A TRIAD, A BASE SANCTION AND THEN THAT CAN BE AGGRAVATED OR
20 MITIGATED DEPENDING ON THE CIRCUMSTANCES. AND SOMETIMES
21 SEVERAL STEPS. BUT THE BASE FOR THESE VIOLATIONS --
22 INTENTIONAL MISLEADING STATEMENTS, FALSIFICATION OF RECORDS,
23 FAILURE TO REPORT IN THE MOST EGREGIOUS CIRCUMSTANCES -- IS
24 TERMINATION.

25

1 **BOBBY SWERDLOW:** WHEN WE TALKED BEFORE, WE ASKED YOU IF YOU
2 COULD COLLECT SOME NUMBERS RELATED TO THESE. WERE YOU ABLE TO
3 DETERMINE THE NUMBER OF ACTIONS THAT THE DEPARTMENT INSTITUTED
4 WITH RESPECT TO DISHONESTY ALLEGATIONS AND THEN THE NUMBER OF
5 TERMINATIONS?

6

7 **MATTHEW CATE:** YES.

8

9 **BOBBY SWERDLOW:** CAN YOU GIVE THOSE TO THE COMMISSION?

10

11 **MATTHEW CATE:** IN 2008, WHEN I WAS APPOINTED IN MY CURRENT ROLE
12 -- I DON'T KNOW HOW MANY INVESTIGATIONS WE LAUNCHED, BUT I
13 KNOW THAT WE ASSESSED A TERMINATION PENALTY AS OUR INITIAL
14 ASSESSMENT ON 50 OCCASIONS IN 2008 FOR DISHONESTY. AND AFTER
15 THOSE HAD GONE THROUGH OUR ENTIRE PROCESS, SOMETIMES THOSE CAN
16 BE MITIGATED AFTER SUBSEQUENT INFORMATION COMES IN, THEY GO
17 THROUGH AN EXECUTIVE REVIEW PROCESS THAT THE BIR IS INVOLVED
18 IN, THAT MY OFFICE AND THE OFFICE OF THE SECRETARY IS INVOLVED
19 IN. THE WARDEN IS INVOLVED IN. SO IT CAN BE, AGAIN, THERE'S
20 SEVERAL STEPS OF REVIEW ALONG THE WAY. THE FINAL BEING THE
21 STATE PERSONNEL BOARD GETS THE FINAL CALL. BUT OUT OF THE 50
22 TIMES THAT WE ASSESSED A PENALTY OF TERMINATION FOR DISHONESTY
23 IN 2008, 25 OFFICERS WERE ULTIMATELY DISMISSED FOR DISHONESTY
24 THAT YEAR. IN 2009, WE ASSESSED THE PENALTY 57 TIMES AND 27
25 TIMES THE OFFICER WAS ULTIMATELY DISMISSED; 74 TIMES IN 2010

1 WITH 46 STAFF MEMBERS BEING DISMISSED. AND IN 2011, 110
2 DISHONESTY ALLEGATIONS WITH 58 DISMISSALS. 10 PERCENT OF THOSE
3 CASES WERE EVENTUALLY DISMISSED ALTOGETHER SO THAT MEANS, DO
4 THE MATH REAL QUICK. 175-280 WHATEVER IT IS, ABOUT 10% OF
5 THOSE WERE ULTIMATELY DISMISSED BECAUSE NEW EVIDENCE CAME OR
6 THE STATE PERSONNEL BOARD JUST AGREED, MADE A FINDING OF FACT
7 REGARDING WITNESS CREDIBILITY OR WHAT HAVE YOU DOWN THE LINE.
8 THE REST OF THOSE CASES WERE LARGE SUSPENSIONS OR DEMOTIONS.

9

10 **BOBBY SWERDLOW:** AND THE NUMBER OF SWORN PERSONNEL IN THE
11 DEPARTMENT FOR THESE YEARS WAS APPROXIMATELY 30,000?

12

13 **MATTHEW CATE:** APPROXIMATELY.

14

15 **BOBBY SWERDLOW:** DO HAVE YOU SIMILAR STATISTICS FOR PENALTY
16 ASSESSMENTS FOR THE FAILURE TO REPORT THE USE OF FORCE OR THE
17 FAILURE TO REPORT WITNESSING USE OF FORCE?

18

19 **MATTHEW CATE:** YES. SO THESE ARE AGAIN THE MOST EGREGIOUS. BUT
20 WE HAD 12 CASES IN 2008, WITH 10 DISMISSALS. 8 CASES IN 2009
21 WITH 7 DISMISSALS. 9 CASES IN 2010 WITH 4 DISMISSALS AND 17
22 CASES LAST YEAR WITH 7 DISMISSALS.

23

24 **BOBBY SWERDLOW:** OBVIOUSLY, YOU WERE INVOLVED IN THE DECISION
25 TO MAKE TERMINATION THE BASE PENALTY. WHY DID YOU THINK THAT

1 WAS SO IMPORTANT FOR EVENTS INVOLVING DISHONESTY OR THE
2 FAILURE TO REPORT THE USE OF FORCE?

3

4 **MATTHEW CATE:** WELL, AGAIN, IT'S, YOU KNOW, I WAS ONE PERSON
5 AROUND THE TABLE. WE LOOKED AT NATIONAL BEST PRACTICES, BUT
6 MORE IMPORTANTLY, IT SEEMED THAT THE PUBLIC HAD LOST
7 CONFIDENCE IN OUR SYSTEM. AND THE LEGISLATURE HAD LOST
8 CONFIDENCE IN IT. THE GOVERNOR HAD LOST CONFIDENCE IN IT. THE
9 COURTS HAD LOST CONFIDENCE IN IT. SO WE FELT WE HAD TO TAKE
10 THE STRONGEST ACTION WE COULD TO RIGHT THE SHIP AND THE CORE
11 OF THIS FOR US WAS THAT OFFICERS HAD TO TELL THE TRUTH ABOUT
12 WHAT WAS HAPPENING ON THESE IMPORTANT ISSUES. ANY TIME, AGAIN,
13 NOT ONLY JUST USE OF FORCE, BUT IN WRITING REPORTS ABOUT WHAT
14 HAPPENED. I HAD PROSECUTED CASES IN MY PREVIOUS CAREER
15 INVOLVING OFFICERS WHO HAD NOT BEEN HONEST IN REPORTS AND IT
16 IS JUST IMPOSSIBLE FOR THE EXECUTIVES TO MANAGE WITHOUT
17 KNOWING THE TRUTH ABOUT WHAT'S HAPPENING. AND THEN THE OTHER
18 PROBLEM IS THAT IF YOU HAVE DISHONEST STAFF AND THAT IS SHOWN,
19 THEN IT'S DIFFICULT TO PROSECUTE CASES IN THE FUTURE INVOLVING
20 THOSE SAME STAFF BECAUSE THAT BECOMES A DEFENSE IN THE
21 SUBSEQUENT CASE. AND SO YOU KNOW, I THINK THAT, AGAIN, WE TRY
22 TO KEEP IN MIND THE DIFFERENCE BETWEEN MATERIAL
23 MISREPRESENTATIONS AND IMMATERIAL. WE TRY TO KEEP IN MIND
24 PEOPLE ARE HUMAN BEINGS AND SAY DUMB THINGS SOMETIMES WITHOUT
25 THE INTENT TO BE DISHONEST. BUT WE PROBABLY HAVE, IT SEEMS TO

1 ME, A VERY STRONG APPROACH IN THIS AREA. I DON'T KNOW IF IT'S
2 RIGHT FOR EVERYBODY, BUT IT SEEMS AT LEAST IN THE CONTEXT IN
3 WHICH WE WENT THIS ROUTE THAT IT WAS RIGHT FOR US. SO YOU MAY
4 ASK ABOUT TRAINING LATER, BUT WE DIDN'T DO THIS AND THEN
5 SURPRISE THE STAFF WITH IT. SO THEY KNEW WE DID 8 HOURS OF
6 CODE OF SILENCE TRAINING FOR EVERY SWORN STAFF IN THE
7 INSTITUTION. EVERYBODY WHO COMES THROUGH THE ACADEMY GETS CODE
8 OF SILENCE TRAINING. EVERY OFFICER, EVERY YEAR, GETS A
9 REFRESHER ON CODE OF SILENCE. WE HAVE A REPRESENTATIVE OF THE
10 UNION COME IN TO TALK TO OUR ACADEMY CLASSES AND A
11 REPRESENTATIVE, IN FACT, MIKE GENNACO COMES AND TALKS TO OUR
12 ACADEMY CLASSES ABOUT THE CODE OF SILENCE. HE AND THE HEAD OF
13 THE UNION TALK ABOUT WHAT IT MEANS AND WHY IT IS IMPORTANT TO
14 BE TRUTHFUL. AT THE END OF THE DAY, THEY KNOW THEY CAN MAKE
15 ALMOST, YOU KNOW, ANY KIND OF MISTAKE, YOU KNOW, YOU CAN DO A
16 LOT OF THINGS AND SAVE YOUR CAREER. IT MAY HIT YOUR
17 POCKETBOOK. YOU MAY GET DEMOTED. THERE MAY BE A LOT OF OTHER
18 CONSEQUENCES, BUT IF YOU LIE ABOUT WHAT HAPPENED, IF YOU LIE
19 IN THE INVESTIGATION, THEN WE CAN'T HELP YOU. SO OUR STAFF
20 KNOW THAT GOING IN. SO I THINK THEY DON'T SEE IT AS A SURPRISE
21 OR AS UNFAIR.

22

23 **BOBBY SWERDLOW:** THANK YOU, MR. SECRETARY. WE HAVE NO FURTHER
24 QUESTIONS AT THIS TIME.

25

1 HON. LOURDES BAIRD, CHAIR: WE OPEN THIS UP NOW TO THE
2 COMMISSIONERS AND LET --. I STARTED WITH YOU FIRST.

3

4 REV. CECIL L. MURRAY: MAY I HAVE A QUESTION OF CLARIFICATION?

5

6 HON. LOURDES BAIRD, CHAIR: OF COURSE.

7

8 REV. CECIL L. MURRAY: THE OFFICE OF INTERNAL AFFAIRS IS
9 DIFFERENT THAN THE OFFICE OF INDEPENDENT REVIEW, IS IT NOT?

10

11 MATTHEW CATE: IT IS.

12

13 REV. CECIL L. MURRAY: AND THE OFFICE OF INTERNAL AFFAIRS
14 REPORTS TO THE INSPECTOR GENERAL?

15

16 MATTHEW CATE: NO. THE -- THE DEPARTMENT, IT'S HARD BECAUSE
17 I'VE HAD BOTH JOBS. AS THE SECRETARY OF CORRECTIONS IN MY
18 CURRENT ROLE, I HAVE AN OFFICE OF INTERNAL AFFAIRS THAT
19 CONDUCTS OUR ROUTINE INVESTIGATIONS OF STAFF. REALLY ALL OF
20 OUR INVESTIGATIONS OF STAFF ARE DONE INTERNALLY WITHIN OUR
21 INTERNAL OFFICE OF INTERNAL AFFAIRS. THEN THERE IS -- THE
22 INSPECTOR GENERAL, HIS NAME IS NOW IS BOB BARTON, HE HAS A
23 BUREAU OF INDEPENDENT REVIEW THAT MONITORS THOSE
24 INVESTIGATIONS AND PUBLICLY REPORTS ON THE QUALITY OF
25 INVESTIGATIONS AND THE SUFFICIENCY OF THE PUNISHMENT METED OUT

1 AND THE RELATIVE HEALTH OF THE SYSTEM.

2

3 **REV. CECIL L. MURRAY:** AND THE BUREAU OF INDEPENDENT REVIEW IS
4 DIFFERENT THAN THE BOARD OF INDEPENDENT REVIEW, IS IT?

5

6 **MATTHEW CATE:** SO THERE IS A -- THE -- MAYBE WHAT YOU ARE
7 REFERRING TO IS THAT WE HAVE A BUREAU OF INDEPENDENT REVIEW,
8 I'M SORRY, THE INSPECTOR GENERAL HAS A BUREAU OF INDEPENDENT
9 REVIEW. THAT WAS MODELED AFTER THE OFFICE OF INDEPENDENT
10 REVIEW IN LOS ANGELES COUNTY. SO WHEN I FIRST STARTED, AS I
11 SAID, SHERIFF BACA CAME IN, TOLD ME ABOUT THE OFFICE OF
12 INDEPENDENT REVIEW, SUGGESTED IT AS A MODEL. I ADOPTED IT. HE
13 AND MIKE GENNACO BOTH WENT ABOVE AND BEYOND THE CALL OF DUTY
14 TO GIVE ME EVERY RESOURCE I NEEDED TO LEARN FROM THAT MODEL,
15 AND WE ADOPTED MOST OF IT INTO THE BUREAU OF INDEPENDENT
16 REVIEW IN THE CALIFORNIA DEPARTMENT OF CORRECTIONS AND IT'S
17 DONE A GREAT JOB.

18

19 **HON. LOURDES BAIRD, CHAIR:** THANK YOU, THAT WAS COMMISSIONER
20 MURRAY. COMMISSIONER TEVRIZIAN?

21

22 **HON. DICKRAN M. TEVRIZIAN:** I JUST HAVE ONE QUESTION DEALING
23 WITH EXHIBIT 7 - THE DISCIPLINARY COMPARISONS . IN LOOKING AT
24 THE CALIFORNIA DEPARTMENT OF CORRECTIONS AND REHABILITATION
25 GUIDELINES, YOU INDICATED THAT YOU HAD NOTIFIED THE UNIONS

1 THAT THESE WERE THE SANCTIONS THAT WERE GOING TO BE IMPOSED.
2 DID YOU EVER HAVE TO BARGAIN OR NEGOTIATE WITH THEM THAT THIS
3 WOULD END UP IN SOME KIND OF AN MOU THAT THEN WAS RESULTING IN
4 A COLLECTIVE BARGAINING AGREEMENT?

5

6 **MATTHEW CATE:** NO. WE DO, AS COMMISSIONER HORN SAID, WE ALSO
7 HAVE, OBVIOUSLY, A VERY STRONG UNION IN CALIFORNIA IN
8 CORRECTIONS, AND THEY ALSO VIGOROUSLY DEFEND THE RIGHTS OF
9 THEIR MEMBERS. BUT THIS, WHEN THIS CAME ABOUT, THE COURT
10 ORDERED IT. SO WE WORK COLLABORATIVELY, BUT WE WERE UNDER THE
11 AUSPICES OF THE FEDERAL COURT IN MADRID. AND THE COURT JUST
12 ORDERED IT. THEY KNEW EVEN IF I WANTED TO I COULDN'T HAVE
13 CHANGED IT THEN. NOW THE COURT HAS SINCE DISMISSED THE CASE
14 AND WE'RE ON OUR OWN AND SO WE'RE IN THE PROCESS NOW OF HAVING
15 INFORMAL DISCUSSIONS WITH THE CALIFORNIA CORRECTIONAL PEACE
16 OFFICERS ASSOCIATION ABOUT THE, WHAT THEY SEE ARE WEAKNESSES
17 IN THE POLICY, THINGS THEY'D LIKE TO SEE DONE DIFFERENTLY,
18 DIFFERENCES IN TERMS OF DUE PROCESS FOR THE OFFICERS AND WHAT
19 NOT, SO IT WILL NOW BE A PART OF OUR NORMAL NEGOTIATIONS AND,
20 INFORMALLY, FROM THE VERY START, WE HAVE TALKED ABOUT TRYING
21 TO MAKE SURE THE WARDENS KNOW THEY HAVE DISCRETION TO TELL THE
22 BUREAU OF INDEPENDENT REVIEW TO GET LOST IN SOME CASES. BUT
23 THAT'S NOT HOW IT STARTED.

24

25 **HON. DICKRAN M. TEVRIZIAN:** WHAT I'M INTERESTED IN FINDING OUT

1 IS, NOW THAT YOU'RE NO LONGER UNDER ANY COURT SUPERVISION OR
2 MANDATE, IS THE UNION ASKING TO REVISIT THE SANCTIONS AND
3 PENALTIES THAT ARE IMPOSED FOR THESE VARIOUS TYPES OF
4 OFFENSES?

5

6 **MATTHEW CATE:** THEY'VE SAID THAT THEY THINK THERE ARE SOME, IN
7 SOME AREAS THAT THEY MAY BE TOO HARSH. THEIR FIRST COMPLAINT,
8 THOUGH, WAS THEY FELT LIKE THE BUREAU OF INDEPENDENT REVIEW
9 WAS TOO STRONG. THEY'RE SUPPOSED TO BE MONITORS AND THEY'RE
10 SUPPOSED TO PUBLICLY REPORT. THE WARDENS ARE SUPPOSED TO
11 DECIDE PENALTIES AND SO THE FIRST CONCERN WAS THAT THE WARDENS
12 KNOW THAT THEY ARE IMBUED WITH THE POWER TO BE LENIENT WITHIN
13 THE COURSE OF THE MATRIX AND THAT THEY EXERCISE THAT POWER
14 WHERE APPROPRIATE. SO THAT'S WHERE WE STARTED. IT WAS MORE
15 PROCESS. AND WE'VE SINCE AGREED THAT WE'RE GOING TO SIT DOWN
16 AND TALK ABOUT INDIVIDUAL ISSUES. BUT THIS ISSUE ON LYING, ON
17 MATERIALLY LYING, ON A POLICE REPORT ABOUT DURING THE COURSE
18 OF AN INVESTIGATION OR ON AN ISSUE THAT INVOLVES OUR DAY-TO-
19 DAY OPERATIONS, THEY'VE NEVER COME TO ME AND SAID THEY WANTED
20 TO CHANGE THAT.

21

22 **HON. LOURDES BAIRD, CHAIR:** COMMISSIONER BONNER.

23

24 **THE HON. ROBERT BONNER:** I HAVE NO QUESTIONS.

25

1 **HON. LOURDES BAIRD, CHAIR:** COMMISSIONER BUSANSKY.

2

3 **MR. ALEXANDER BUSANSKY:** ONE OF THE ISSUES THAT HAS COME UP
4 OVER THAT NUMBER OF MONTHS THAT WE'VE BEEN TOGETHER IS AROUND
5 CREDIBILITY OF INMATES. RIGHT, AROUND THE VARIOUS COMPLAINTS
6 THAT THEY'VE MADE. WE'VE HEARD FROM A NUMBER OF PEOPLE WHO
7 HAVE BEEN INCARCERATED AT THE L.A. COUNTY JAIL. WE READ
8 REPORTS. WE HEARD TESTIMONY FROM A NUMBER OF L.A. SHERIFF'S
9 DEPARTMENT WITNESSES. CAN YOU JUST GIVE FOR US SOME SENSE OF
10 HOW YOU AND YOUR AGENCY GO ABOUT ASSESSING THE STARTING POINT
11 OF CREDIBILITY WHEN YOU LOOK AT A USE OF FORCE INCIDENT AND AN
12 ALLEGATION OF MISUSE OR EXCESSIVE USE OF FORCE BY A STAFF
13 MEMBER AGAINST AN INMATE?

14

15 **MATTHEW CATE:** WELL, IT REALLY-- MY BACKGROUND AS A PROSECUTOR
16 INFORMED MY OWN VIEWS ON THIS, WHICH IS YOU LOOK FOR
17 CORROBORATIVE EVIDENCE. YOU LOOK FOR OTHER WITNESSES. YOU LOOK
18 FOR STAFF WHO SAW AND/OR CORROBORATE. YOU LOOK FOR PHYSICAL
19 EVIDENCE. SO ONE OF THE THINGS WE DID IN THE DEPARTMENT,
20 ACTUALLY, WHEN I WAS STILL AT THE IG'S OFFICE, IS WE CONDUCTED
21 TRAINING ON HOW TO PRESERVE EVIDENCE BECAUSE THAT WAS ONE OF
22 THE UNDERLYING ISSUES. SO WE TRAINED OUR STAFF ON THE
23 PRESERVATION OF EVIDENCE FOLLOWING USE OF FORCE, ESPECIALLY,
24 YOU KNOW, BODILY FLUIDS AND OTHER TYPES OF EVIDENCE THAT OVER
25 TIME CAN DEGRADE AND THAT YOU CAN LOSE IF YOU DON'T ACT

1 SWIFTLY. SO, WE DON'T TREAT INMATES ANY DIFFERENTLY THAN WE DO
2 ANY OTHER PERSON THAT A POLICE AGENCY WOULD BE INTERVIEWING SO
3 THEY DON'T START WITH ANY SPECIAL CREDIBILITY AND THEY DON'T
4 START WITH A QUESTION MARK EITHER. THE TRUTH IS, IF YOU GET TO
5 KNOW INMATES, WHAT YOU FIND IS THAT MANY -- THEY'RE JUST LIKE
6 A BROADER SEGMENT OF THE COMMUNITY. YOU HAVE PEOPLE THAT ARE
7 GOING TO MANIPULATE AND LIE AND TRY TO SET UP STAFF AND
8 THEY'LL DO THOSE THINGS FOR POWER PURPOSES, AND THEN YOU HAVE
9 PEOPLE WHO WILL TELL THE TRUTH AND HONESTLY DESCRIBE WHAT'S
10 HAPPENED AND SO, YOU CAN'T TAKE AND CATEGORIZE INMATES AS ALL
11 ONE WAY OR ALL ANOTHER. AND SO WE JUST USE THE NORMAL
12 PROCESSES FOR THAT.

13

14 **MR. ALEXANDER BUSANSKY:** ONE OF THE JOBS OR ONE OF THE
15 QUESTIONS THAT HAS COME BEFORE THIS COMMISSION IS, ARE THE
16 OVERSIGHT MECHANISMS IN PLACE IN LOS ANGELES COUNTY
17 SUFFICIENT? RIGHT? IS THE OVERSIGHT DOING WHAT IT'S SUPPOSED
18 TO DO? WHETHER THAT'S MIKE GENACCO AND HIS OIR OFFICE OR
19 MERRICK BOBB AND PARC OR THE ACLU VISITATION PROGRAM OR THE
20 OTHER PROCESSES THAT ARE THERE AT THE L.A. SHERIFF'S
21 DEPARTMENT. YOU DO HAVE ANY ADVICE ON HOW WE CAN GO ABOUT
22 ANALYZING THE EFFECTIVENESS OF THE OVERSIGHT AGENCY; IN A
23 SENSE HOW DO WE DO OVERSIGHT OF THE OVERSIGHT AGENCY?

24

25 **MATTHEW CATE:** RIGHT. WELL, IN FACT, THERE IS SOMETIMES

1 OVERSIGHT AGENCIES GET CRITICIZED BY ASKING THE QUESTION
2 OF...WELL, WHO IS WATCHING YOU WHILE YOU WATCH THEM? RIGHT? SO
3 AT SOME POINT YOU HAVE TO FIGURE ENOUGH IS ENOUGH. I THINK,
4 ULTIMATELY, IT'S A -- I THINK THAT AGAIN I HAVE A GREAT DEAL
5 OF FAITH IN SHERIFF BACA AND I THINK HE IS A MAN OF GREAT
6 HONOR. MIKE GENNACO IS AS PROFESSIONAL AS THEY GET. I THINK
7 THAT THE QUESTIONS THAT HAVE BEEN RAISED ARE FAIR ONES TO ASK.
8 IS THERE SOMEBODY WHO CAN GET INTO THE DAY-TO-DAY OPERATIONS
9 OF THE JAIL SUFFICIENTLY? SO I KNOW THAT THE COMMISSION HAS
10 HEARD STATEMENTS ABOUT FILES BEING IN DESK DRAWERS. THOSE
11 KINDS OF THINGS. WE HAD THAT. THE QUESTION IS, YOU HAVE TO
12 HAVE THOSE GOOD SYSTEMS IN PLACE AND INDEPENDENT MONITORING
13 CAN BE HELPFUL WITH THAT. THE QUESTION IS...IS IT ROBUST
14 ENOUGH TO GET IN? IS IT INDEPENDENT? IT'S ALL THOSE THINGS YOU
15 HAVE BEEN DESCRIBING. ULTIMATELY, IT'S UP TO THIS COMMUNITY TO
16 DECIDE HOW MUCH THEY WANT TO INVEST IN TERMS OF STAFFING AT A
17 JAIL. I THOUGHT THE CHIEF'S QUESTIONS IN THAT AREA WERE
18 IMPORTANT AND HOW MUCH YOU WANT TO INVEST IN STAFFING YOUR
19 MONITORS. YOU KNOW, IT'S SOMETHING THAT THE SHERIFF AND MIKE
20 GENNACO AND I TALKED ABOUT FOUR OR FIVE YEARS AGO. OH, NO,
21 IT'S BEEN EIGHT YEARS AGO. YOU KNOW, WE WERE, YOU KNOW, WE HAD
22 -- IT WAS IMPORTANT TO THE GOVERNOR AND HE PUT A LOT OF
23 RESOURCES INTO BUILDING THE MOST ROBUST MODEL YOU COULD
24 POSSIBLY BUILD. MAYBE IT WAS TOO ROBUST AND NOW IT SHRUNK
25 BECAUSE THE SYSTEMS ARE IN PLACE. BUT MIKE TALKED AT THE TIME

1 ABOUT, YOU HAVE A CERTAIN NUMBER OF PEOPLE, YOU DO WHAT YOU
2 CAN WITH THOSE PEOPLE. I KNOW MERRICK BOBB VERY WELL. HE'S
3 ALSO AS GOOD AS THEY COME. SO THEN IF YOU HAVE QUALITY PEOPLE
4 LOOKING AT THE ISSUES, I DON'T HAVE ANY REASON TO BELIEVE THAT
5 THE STAFF ARE ANYTHING BUT AS A GROUP HONORABLE LAW
6 ENFORCEMENT, WELL-TRAINED LAW ENFORCEMENT OFFICERS. WE HAD THE
7 SAME THING. IT'S THE LAW OF BIG NUMBERS. IN THE CALIFORNIA
8 DEPARTMENT OF CORRECTIONS, IF WE HAVE ONE-HALF OF 1% OF OUR
9 STAFF ARE DOING THINGS THEY SHOULDN'T BE DOING, WELL, THAT'S
10 150 OFFICERS WE HAVE TO BE CAREFUL ABOUT. THAT'S WAY TOO MANY.
11 I THINK THE SAME IS TRUE IN L.A. WHICH, REALLY, AS I'VE LOOKED
12 OVER THESE ISSUES, THE BIGGEST CONCERNS I HAVE HAD HAVE BEEN
13 MAKING SURE THERE IS SUFFICIENT STAFFING OF THE ORGANIZATIONS
14 AND SUFFICIENT INDEPENDENCE TO DO THEIR JOB. YOU'VE GOT A
15 GREAT GROUP OF ALL STARS THAT ARE WORKING DOWN HERE. IT'S JUST
16 A MATTER OF WHETHER THEY HAVE EVERYTHING THEY NEED TO BE
17 SUCCESSFUL, IN MY VIEW.

18

19 **MR. ALEXANDER BUSANSKY:** THANK YOU.

20

21 **CHIEF JIM MCDONNELL:** THANK YOU FOR JOINING US TODAY. YOU HAVE
22 FAIRLY UNIQUE INSIGHT AND BACKGROUND AND EXPERIENCE BETWEEN
23 BEING A PROSECUTOR, BEING AN IG AND NOW SECRETARY OF CDCR. IN
24 LOOKING AT THE ISSUES THAT WE'RE ADDRESSING HERE AS A
25 COMMISSION, OTHER THAN THE THINGS YOU HAVE ALREADY TOUCHED ON,

1 ARE THERE THINGS THAT YOU WOULD LIKE TO SEE THAT WE MAKE SURE
2 WE ADDRESS IN OUR REPORT TO SATISFACTORILY TAKE CARE OF THE
3 BUSINESS THAT WE'VE BEEN TASKED WITH?

4
5 **MATTHEW CATE:** I READ SHERIFF BACA'S SIX-MONTH STATUS UPDATE ON
6 HIS JAIL REFORMS. I AGREE HE IS MAKING GREAT STRIDES IN THAT
7 RESPECT. I WOULD ENCOURAGE HIM TO CONTINUE TO GO DOWN THAT
8 ROAD, WHICH I'M SURE HE WILL. I THINK IT'S PROBABLY WORTHWHILE
9 TO LOOK AT TRAINING ON THESE ISSUES OF CODE OF SILENCE AND ON
10 ISSUES OF HONESTY. IN THE EIGHT HOURS THAT WE SPEND -- I'LL
11 GIVE YOU AN EXAMPLE. WE NOT ONLY HAVE KIND OF THE REGULAR
12 TEACHING, BUT WE ALSO HAVE SOME INTERACTION WITH THE CLASS.
13 WE'LL DO VIDEO VIGNETTES, LIKE FROM, IT'S A LITTLE SILLY BUT
14 SOME THAT FROM THE MOVIE ABOUT GUANTANAMO BAY WITH KEVIN
15 BACON, ALL THOSE GUYS "YOU CAN'T HANDLE THE TRUTH!" REMEMBER
16 THAT MOVIE? SO WE TALK ABOUT THAT BECAUSE IT'S AN INSTANCE
17 WHERE YOU HAVE A GROUP OF GREAT PEOPLE DOING HEROIC WORK WHO
18 FIND THEMSELVES IN A SITUATION WHERE IT'S REALLY HARD TO TELL
19 THE TRUTH. THAT'S AN ISSUE THAT OFFICERS HAVE TO -- IN ANY
20 PROFESSION, YOU HAVE TO DECIDE AHEAD OF TIME WHAT YOU ARE
21 GOING TO DO IN THOSE CIRCUMSTANCES. BECAUSE IF YOU ARE TRYING
22 TO MAKE THAT DECISION, AT THE TIME I THINK IT'S VERY DIFFICULT
23 TO -- ESPECIALLY IF SOMEBODY ELSE IS ALREADY GOING DOWN A ROAD
24 OF SAYING THIS DIDN'T HAPPEN, IT'S REALLY HARD TO TRY TO MAKE
25 UP YOUR MIND RIGHT THEN TO GO THE OTHER DIRECTION. YOU GOT TO

1 DECIDE WAY IN ADVANCE. AND SO I WOULD JUST EMPHASIZE THE
2 TRAINING ASPECTS SO THAT OFFICERS FEEL IT'S FAIR. SO THEY
3 DON'T FEEL LIKE THEY'RE, YOU KNOW, A SUSPECT AS A GROUP OF
4 PEOPLE. BECAUSE MY EXPERIENCE HAS BEEN PEACE OFFICERS ARE AN
5 EXEMPLARY GROUP OF PEOPLE AS A WHOLE. AND THEN I WORRY ABOUT
6 STAFFING AT THE JAILS, WHICH YOU BROUGHT UP. THERE'S GOT TO BE
7 ENOUGH MONEY TO DO THIS. AND THEN I DON'T KNOW ENOUGH ABOUT
8 MIKE GENNACO'S SYSTEM TODAY, OR MERRICK BOBB'S SYSTEM TODAY,
9 TO KNOW WHETHER THEY HAVE SUFFICIENT INDEPENDENCE TO KNOW
10 WHETHER THEY HAVE MANDATORY PUBLIC REPORTING, TO KNOW WHETHER
11 THEY HAVE A MATRIX THAT MAKES SENSE. I'D LEAVE THAT TO THE
12 COMMISSIONERS AND TO THE INDIVIDUALS WHO ARE MAKING THESE
13 DECISIONS. BUT ALL THOSE ARE IMPORTANT FACTORS TO CONSIDER.

14

15 **CHIEF JIM MCDONNELL:** THANK YOU VERY MUCH.

16

17 **HON. LOURDES BAIRD, CHAIR:** REV. MURRAY.

18

19 **REV. CECIL L. MURRAY:** DID YOU SAY THAT, IN YOUR OPINION,
20 UNDERSHERIFF TANAKA RECEIVES AN "A" RATING?

21

22 **MATTHEW CATE:** I DON'T KNOW. I'VE OBVIOUSLY MET UNDERSHERIFF
23 TANAKA AND WE'VE HAD SOCIAL CONVERSATIONS. I DON'T KNOW HIM OR
24 HIS EFFECTIVENESS AND SO -- AND I'VE ONLY SEEN PARTS OF THE
25 TESTIMONY, SO I WOULDN'T VENTURE TO GIVE A PROFESSIONAL

1 OPINION ABOUT THE UNDERSHERIFF.

2

3 **REV. CECIL L. MURRAY:** THANK YOU.

4

5 **HON. LOURDES BAIRD, CHAIR:** ANY OTHER QUESTIONS? I THINK WE
6 ARE FINISHED. AND THANK YOU VERY MUCH --

7

8 **SPEAKER:** CAN I ASK YOU ONE QUESTION? I WANT A CLARIFICATION
9 OF SOMETHING REVEREND MURRAY MENTIONED. I THINK WHEN YOU WERE
10 TALKING ABOUT THE "A" RATING, YOU WERE TALKING ABOUT MICHAEL
11 GENNACO AND NOT THE UNDERSHERIFF TANAKA.

12

13 **REV. CECIL L. MURRAY:** OH, I SEE. THANK YOU.

14

15 **MATTHEW CATE:** BECAUSE WE WORKED IN THE SAME FIELD FOR SO LONG
16 AND MR. GENNACO WAS A MENTOR OF MINE, I KNOW HIS WORK MUCH
17 BETTER THAN I WOULD MR. TANAKA, WHO I JUST KNOW SOCIALLY A
18 LITTLE BIT.

19

20 **SPEAKER:** THE SOUND SYSTEM IS NOT REAL GOOD. AND SO, GENNACO
21 SOUND LIKE TANAKA AND TANAKA SOUNDS LIKE GENNACO.

22

23 **HON. LOURDES BAIRD, CHAIR:** DIFFERENT PERSONS. THANK YOU VERY,
24 VERY MUCH, SECRETARY CATE. WE APPRECIATE THE TIME YOU TOOK AND
25 THE INFORMATION YOU HAVE GIVEN US. THANK YOU AGAIN.

1

2 **MATTHEW CATE:** IT WAS MY PLEASURE. THANK YOU TO THE COMMISSION.
3 I WISH YOU THE BEST OF LUCK.

4

5 **HON. LOURDES BAIRD, CHAIR:** ALL RIGHT. WE HAVE OUR NEXT
6 WITNESS. WHO IS JEFFREY SCHWARTZ AND A USE OF FORCE EXPERT.
7 WELCOME, MR. SCHWARTZ, IT'S A PLEASURE TO HAVE YOU. WE HAVE
8 BEEN PROVIDED WITH ONE OF YOUR REVIEWS. THAT WAS ON --.

9

10 **JEFFREY SCHWARTZ:** I'M SORRY, I'M HAVING TROUBLE HEARING YOU.

11

12 **HON. LOURDES BAIRD, CHAIR:** I WANT TO WELCOME YOU AND WE HAVE
13 HAD SOME DISTRIBUTION OF YOUR REPORT ON, I BELIEVE IT WAS THE
14 RAMIREZ VS. BACA CASE, WHICH WAS VERY INTERESTING. SO WE ARE
15 GOING TO TURN IT OVER TO MS. KRINSKY, WHO IS GOING TO DO THE -
16 - MS. KRINSKY, WHO IS GOING TO DO THE DIRECT EXAMINATION AND
17 IT WILL BE OPENED TO QUESTIONS FROM THE COMMISSION.

18

19 **JEFFREY SCHWARTZ:** THANK YOU.

20

21 **MIRIAM A. KRINSKY:** GOOD AFTERNOON MR. SCHWARTZ. THANK YOU FOR
22 JOINING US. YOU CURRENTLY HAVE A CONSULTING -- YOU DO
23 CONSULTING WORK IN REGARD TO PRISONS, POLICE AND CORRECTIONS
24 AGENCIES IN THE U.S. AND ABROAD; IS THAT CORRECT?

25

1 **JEFFREY SCHWARTZ:** YES, THAT'S RIGHT.

2

3 **MIRIAM A. KRINSKY:** AND HOW LONG HAVE YOU BEEN DOING THAT KIND
4 OF WORK?

5

6 **JEFFREY SCHWARTZ:** OVER 30 YEARS.

7

8 **MIRIAM A. KRINSKY:** DO YOU ALSO HAVE A Ph.D. IN RESEARCH AROUND
9 EXPERIMENTAL PSYCHOLOGY?

10

11 **JEFFREY SCHWARTZ:** YES, I DO.

12

13 **MIRIAM A. KRINSKY:** CAN YOU DESCRIBE THE AREAS OF FOCUS THAT
14 YOU DO?

15

16 **JEFFREY SCHWARTZ:** I HAVE DONE A GREAT DEAL OF WORK ON CONFLICT
17 RESOLUTION AND CRISIS INTERVENTION. I HAVE DONE A GREAT DEAL
18 OF WORK ON USE OF FORCE, PARTICULARLY WITH REGARD TO POLICIES
19 AND REVIEW PROCEDURES. I'VE DONE A LOT OF WORK ON EMERGENCY
20 PREPAREDNESS, SPECIFICALLY FOR JAILS AND PRISONS. SOME WORK ON
21 -- A SUBSTANTIAL AMOUNT OF WORK OVER THE YEARS ON MANAGEMENT
22 AND SUPERVISORY TRAINING FOR POLICE AND CORRECTIONAL AGENCIES.
23 I HAVE PROBABLY BEEN CALLED ON TO DO MORE CRITICAL INCIDENT
24 REVIEWS, ALSO REFERRED TO AS "AFTER ACTION REVIEWS" THAN
25 ANYBODY IN THE COUNTRY AFTER MAJOR CRISES, EMERGENCIES OR

1 NATURAL DISASTERS IN PRISONS AND JAILS. THAT KIND OF -- AND I
2 CURRENTLY AM DOING A LOT MORE EXPERT WITNESS WORK THAN I DID
3 EARLIER IN MY CAREER.

4

5 **MIRIAM A. KRINSKY:** CAN YOU TELL US HOW MANY STATES AND
6 CORRECTIONS SYSTEMS HAVE YOU WORKED IN?

7

8 **JEFFREY SCHWARTZ:** I HAVE PROBABLY WORKED DIRECTLY -- I HAVE
9 WORKED FOR OVER THREE-FOURTHS OF THE STATE DEPARTMENTS; 40-
10 SOME. I'M NOT SURE. I HAD -- THE TRAINING WE HAVE DONE FROM
11 ALL 50 STATE DEPARTMENTS OF CORRECTION AND A NUMBER OF LARGE,
12 MEDIUM-SIZE AND SMALL JAILS AS WELL.

13

14 **MIRIAM A. KRINSKY:** YOU MENTIONED LARGE JAILS. WHAT PROPORTION
15 OF THE LARGE OR METROPOLITAN JAILS IN THE NATION DO YOU
16 BELIEVE YOU HAVE HAD THE OPPORTUNITY TO WORK FOR OR WORK WITH?

17

18 **JEFFREY SCHWARTZ:** A SUBSTANTIAL PORTION. I DON'T -- IT WOULD
19 DEPEND HOW YOU DEFINE IT. I CAN'T -- I CAN TELL YOU, I HAVE
20 WORKED WITH COOK COUNTY, NEW YORK CITY, BALTIMORE JAILS,
21 PHILADELPHIA JAILS, NEW ORLEANS JAILS, LOS ANGELES, SANTA
22 CLARA COUNTY WHERE I LIVE, SHELBY COUNTY IN TENNESSEE. THE
23 MILWAUKEE SHERIFF'S OFFICE. THAT'S GETTING TO NOT QUITE SO
24 LARGE JAILS, BUT I DON'T KNOW WHAT PROPORTION THAT IS.

25

1 **MIRIAM A. KRINSKY:** HAVE YOU ALSO BEEN BROUGHT IN TO TURN
2 AROUND JAILS AND CORRECTIONS SYSTEMS EXPERIENCING PROBLEMS IN
3 VIOLENCE, USE OF FORCE, CODES OF SILENCE?

4

5 **JEFFREY SCHWARTZ:** YES, I HAVE.

6

7 **MIRIAM A. KRINSKY:** AROUND HOW MANY TIMES DO YOU THINK YOU HAVE
8 PLAYED THAT ROLE IN SORT OF BEING A CHANGE AGENT OR DOING
9 TURN-AROUND WORK?

10

11 **JEFFREY SCHWARTZ:** PROBABLY FOUR-SIX TIMES WHERE THAT'S BEEN
12 THE PRIMARY FOCUS OF MY WORK.

13

14 **MIRIAM A. KRINSKY:** IN THOSE INSTANCES, WHO WAS IT -- WHAT
15 ENTITY -- BROUGHT YOU IN?

16

17 **JEFFREY SCHWARTZ:** TYPICALLY, THE STATE OR COUNTY THAT WAS
18 HAVING A MAJOR PROBLEM, SOMETIMES USING THE NATIONAL INSTITUTE
19 OF CORRECTIONS TO INITIALLY FUND THE WORK.

20

21 **MIRIAM A. KRINSKY:** YOU MENTIONED SHELBY COUNTY, MEMPHIS WAS
22 ONE OF THE PLACES YOU WERE WORKING. WAS THAT A PARTICULARLY
23 TROUBLED JAIL SYSTEM THAT BROUGHT YOU INTO THE SYSTEM WITH
24 THEIR TURN-AROUND WORK?

25

1 **JEFFREY SCHWARTZ:** YES. I STARTED THERE IN 2000. THE JAIL,
2 SHELBY COUNTY, MEMPHIS HAD JUST BEEN FOUND IN CONTEMPT OF A
3 20-YEAR STANDING CONSENT DECREE. THEY HAD BEEN FOUND IN
4 CONTEMPT ON ALL FIVE MAJOR PROVISIONS OF THE CONSENT DECREE.
5 THE JAIL WAS CLEARLY ONE -- IT WAS VIOLENT, UNDER GANG
6 CONTROL, FILTHY, ALMOST ANY MEASURE THAT YOU WOULD TAKE TO
7 LOOK AT JAIL EFFECTIVENESS OR MANAGEMENT, THAT JAIL WAS IN
8 TERRIBLE SHAPE IN 2000 WHEN I BEGAN.

9

10 **MIRIAM A. KRINSKY:** AND WHAT IS THE STATE OF THE MEMPHIS JAILS
11 TODAY?

12

13 **JEFFREY SCHWARTZ:** I AM VERY PLEASED TO SAY WITHIN -- I LAST
14 WORKED THERE, WHICH WAS PROBABLY 2005- 2006, IT HAD TURNED
15 INTO ONE OF THE BEST CITY JAILS IN THE UNITED STATES AND I
16 HAVE BEEN IN SOME TOUCH WITH THEM. FROM WHAT I KNOW, IT IS
17 TODAY STILL BY SIMILAR, WELL ACCEPTED MEASURES, ONE OF THE
18 BEST BIG CITY JAILS IN THE COUNTRY.

19

20 **MIRIAM A. KRINSKY:** IN TERMS OF MEASURES OVER THE COURSE OF
21 YOUR WORK THERE, WAS THERE A DRAMATIC REDUCTION IN INCIDENTS
22 OF USE OF FORCE?

23

24 **JEFFREY SCHWARTZ:** YES, VERY LARGE REDUCTION.

25

1 **MIRIAM A. KRINSKY:** OVER THE COURSE OF YOUR WORK, HAVE YOU ALSO
2 HAD THE OPPORTUNITY TO SEE, NOT SIMPLY TROUBLED JAILS, BUT
3 ALSO THOSE YOU WOULD VIEW AS MORE PROGRESSIVE AND WELL-
4 FUNCTIONING JAILS?

5

6 **JEFFREY SCHWARTZ:** I HAVE.

7

8 **MIRIAM A. KRINSKY:** AND DID COMMISSION STAFF, MYSELF AND
9 OTHERS, ASK YOU TO IDENTIFY WHAT SOME OF THOSE JAILS WERE AND
10 WHO SOME OF THE BEST JAIL LEADERS IN THE NATION WERE?

11

12 **JEFFREY SCHWARTZ:** YES, YOU AND OTHER PEOPLE ON THE STAFF DID
13 ASK ME AND I DID MAKE SOME RECOMMENDATIONS, INCLUDING SHELBY
14 COUNTY AND THE PERSON WHO WAS RUNNING THE SHELBY COUNTY JAIL
15 SYSTEM. THE JAIL IN BOISE, IDAHO, SHERIFF GARY RAINY IN CHARGE
16 OF THAT JAIL AND A FEW OTHER PEOPLE.

17

18 **MIRIAM A. KRINSKY:** WHY DID YOU IDENTIFY SHERIFF RAINY -- THAT
19 YOU ENCOURAGED US TO SPEAK WITH?

20

21 **JEFFREY SCHWARTZ:** IT IS THE BEST JAIL THAT I HAVE SEEN IN SOME
22 30 YEARS. I DON'T KNOW IF IT'S BEST IN THE COUNTRY. IT MUST BE
23 ONE OF THE BEST. IT'S ABOUT A 1,200 BED FACILITY. SHERIFF
24 RAINY IS, FROM EVERYTHING I HAVE SEEN AND I HAVE DONE SOME
25 WORK THERE ON TWO OCCASIONS, A -- AN EXCEPTIONAL AND

1 EXTRAORDINARY LEADER. HE IS NATIONALLY RECOGNIZED. HE'S DONE
2 CONSULTING HELPING OTHER SHERIFFS WITH JAIL PROBLEMS AND
3 TURNING AROUND JAILS. HE IS ONE OF TWO SHERIFFS IN THE COUNTRY
4 TO THE SERVE ON THE NATIONAL INSTITUTE OF CORRECTIONS ADVISORY
5 BOARD.

6

7 **MIRIAM A. KRINSKY:** NOW, MR. SCHWARTZ, HAVE YOU ALSO PUBLISHED
8 ARTICLES THAT DEAL GENERALLY WITH CORRECTIONS ISSUES?

9

10 **JEFFREY SCHWARTZ:** YES, I HAVE PUBLISHED ON PSYCHOLOGY RESEARCH
11 ISSUES, POLICE ISSUES AND CORRECTIONS ISSUES. I PUBLISHED
12 QUITE A BIT IN CORRECTIONS.

13

14 **MIRIAM A. KRINSKY:** HOW ABOUT IN REGARD TO USE OF FORCE ISSUES
15 HAVE YOU PUBLISHED ARTICLES OR WRITTEN ANY PUBLICATIONS IN
16 REGARD TO USE OF FORCE?

17

18 **JEFFREY SCHWARTZ:** YES, I HAVE. IN THE LAST THREE OR FOUR
19 YEARS, I PUBLISHED FIVE ARTICLES, SPECIFICALLY ON USE OF FORCE
20 IN CORRECTIONAL FACILITIES.

21

22 **MIRIAM A. KRINSKY:** HAVE YOU SERVED AS AN EXPERT WITNESS? I
23 KNOW THAT IS SOMETHING YOU DO AS WELL IN CIVIL LAWSUITS
24 INVOLVING JAILS IN PRISONS?

25

1 **JEFFREY SCHWARTZ:** YES, I HAVE.

2

3 **MIRIAM A. KRINSKY:** CAN YOU ESTIMATE HOW MANY TIMES YOU SERVED
4 AS AN EXPERT IN THAT CAPACITY?

5

6 **JEFFREY SCHWARTZ:** I BELIEVE IN 50-60 CASES.

7

8 **MIRIAM A. KRINSKY:** HAVE YOU TESTIFIED FOR BOTH PLAINTIFFS AS
9 WELL AS DEFENDANTS, INCLUDING JAILS AND CORRECTION SYSTEMS?

10

11 **JEFFREY SCHWARTZ:** YES, I HAVE.

12

13 **MIRIAM A. KRINSKY:** HAVE YOU DONE THIS WORK IN REGARD TO
14 CALIFORNIA JAILS AND CALIFORNIA LITIGATION?

15

16 **JEFFREY SCHWARTZ:** ON SOME OCCASIONS, MOST OF MY WORK HAS BEEN
17 OUT OF CALIFORNIA, BUT ON SOME OCCASIONS, IN CALIFORNIA YES.

18

19 **MIRIAM A. KRINSKY:** NOW, I'D LIKE TO BRING YOUR ATTENTION FROM
20 THE MACRO DOWN TO LOS ANGELES.

21

22 **JEFFREY SCHWARTZ:** SURE.

23

24 **MIRIAM A. KRINSKY:** WERE YOU, LAST YEAR, ASKED TO DO WORK FOR
25 THE LOS ANGELES SHERIFF'S DEPARTMENT?

1

2 **JEFFREY SCHWARTZ:** YES, BEGINNING IN THE FALL LAST YEAR, 2011.

3 **MIRIAM A. KRINSKY:** WHO WAS IT THAT ASKED YOU TO DO WORK FOR
4 THE SHERIFF'S DEPARTMENT?

5

6 **JEFFREY SCHWARTZ:** SHERIFF BACA

7

8 **MIRIAM A. KRINSKY:** DID YOU MEET WITH SHERIFF BACA FOR THE WORK
9 HE WANTED YOU TO DO?

10

11 **JEFFREY SCHWARTZ:** YES, I DID.

12

13 **MIRIAM A. KRINSKY:** DID YOU MEET WITH HIM MORE THAN ONCE?

14

15 **JEFFREY SCHWARTZ:** I MET WITH HIM TWICE TO DO THAT WORK.

16

17 **MIRIAM A. KRINSKY:** WHY DID YOU DO THAT?

18

19 **JEFFREY SCHWARTZ:** SHERIFF BACA -- I GUESS I WILL ANSWER IN
20 REVERSE ORDER, THE SHERIFF TALKED ABOUT THE AMOUNT OF
21 ATTENTION THE DEPARTMENT WAS GETTING ON USE OF FORCE ISSUES
22 AND HE KNEW THAT I HAD DONE A LOT OF WORK ELSEWHERE REVAMPING
23 OR RE-WRITING USE OF FORCE POLICIES, DEVELOPING TRAINING AND
24 DEVELOPING REVIEW AND INVESTIGATIVE PROCEDURES. HE ASKED ME TO
25 DO THAT KIND OF WORK HERE AND TO REWRITE THE USE OF FORCE

1 POLICY, AND THEN IF WE HAD A MEETING OF MINDS ABOUT THE DRAFT,
2 WE USE THE USE OF FORCE POLICY TO TRAIN A CADRE OF LASD
3 TRAINING STAFF, DIRECT IT TO LASD AND EVENTUALLY THEREBY
4 TRAINING ALL OF THE STAFF, MUCH AS MATT CATE TALKED ABOUT THE
5 USE OF POLICIES, PRACTICES AND PROCEDURES.

6

7 **MIRIAM A. KRINSKY:** IS THAT WORK STILL ONGOING?

8

9 **JEFFREY SCHWARTZ:** NO, IT ISN'T.

10

11 **MIRIAM A. KRINSKY:** WHOSE DECISION WAS IT TO END THAT WORK?

12

13 **JEFFREY SCHWARTZ:** IT WAS MINE.

14

15 **MIRIAM A. KRINSKY:** WHY DID YOU DECIDE NOT TO CONTINUE THAT
16 WORK?

17

18 **JEFFREY SCHWARTZ:** IT WAS NOT PROCEEDING CONSTRUCTIVELY. IT HAD
19 GOTTEN WHERE WE HAD PRODUCED A DRAFT OF A NEW USE OF FORCE
20 POLICY. THERE WERE SERIOUS PROBLEMS WITH PROCEEDING IN THE WAY
21 IN WHICH WE HAD AGREED AND THE PROPOSAL WE HAD TURNED IN TO
22 THE COMMITTEE THAT WAS APPROVED. THERE WAS A SUBSTANTIAL
23 AMOUNT OF RESISTANCE BELOW THE LEVEL OF SHERIFF BACA. THERE
24 WERE DRAMATICLY CONFLICTING REACTIONS TO THE DRAFT USE OF
25 FORCE POLICY AND COMMUNICATION PROBLEMS AND IT GOT TO WHERE I

1 WROTE TO THE SHERIFF AND SAID THAT THIS IS THE FAIL-SAFE POINT
2 WE AGREED TO. THERE REALLY ISN'T A MEETING OF THE MINDS. WE
3 DON'T THINK IT'S WISE TO CONTINUE AND WE WISH YOU THE BEST.

4

5 **MIRIAM A. KRINSKY:** YOU MENTIONED INCONSISTENT RESPONSIBILITIES
6 AND COMMUNICATION PROBLEMS. CAN YOU GIVE US AN EXAMPLE OF WHAT
7 YOU MEAN BY THAT? WHAT YOU ENCOUNTERED IN THAT REGARD?

8

9 **JEFFREY SCHWARTZ:** WELL, IN TERMS THAT'S VERY SPECIFIC AND IT'S
10 TWO ISSUES...IN TERMS OF INCONSISTENT RESPONSES, WHEN WE --
11 WHEN I SENT IN A SECOND DRAFT OF THE USE OF FORCE POLICY WHICH
12 WE SHOULD HAVE THEN MET ON AND DISCUSSED IN TERMS OF WHAT WAS
13 CURRENTLY IN PLACE, THE FIRST REACTION AFTER STAFF IN THE
14 DEPARTMENT HAD HAD A CHANCE TO READ THAT DRAFT, WAS ONE OF THE
15 ADMINISTRATORS CALLING SOMEBODY AT COMMANDER LEVEL AND SAYING,
16 THAT'S GREAT, ALMOST EVERYTHING THAT YOU'VE GOT IN THAT, WE
17 WANTED TO ADOPT, BUT WE WANT TO KEEP THE CURRENT FORMAT OF THE
18 USE OF FORCE POLICY. AND THEN THE NEXT DAY SOMEBODY ELSE
19 CALLED ME, ALSO COMMANDER LEVEL AND SAID, WELL, EVERYTHING
20 THAT YOU GOT IN THERE, WE ALREADY HAVE IN THE POLICY. NEITHER
21 OF THOSE REACTIONS, IN MY OPINION, WERE TERRIBLY SENSIBLE. AND
22 IT WAS FRUSTRATING, IT WASN'T MOVING ANYWHERE.

23

24 **MIRIAM A. KRINSKY:** CAN I ASK YOU FOR A CLARIFICATION? WHO WAS
25 THE POINT PERSON YOU WERE SUPPOSED TO DEAL WITH THAT SHERIFF

1 BACA TOLD YOU TO INTERACT WITH?

2

3 **JEFFREY SCHWARTZ:** INITIALLY, THERE WASN'T ONE. PARTWAY THROUGH
4 THE WORK, COMMANDER PIETRATONI, HE WAS HELPFUL BRINGING THE
5 WAY. AS FAR AS THE COMMUNICATION ISSUES, IT GOT TO WHERE
6 BEFORE WE STOPPED THE WORK I SENT THE SHERIFF AN E-MAIL SAYING
7 THIS PROJECT IS, WE'RE HAVING SERIOUS TROUBLE WITH THIS
8 PROJECT. I REALLY NEED TO SPEAK TO YOU RATHER THAN ONE OF YOUR
9 SUBORDINATES. I DIDN'T GET AN ANSWER FROM THE SHERIFF, BUT
10 ABOUT A DAY-AND-A-HALF LATER, ONE OF HIS SUBORDINATES CALLED
11 AND SAID, WHY ARE YOU SENDING NEGATIVE STUFF TO THE SHERIFF.

12

13 **MIRIAM A. KRINSKY:** WHO WOULD THAT HAVE BEEN?

14

15 **JEFFREY SCHWARTZ:** IT WAS ONE OF THE PEOPLE ON THE COMMANDER'S
16 TASK FORCE.

17

18 **MIRIAM A. KRINSKY::** DID THERE SEEM TO BE A MESSAGE TO YOU THAT
19 NEGATIVE INFORMATION SHOULD GO TO SOMEBODY OTHER THAN THE
20 SHERIFF?

21

22 **JEFFREY SCHWARTZ:** I'M NOT SURE IF THAT WAS THE MOTIVATION FOR
23 THE CALL. I JUST DON'T KNOW. IT WASN'T GOING ANYWHERE. WE
24 COULDN'T -- I HAD BEEN IMPRESSED WITH THE SHERIFF WITH HIS
25 VALUES, AND WHAT HE WANTED TO DO. I CONTINUE TO FEEL THAT WAY.

1 WE COULDN'T REACH HIM AND IT WAS GOING NOWHERE AND THERE WAS
2 LOTS OF OBVIOUS RESISTASNCE.

3

4 **MIRIAM A. KRINSKY:** DID YOU TALK TO THE SHERIFFS ABOUT YOUR
5 TALKING TO THE COMMISSION AND TESTIFYING BEFORE US TODAY?

6

7 **JEFFREY SCHWARTZ:** YES. I HAD HEARD SECOND-HAND THAT THE
8 SHERIFF HAD SAID THAT THAT WAS FINE AND HE HAD BEEN VERY OPEN
9 WITH ME ABOUT SAYING, GO AHEAD AND TALK WITH ANY OF THE
10 COMMISSION OR COMMISSION STAFF THAT WANT TO TALK WITH YOU.
11 TALK OPENLY. BUT THEN THE QUESTION BECAME...SHOULD I SHARE
12 WORK PRODUCT OR SOMETHING OF THAT SORT? SECONDHAND I HEARD THE
13 SHERIFF HAD SAID THAT WAS FINE. I SENT HIM AN E-MAIL SAYING
14 I'D BE MORE COMFORTABLE IF YOU'D LET ME KNOW DIRECTLY. HE SENT
15 ME A GRACIOUS E-MAIL SAYING, ANYTHING THE COMMISSION IS
16 INTERESTED IN, COOPERATE FULLY. SO YES, HE APPROVED THAT.

17

18 **MIRIAM A. KRINSKY:** AS PART OF THIS WORK THAT YOU DID FOR THE
19 SHERIFF'S DEPARTMENT, DID YOU HAVE AN OPPORTUNITY TO LOOK AT
20 SHERIFF DEPARTMENT'S POLICIES AND PROTOCOLS?

21

22 **JEFFREY SCHWARTZ:** ON USE OF FORCE IN DETAIL.

23

24 **MIRIAM A. KRINSKY:** DID YOU LOOK AT THE PROCESS FOR
25 INVESTIGATION AND DISCIPLINE REGARDING USE OF FORCE?

1

2 **JEFFREY SCHWARTZ:** YES. THE INVESTIGATION AND REVIEW PROCEDURE
3 IN MUCH MORE DETAIL THAN THE DISCIPLINARY PROCESS.

4

5 **MIRIAM A. KRINSKY:** DID YOU TOUR THE DOWNTOWN JAIL FACILITY?

6

7 **JEFFREY SCHWARTZ:** I DID.

8

9 **MIRIAM A. KRINSKY:** I BELIEVE YOU INDICATED YOU SPOKE TO
10 VARIOUS MEMBERS OF THE MANAGEMENT TASK FORCE. DID YOU SPEAK
11 WITH OTHER CUSTODY SUPERVISORS?

12

13 **JEFFREY SCHWARTZ:** YES, AS I TOURED ITS JAILS, IN PARTICULAR, I
14 TALKED TO PEOPLE FROM FIRST LINE SUPERVISORS THROUGH CAPTAIN
15 TO COMMANDER LEVEL.

16

17 **MIRIAM A. KRINSKY:** I BELIEVE YOU INDICATED YOUR FOCUS WAS USE
18 OF FORCE POLICY AND PROCEDURES. DID YOU ALSO HAVE THE
19 OPPORTUNITY MORE BROADLY TO ASSESS CHALLENGES FACING THE
20 SHERIFF'S DEPARTMENT IN ITS CAPACITY IN THE RUNNING OF THE
21 JAILS AND THE GENERAL CONCERNS AROUND USE OF EXCESSIVE FORCE?

22

23 **JEFFREY SCHWARTZ:** YES, IN MY VIEW, YOU CAN'T LOOK AT USE OF
24 FORCE IN A VACUUM. IT EXISTS IN AN ORGANIZATION AND
25 ORGANIZATIONAL CULTURE AND UNLESS HAVE YOU SOME FEEL FOR THE

1 ATMOSPHERE, CALL IT WHAT YOU WILL, THE CLIMATE AND THE
2 INSTITUTIONS, WORK WITH STAFF, INMATES, IT'S GOING TO BE A
3 LOSING VENTURE. SO YES, I LOOKED MORE BROADLY, BUT MY FOCUS
4 WAS VERY CLEARLY WHAT MY MANDATE WAS, WHICH WAS USE OF FORCE
5 ISSUES.

6

7 **MIRIAM A. KRINSKY:** BEFORE THIS RECENT ENGAGEMENT, WERE YOU
8 ALSO INVOLVED IN LOOKING AT ISSUES INVOLVING LOS ANGELES
9 SHERIFF'S DEPARTMENTS' HANDLING OF USE OF FORCE INVESTIGATIONS
10 FOR CIVIL LAWSUITS WHERE YOU SERVED AS AN EXPERT WITNESS?

11

12 **JEFFREY SCHWARTZ:** YES.

13

14 **MIRIAM A. KRINSKY:** WERE THERE TWO ON THE PLAINTIFF'S SIDE AND
15 TWO ON THE DEFENSE SIDE?

16

17 **JEFFREY SCHWARTZ:** THAT'S ACCURATE.

18

19 **MIRIAM A. KRINSKY:** WAS ONE OF THOSE, AS JUDGE BAIRD MENTIONED,
20 THE RAMIREZ CELL EXTRACTION IN 2006?

21

22 **JEFFREY SCHWARTZ:** THAT'S CORRECT.

23

24 **MIRIAM A. KRINSKY:** DID THAT INVOLVE THE SERIAL CELL EXTRACTION
25 ON THE 3,000 FLOOR OF MEN'S CENTRAL JAIL?

1

2 **JEFFREY SCHWARTZ:** IT DID.

3

4 **MIRIAM A. KRINSKY:** DID YOU REVIEW WITNESS STATEMENTS, VIDEOS,
5 INTERVIEWS AND OTHER MATERIALS IN CONNECTION WITH THAT
6 INCIDENT?

7

8 **JEFFREY SCHWARTZ:** ALL OF THAT AND MORE.

9

10 **MIRIAM A. KRINSKY:** DID YOU FORM ANY CONCERNS ABOUT THE NATURE
11 OF THE FORCE OR THE NATURE OF THE DEPUTY CONDUCT IN THAT CASE?

12

13 **JEFFREY SCHWARTZ:** YES, IN PROBABLY THREE REGARDS. I WAS MOST
14 CONCERNED WITH THE AMOUNT AND LEVEL OF FORCE USED BEGINNING
15 WITH THE NEED FOR AN EXTRACTION OF EVERY INMATE IN THAT LIVING
16 UNIT. THE DISPARITY BETWEEN THE VERY SEVERE INJURIES THAT SOME
17 INMATES SUFFERED, INCLUDING AN INMATE WHO WAS, I BELIEVE,
18 FLATLINED AS HE WAS MEDEVAC'ED OUT OF THE SITUATION. AND THOSE
19 WERE CONTRASTED WITH THE DEPUTY REPORTS OF INMATES KICKING,
20 FIGHTING, PUNCHING. BUT NO STAFF. THEY'RE VERY SERIOUS INMATE
21 INJURIES, SOME OF THEM. NO STAFF INJURIES. AND SOME OF THAT
22 SITUATION DIDN'T ADD UP WELL.

23

24 **MIRIAM A. KRINSKY:** IN LOOKING AT VIDEOTAPES, DID YOU SEE
25 ANYTHING THAT SUGGESTED TO YOU THAT THERE MIGHT HAVE BEEN

1 GRATUITOUS USE OF FORCE?

2

3 **JEFFREY SCHWARTZ:** YES. THE VIDEOTAPE DIDN'T FOLLOW, LIKE IT
4 SHOULD HAVE, THE ACTUAL CELL EXTRACTIONS. THE VIDEOTAPE DID
5 SHOW, FOR EXAMPLE, AN INJURED INMATE BEING DRAGGED INTO A
6 TRIAGE AREA FACE-FIRST ON THE CONCRETE. THERE WERE THE SOUND
7 OF INMATES BEING TASERED AND YELLING AND SCREAMING IN PAIN
8 WITH STAFF SAYING STUFF, "STOP FIGHTING, STOP FIGHTING." SOME
9 OF THAT ALSO WAS OF REAL CONCERN WITH REGARD TO THE NEED FOR
10 THE AMOUNT OF FORCE THAT WAS USED.

11

12 **MIRIAM A. KRINSKY:** FROM WHAT YOU REVIEWED, DID YOU ALSO HAVE
13 CONCERNS THAT INMATES SEEMED FEARFUL TO REPORT WHAT HAD
14 HAPPENED TO THEM?

15

16 **JEFFREY SCHWARTZ:** YES. THE INMATES, TO A PERSON ON THE
17 VIDEOTAPE, EITHER SAID, "I'M NOT INJURED," AS ARE YOU LOOKING
18 AT A VIDEOTAPE SHOWING SOMEBODY WITH VERY SEVERE INJURIES ON
19 THE VIDEOTAPE OR, "I DON'T KNOW WHAT HAPPENED," OR "I HAVE
20 NOTHING TO SAY." IT WENT BEYOND JUST...I DON'T WANT TO TALK TO
21 STAFF. THEY'RE VERY FEARFUL. MR. RAMIREZ, WHO FILED THE
22 LAWSUIT, DIDN'T DO SO UNTIL HE HAD BEEN TRANSFERRED OUT OF
23 THAT FACILITY AND TESTIFIED THAT HE HAD BEEN TOLD IF HE SAID
24 ANYTHING WHILE HE WAS IN THE FACILITY, HE'D LEAVE THERE IN A
25 BODY BAG.

1

2 **MIRIAM A. KRINSKY:** YOU ALSO HAVE THE OPPORTUNITY TO LOOK AT
3 THE REPORTS AND ASSESS THE NATURE OF THE INVESTIGATION THAT
4 WAS DONE AND HOW THE REPORTING OF USE OF FORCE OCCURRED.

5

6 **JEFFREY SWARTZ:** THANK YOU. THOSE WERE THE OTHER TWO AREAS I
7 WAS MOST CONCERNED WITH.

8

9 **MIRIAM A. KRINSKY:** WHAT WERE THE NATURE OF YOUR CONCERNS?

10

11 **JEFFREY SCHWARTZ:** WITH REGARD TO REPORTING, THE -- I REACHED
12 THE CONCLUSION THAT A NUMBER OF DEPUTIES HAD PLAGUERIZED THEIR
13 REPORTS FROM OTHER DEPUTIES, RATHER THAN REFLECTING WHAT THAT
14 PARTICULAR DEPUTY SAW AND DID IN THAT PARTICULAR CELL
15 EXTRACTION. THERE WERE 16 OR 18 EXTRACTIONS. OTHER DEPUTIES
16 HAD WRITTEN SOMETHING ABOUT ONE INMATE AND THEN THE NEXT MAYBE
17 WITH SEVERAL OTHER INMATES, THEY USED THOSE SAME PARAGRAPHS
18 AGAIN VERBATIM. THEY WERE USING BOILERPLATE TO DESCRIBE WHAT
19 THE INMATE DID, WHY THEY USED FORCE, WHAT FORCE THEY USED. I
20 THOUGHT THAT THE REPORTS IN THOSE KIND OF IMPORTANT REGARDS
21 LACKED VERACITY. THAT WAS MY PROFESSIONAL OPINION. ONE STAFF
22 MEMBER WAS INVOLVED NEVER WROTE A REPORT AND THEN IF --

23

24 **MIRIAM A. KRINSKY:** WERE THERE CONCERNS AS WELL ABOUT THE
25 TIMELINESS AND COMPLETENESS OF THE REPORT PACKAGES?

1

2 **JEFFREY SCHWARTZ:** YES. MY POLICY WAS A LIEUTENANT WAS
3 RESPONSIBLE FOR PUTTING THE USE OF FORCE PACKAGE TOGETHER.
4 THAT DIDN'T -- IT WASN'T SUBMITTED UNTIL SIX MONTHS AFTER THE
5 INCIDENT, EVEN THOUGH THIS CERTAINLY WAS ONE OF THE WORST
6 CHARGES, AT LEAST, USE OF FORCE INCIDENTS OF THE YEAR FOR THE
7 DEPARTMENT AT ANY FACILITY. A HUGE, BIG HIGH PROFILE INCIDENT.
8 THEN AFTER SIX MONTHS, THE USE OF FORCE PACKAGE WAS TURNED IN.
9 IT WAS FROM 80-90% INCOMPLETE. THINGS MISSING, THINGS NOT
10 FILLED OUT. THAT ATTRACTED NO ONE'S NOTICE. PERHAPS IT NEVER
11 WENT TO ANY OF THE REVIEW GROUPS IN THE DEPARTMENT AND WAS
12 NEVER REVIEWED. SO IN SPITE OF IT BEING A RATHER HORRENDOUS
13 KIND OF AN INCIDENT.

14

15 **MIRIAM A. KRINSKY:** WERE YOU INVOLVED AS WELL AS AN EXPERT
16 WITNESS IN ASSESSING AN ALLEGED BEATING OF AN INMATE IN A
17 WHEELCHAIR AT THE INMATE RECEPTION CENTER ON OR ABOUT --
18 SOMETIME IN 2007?

19

20 **JEFFREY SCHWARTZ:** YES, I WAS.

21

22 **MIRIAM A. KRINSKY:** AND THAT CASE CONCLUDED IN A SETTLEMENT?

23

24 **JEFFREY SCHWARTZ:** THAT CASE DID SETTLE.

25

1 **MIRIAM A. KRINSKY:** DID YOU HAVE AN OPPORTUNITY IN YOUR ROLE IN
2 THAT CASE -- DID YOU HAVE SIMILAR CONCERNS IN REGARD TO THE
3 INVESTIGATIVE AND USE OF FORCE REVIEW PROCESS THAT WAS DONE?
4

5 **JEFFREY SCHWARTZ:** YES, I DID.
6

7 **MIRIAM A. KRINSKY:** MORE RECENTLY, HAVE YOU HAD THE OPPORTUNITY
8 TO REVIEW REPORTS THAT HAVE BEEN SUBMITTED TO OUR COMMISSION,
9 INCLUDING THOSE BY THE COMMANDER MANAGEMENT TASK FORCE PPOA,
10 CPOA, AS WELL AS ALADS?
11

12 **JEFFREY SCHWARTZ:** I HAVE READ, I THINK, ALL OF THOSE.
13

14 **MIRIAM A. KRINSKY:** HAVE YOU ALSO LISTENED TO PARTS OF THE
15 TESTIMONY -- LISTENED TO OR READ PARTS OF THE TESTIMONY BEFORE
16 THIS COMMISSION?
17

18 **JEFFREY SCHWARTZ:** I HAVE ONLY LISTENED TO THE TESTIMONY, PARTS
19 OF THE TESTIMONY, A GOOD BIT OF IT FROM LAST FRIDAY. BUT THE
20 OTHER DAYS WHEN YOU MET, I HAVE NOT LISTENED TO THAT
21 TESTIMONY.
22

23 **MIRIAM A. KRINSKY:** LET ME ASK YOU INITIALLY, YOU ARE AWARE OF
24 THE PRACTICE IN OUR SHERIFF'S DEPARTMENT OF ASSIGNING NEW
25 DEPUTIES AS A FIRST ASSIGNMENT TO OUR JAIL BEFORE THEY GO TO

1 PATROL, IS THAT CORRECT?

2

3 **JEFFREY SCHWARTZ:** YES.

4

5 **MIRIAM A. KRINSKY:** WE HEARD TESTIMONY THAT THAT CAN LAST AS
6 LONG AS SEVEN YEARS. DO YOU HAVE ANY VIEWS TO WHETHER THAT IS
7 AN EFFECTIVE PERSONNEL STAFFING APPROACH?

8

9 **JEFFREY SCHWARTZ:** YES, I HAVE VERY STRONG VIEWS ON THAT AND
10 THEY WOULD, TO SOME EXTENT, REFLECT WHAT THE TWO EARLIER
11 WITNESSES FROM NEW YORK CITY TESTIFIED TO, AS I LISTENED THIS
12 MORNING. IT IS -- THERE ARE ALTERNATIVES TO SHERIFF'S-RUN
13 JAILS WITH DEPUTIES FINISHING AN ACADEMY, THEN GOING TO A JAIL
14 AND WAITING FOR YEARS UNTIL THERE IS SPACE FOR THEM TO ROTATE
15 BY ATTRITION OR SOMETHING ELSE OUT TO PATROL ASSIGNMENTS.
16 THERE ARE OTHER MODELS. WHILE THAT IS A VERY COMMON MODEL,
17 IT'S THE WORST IMAGINABLE MODEL. IF YOU WERE TO PAY THE VERA
18 INSTITUTE OR ONE OF THE BIG CRIMINAL JUSTICE CONSULTING
19 GROUPS, LOTS AND LOTS OF MONEY TO DESIGN THE WORST POSSIBLE
20 MODEL FOR RUNNING A JAIL. I DON'T THINK THEY COULD DO AS WELL
21 WITH THIS MODEL. THAT'S NOT THE SHERIFF'S OFFICE, IT'S THE
22 ONLY PLACE THAT USES IT. IT'S QUITE COMMON.

23

24 **MIRIAM A. KRINSKY:** WHAT IS SO BAD ABOUT IT?

25

1 **JEFFREY SCHWARTZ:** IT'S A LOSE-LOSE-LOSE -- YOU CAN KEEP GOING.
2 YOU SEND FIRST HIRE PEOPLE WHO, IN MANY CASES HAVE DREAMED OF
3 BEING LAW ENFORCEMENT PEOPLE. FRANKLY, THEY SIGN ON TO BE
4 "STARSKY & HUTCH." THEY'RE ENTHUSED, PROFESSIONAL IDENTITY IS
5 LAW ENFORCEMENT, NOT CORRECTIONS. YOU THEN SEND THEM TO SIX
6 MONTHS OF TRAINING, PAY THEM FOR THAT, WHILE TRAINED TO BE
7 STREET LAW ENFORCEMENT PEOPLE. THEN YOU TAKE THEM AND SAY --
8 ALTHOUGH THEY KNOW IT GOING IN, THEY'RE HOPING IT ISN'T SO --
9 THEN YOU PUT THEM IN THE JAIL WHERE THEY HAD INADEQUATE
10 TRAINING TO RUN A CORRECTIONAL FACILITY. YOU KEEP THEM IN
11 THERE, THEY FORGOT THE SIX-MONTH TRAINING ON HOW TO GO TO THE
12 STREET. THEY PICK UP BAD HABITS IN THE JAIL AND THE BAD MORALE
13 AND BITTERNESS FROM THE OTHER DEPUTIES IN THE JAIL AND DON'T
14 WANT TO BE THERE AND WANT TO BE ANYWHERE ELSE: ADMIN, VICE,
15 DETECTIVES, PATROL, SOMETHING ELSE. THEN WHEN THEY'VE PICKED
16 UP BAD HABITS AND FORGETTEN THE TRAINING FOR THE STREET, THEN
17 YOU SEND THEM TO THE STREET AND WONDER WHY YOU HAVE TROUBLE
18 THERE. THE DEPARTMENT AND THE COMMUNITY LOSES EVERY END IN
19 THIS MODEL.

20

21 **MIRIAM A. KRINSKY:** WE'VE HEARD A CONTRARY PERSPECTIVE THAT
22 THERE IS A BENEFIT TO GIVING DEPUTIES THE EXPERIENCE TO HEAR
23 FROM AND LEARN FROM CRIMINALS IN JAIL. THAT THEY LEARN SKILLS
24 THAT CAN BE OF BENEFIT TO THEM WHEN THEY GET OUT ON THE STREET
25 AND PATROL. IN FACT ALADS THIS MORNING SAID THAT CUSTODY MAKES

1 FOR A BETTER PATROL OFFICER. WHAT ARE YOUR VIEWS ON THAT?

2

3 **JEFFREY SCHWARTZ:** SORRY. I HEARD THAT TESTIMONY THIS MORNING.
4 I THINK THAT THAT'S AN ARGUMENT THAT IS TRIVIAL OR ALMOST ON
5 THE VERGE OF BEING SILLY COMPARED WITH THE OTHER ISSUES THAT
6 ARE AT PLAY. CERTAINLY CHP AND LAPD DON'T FIND IT NECESSARY TO
7 PUT VERY YOUNG OFFICERS IN SOMEBODY'S JAIL TO LEARN THE
8 CRIMINAL MINDS. IF THERE IS A 20-YEAR-OLD FEMALE WHOSE FIRST
9 TIME ARRESTED IS FOR DUI AND HAS INJURED SOMEBODY IN A CRASH
10 AND IS IN JAIL, WHAT'S THAT 20-YEAR-OLD FEMALE FIRST OFFENDER
11 GOING TO TEACH A YOUNG DEPUTY ABOUT THE CONVICT CODE OF THE
12 CRIMINAL MIND? I THINK THAT'S REALLY PUSHING THE ENVELOPE.

13

14 **MIRIAM A. KRINSKY:** IN YOUR WORK, HAVE YOU SEEN CORRECTIONS
15 DEPARTMENTS THAT HAVE HAD TO ADDRESS CONCERNS WITH CODES OF
16 SILENCE AND CLIQUES?

17

18 **JEFFREY SCHWARTZ:** YES, I HAVE.

19

20 **MIRIAM A. KRINSKY:** AND BASED ON THE WORK YOU HAVE DONE IN
21 ASSISTING SYSTEMS AROUND, THOSE SORTS OF CONCERNS, WHAT DO YOU
22 BELIEVE ARE SOME OF THE BEST STRATEGIES TO COMBAT CODES OF
23 SILENCE OR CLIQUES?

24

25 **JEFFREY SCHWARTZ:** CLIQUES IS EASIER TO DEAL WITH AND THE

1 ROTATION POLICY HERE WITH AN APPROPRIATE RESPONSE AND WILL GET
2 SOME OF THE WAY THERE. WITH CODE OF SILENCE, IT'S VERY
3 DIFFICULT TO DEAL WITH, BUT IT CAN BE DEALT WITH. I'VE DEALT
4 WITH IT WITH AGENCIES THAT WERE STRUGGLING. AND IT CAN BE
5 TURNED AROUND AND IT BEGINS WITH LEADERSHIP, THE THREE KEY
6 ISSUES ARE GOING TO BE LEADERSHIP, ORGANIZATIONAL CULTURE AND
7 ACCOUNTABILITY AND IF THE LEADERSHIP -- NOT JUST IN THE LOS
8 ANGELES CASE, SHERIFF BACA, WHO I BELIEVE IS THERE, BUT IF THE
9 REST OF THE LEADERSHIP AND THE SUPERVISORS STAFF HAVE
10 ALIGNED WITH THE LEADER'S VALUES AND IF IT'S CRYSTAL CLEAR
11 THERE IS NO TOLERANCE FOR A CODE OF SILENCE, JUST AS MATT CATE
12 TESTIFIED FOR YOU, THE STAFF WILL KNOW THAT. BUT IF THERE IS
13 MANAGERS OR SUPERVISORS OR ADMINISTRATORS WHO SAY THE WRONG
14 THING, ALL IT TAKES IS FOR SOMEBODY TO GO INTO SOMEONE'S
15 OFFICE AND SAY...BOY, IF MY PEOPLE COULD GET ABOUT 15 MINUTES
16 IN A CELL WITH THAT INMATE, ALL IT TAKES IS FOR SOMEBODY TO
17 SMILE OR NOD OR EVEN SAY NOTHING AND THE MESSAGE IS CRYSTAL
18 CLEAR THAT YOU'VE GOT LICENSE TO GO DO THAT. SO IT'S AN AREA
19 WHERE THE VALUE HAS TO BE EXPRESSED. IT HAS TO BE COMPLETELY
20 CLEAR. IT HAS TO BE NO TOLERANCE AND WHEN THE CODE OF SILENCE
21 IS VIOLATED INTENTIONALLY, I THINK MATT CATE SAID IT BETTER
22 THAN I CAN, WHEN IT'S AN INTENTIONAL FALSE REPORT OR LYING TO
23 AN INVESTIGATOR, THERE ISN'T ANY ALTERNATIVE BUT TERMINATION.
24
25 **MIRIAM A. KRINSKY:** SO YOU TALKED ABOUT, AS DID SECRETARY CATE,

1 STRONG PUNISHMENT. HOW IMPORTANT THAT THERE BE PROMPT
2 PUNISHMENT OR RESOLUTION, DISCIPLINE IN REGARDS TO THIS SORT
3 OF FALSE STATEMENT, FALSE REPORTING BEHAVIOUR?
4

5 **JEFFREY SCHWARTZ:** IT'S ESSENTIAL. BECAUSE THE WHOLE DEPARTMENT
6 FOR A WHILE IS WATCHING OR AT LEAST A PORTION OF THE
7 DEPARTMENT. IF I DO SOMETHING WRONG, IF I WRITE A FALSE REPORT
8 OR COVER UP FOR A CO-WORKER AND IT TAKES 14 MONTHS BEFORE
9 ANYTHING HAPPENS, EVERYBODY HAS FORGOTTEN. BY THE TIME I
10 DISCIPLINE OR WHATEVER. NO ONE CONNECTS IT WITH THE INCIDENTS.
11 ALL THEY KNOW, I DID THAT, FOR NEXT YEAR OR SO THEY ALL
12 REMEMBER ME. WORK OUT CONSEQUENCES OR SANCTIONS. IT'S GOT TO
13 BE TIMELY.

14
15 **MIRIAM A. KRINSKY:** HOW IMPORTANT IS IT FOR THE ULTIMATE -
16 FINDING, AFTER IT RUNS ITS COURSE, ACTUALLY REFLECT THE
17 DISHONESTY OR FALSE STATEMENT IS THE BASIS FOR DISCIPLINE AS
18 OPPOSED TO SOME OTHER BASIS FOR DISCIPLINE?
19

20 **JEFFREY SCHWARTZ:** IF YOU HAVE ZERO TOLERANCE FOR THAT KIND OF
21 BEHAVIOR, FOR A CODE OF SILENCE FALSE TESTIMONY, FALSE
22 REPORTS, INTENTIONALLY, IF THAT'S THE CASE, THEN YOU CAN'T
23 PLEA BARGAIN THOSE DOWN TO CONDUCT UNBECOMING OR THIS OR THAT.
24 IT'S GOT TO BE THAT THAT WAS THE OFFENCE FOR WHICH YOU ARE
25 BEING SANCTIONED. OTHERWISE, THE WRONG MESSAGE GETS OUT AND,

1 BELIEVE ME, IT GETS OUT FAST, IT GETS TO EVERYONE.

2

3 **MIRIAM A. KRINSKY:** MR. SCHWARTZ, IF I CAN ASK YOU TO TURN TO
4 TAB 7 IN THE EXHIBIT NOTEBOOK, I'M SORRY --

5

6 **JEFFREY SCHWARTZ:** I HAVE THAT.

7

8 **MIRIAM A. KRINSKY:** SECRETARY CATE JUST TESTIFIED TO THE BOTTOM
9 PART OF THAT CHART, WHICH IS THE BASE OFFENCE LEVEL OF CDCR
10 FOR FALSE STATEMENTS, INTENTIONALLY MISLEADING STATEMENTS TO A
11 SUPERVISOR, FALSIFYING OR MAKING INTENTIONALLY FALSE REPORTS.
12 THE BASE PENALTY AT CDCR IS TERMINATION. YOU SEE ABOVE THAT
13 THE BASE PENALTIES AS A POINT OF COMPARISON FOR OUR SHERIFF'S
14 DEPARTMENT FOR THE SAME SORTS OF OFFENSES. FALSE STATEMENTS,
15 THE BASE OF TEN DAYS, KNOWINGLY GIVING UNTRUTHFUL STATEMENTS,
16 A BASE PENALTY IS 15 DAYS, FAILURE TO REPORT USE OF FORCE,
17 FAILURE TO REPORT A WITNESS FORCE, THE BASE PENALTY BEING FIVE
18 DAYS IN EACH OF THOSE. WHAT IS YOUR VIEW TO THE EFFICIACY OF
19 THE L.A. SHERIFF'S DEPARTMENT BASE PENALTIES AND DISCIPLINARY
20 RANGES FOR THOSE TYPES OF OFFENCES?

21

22 **JEFFREY SCHWARTZ:** THOSE ARE INADEQUATE AND THEY WILL NOT TURN
23 AROUND A DYSFUNCTIONAL ORGANIZATIONAL CULTURE, WITH REGARD TO
24 A CODE OF SILENCE, THAT THAT IS DEEPLY EMBEDDED.

25

1 **MIRIAM A. KRINSKY:** I CAN NOW ASK YOU AND COMMISSIONERS AS WELL
2 TO TURN TO TAB 9 IN THE EXHIBIT NOTEBOOK. COMMISSIONERS, THESE
3 ARE TWO CASES THAT YOU HAVE HEARD ABOUT OVER THE COURSE OF THE
4 TESTIMONY. THE FIRST CASE IN EXHIBIT 9 IS TESTIMONY THAT YOU
5 HAVE HEARD THAT CAME FROM CAPTAIN MIKE BORNMAN. CAPTAIN
6 BORNMAN TALKED ABOUT THE INCIDENT, YOU MAY RECALL, AT THE BJ
7 BREWERY WHERE HE DESCRIBED, THE LACK OF DEPUTY CANDOR. THE
8 FIRST THING YOU SEE THERE IS THE FINDINGS BY THE INTERNAL
9 AFFAIRS BUREAU, IAB, TO ONE OF THE DEPUTIES THAT THAT
10 INDIVIDUAL LIED ABOUT EVENTS AND INVOLVEMENT IN THE FIGHT. YOU
11 MAY REMEMBER, CAPTAIN BORNMAN EXPRESSED HIS CONCERNS AS WELL.
12 YOU CAN SEE HE RECOUNTED THAT THERE WAS A LETTER OF INTENT
13 THAT REFERENCES THE MANUAL SECTION FOR MAKING FALSE AND
14 MISLEADING STATEMENTS. BUT ULTIMATELY, AS IS REFLECTED THERE,
15 THE LETTER THAT IMPOSED DISCIPLINE RENDERED THAT DISCIPLINE
16 SOLELY UNDER THE SECTION FOR UNPROFESSIONAL OR DISORDERLY
17 CONDUCT AND IMPOSED TEN DAYS, FIVE DAYS HELD IN ADVANCE. THAT
18 CASE TOOK AROUND TWO YEARS TO RESOLVE, AS YOU CAN SEE, AND
19 WHILE THAT CASE WAS STILL IN THE SYSTEM, THIS SAME INDIVIDUAL,
20 WHO'S REFERENCED HERE, WAS INVOLVED IN ANOTHER INCIDENT THAT
21 CAPTAIN BORNMAN TESTIFIED TO, NAMELY, THE INCIDENT INVOLVING
22 THE BEATING OF THE INMATE THAT WAS VIDEOTAPED NEAR THE MINI
23 MODULE. YOU HEARD CAPTAIN BORNMAN SAY IT WAS CAPTURED ON
24 VIDEOTAPE, THAT THE INMATE WAS ON THE GROUND, THAT HE WAS
25 STOMPED ON THE BACK. THIS SAME DEPUTY, DURING THIS TWO-YEAR

1 PERIOD, WHEN THIS INCIDENT WAS PENDING, WAS INVOLVED IN THAT
2 INCIDENT AND ULTIMATELY WAS TERMINATED. YOU CAN SEE THE SECOND
3 INCIDENT THAT'S RECOUNTED THERE, IT'S ONE THAT SERGEANT AL
4 GONZALEZ TESTIFIED TO. YOU MAY RECALL THAT SERGEANT GONZALEZ
5 TESTIFIED THAT THERE WAS A BEATING THAT ANOTHER ONE OF HIS
6 COLLEAGUES, SERGEANT VANDERHOEK HAD OBSERVED. HE TOLD SERGEANT
7 GONZALEZ ABOUT IT OR SERGEANT GONZALEZ SAW HIM, SAW SOMETHING
8 HAD HAPPENED. HE RECOUNTED, SERGEANT VANDERHOEK, THAT HE HAD
9 SEEN A DEPUTY BEATING AN INMATE WHO WAS RESISTING AND A SECOND
10 DEPUTY WAS STANDING BY OBSERVING. YOU MAY RECALL THAT SERGEANT
11 GONZALEZ SAID THE TWO DEPUTIES WERE -- WENT OUTSIDE TO CONFER,
12 WERE LATER ASKED TO EXPLAIN TO THE TWO SERGEANTS WHAT HAD
13 HAPPENED AND THAT THE WITNESS DEPUTY PROVIDED AN ACCOUNT THAT
14 WAS TOTALLY OPPOSITE FROM -- OPPOSITE FROM WHAT THE SERGEANT WHO
15 HAD SEEN THE EVENT OBSERVED. OFFICER GONZALEZ INDICATED HE
16 THOUGHT THAT DEPUTY, WHO PROVIDED THE FALSE ACCOUNT, RECEIVED
17 A TEN-DAY SUSPENSION. THIS INCIDENT IS RECOUNTED IN AN OIR
18 REPORT. AND THEY READ IT AS THE WITNESSING DEPUTIES HAVING
19 BEEN SUSPENDED FOR FAILING TO TELL THE TRUTH ABOUT THE
20 INCIDENT. WHEN WE ASKED TO SEE THE UNDERLYING DOCUMENT THAT
21 WAS FOUND, THE DISCIPLINE IMPOSED WAS ACTUALLY FIVE DAYS'
22 SUSPENSION AND, ONCE AGAIN, THE FINAL IMPOSITION LETTER WAS
23 BASED NOT ON FALSE STATEMENTS, BUT ON FAILING TO OBEY LAWS,
24 REGS AND ORDERS WITH NO REFERENCE MADE TO DISHONESTY FOR FALSE
25 STATEMENTS PROVISION. MR. SCHWARTZ, GIVEN THE INCIDENTS THAT

1 I'VE JUST RECOUNTED, ARE YOU -- DO YOU HAVE AN OPINION AND ARE
2 YOU CONCERNED AT ALL BY THIS KIND OF HANDLING OF TWO INCIDENTS
3 THAT WE'VE HEARD ABOUT OVER THE COURSE OF TESTIMONY?

4

5 **JEFFREY SCHWARTZ:** YES. FOR THE REASONS THAT I'VE SAID, I THINK
6 THAT THEY ARE NOT TIMELY ENOUGH TO BE EFFECTIVE. THAT THE
7 SANCTIONS, THE SANCTIONS NEED TO BE TERMINATION. BECAUSE YOU
8 CAN'T RELY ON THOSE DEPUTIES IN FURTHER INCIDENTS AND ONE OF
9 THEM, IN FACT IS IN ANOTHER BEATING INCIDENTS FOR WHICH A
10 DEPUTY IS TERMINATED WHILE THEY'RE WAITING TO COMPLETE THE
11 INVESTIGATION. AND IT DOESN'T MAKE GOOD SENSE TO CHANGE THE
12 OFFENSE FOR WHICH YOU ARE IMPOSING A SANCTION TO SOMETHING
13 OTHER THAN HAVING PROVIDED FALSE REPORTS OR FALSE TESTIMONY.

14

15 **MIRIAM A. KRINSKY:** YOU CAN SEE IN THE FINAL PART OF THIS
16 EXHIBIT THAT OUR COMMISSION ASKED FOR ALL RECORDS OF CASES
17 INVOLVING DISCIPLINE OVER THE PAST FIVE YEARS FOR DISHONESTY,
18 FALSE STATEMENTS AND/OR FILING FALSE REPORTS IN REGARD TO USE
19 OF FORCE. WE WERE TOLD BY THE SHERIFF'S DEPARTMENT THAT OVER A
20 FIVE-YEAR PERIOD, THERE WERE ONLY TWO SUCH CASES. IS THAT
21 SOMETHING THAT IS SURPRISING TO YOU OR CONCERNING TO YOU?

22

23 **JEFFREY SCHWARTZ:** IT IS BOTH. IT IS VERY SURPRISING AND OF
24 CONCERN.

25

1 **MIRIAM A. KRINSKY:** WHY WOULD IT BE A CONCERN?

2

3 **JEFFREY SCHWARTZ:** WITH THOUSANDS OF DEPUTIES WORKING IN
4 CUSTODY HERE IN LOS ANGELES TO ONLY HAVE TWO CASES
5 INVESTIGATED OF FALSE STATEMENTS WHEN MATT CATE TESTIFIED I
6 THINK IN 2011 THEY HAD OVER 100 CASES NOT INVESTIGATED BUT
7 RESULTING IN AN INITIAL CHARGE OF FALSE TESTIMONY, GRANTED
8 THEY ARE FIVE OR SIX TIMES LARGER THAN THE CUSTODY FORCE OF
9 L.A., BUT THE L.A. SHERIFF'S OFFICE DEPARTMENT -- IN A SMALLER
10 JAIL THAT WAS REALLY WELL MANAGED, TWO CASES OF THIS SORT IN
11 FIVE YEARS WOULD BE -- IT WOULD GET YOUR ATTENTION BUT MYSELF
12 POSSIBLE. BUT THE SIZE OF THIS AGENCY AND NO ONE IS
13 SUGGESTING, THAT IN THE TESTIMONY IN FRONT OF THIS COMMISSION,
14 THAT THE DEPUTIES ARE QUITE THAT ANGELIC. THIS DOESN'T MAKE
15 SENSE.

16

17 **MIRIAM A. KRINSKY:** IN THAT CASE, THERE WERE TWO CASES
18 DISCIPLINED, THERE MAY HAVE BEEN MORE INVESTIGATED.

19

20 **JEFFREY SCHWARTZ:** THANK YOU.

21

22 **MIRIAM A. KRINSKY:** YOU HEARD THE TESTIMONY THIS MORNING FROM
23 THE ALADS ORGANIZATION. HAVE YOU INDICATED -- YOU ALSO HAD THE
24 OPPORTUNITY TO READ THE ALADS' REPORT THIS COMMISSION HAS
25 RECEIVED?

1

2 **JEFFREY SCHWARTZ:** I DID.

3

4 **MIRIAM A. KRINSKY:** DID YOU HAVE ANY CONCERNS OR OPINIONS BASED
5 ON BOTH THE TESTIMONY YOU HEARD THIS MORNING AS WELL AS THE
6 REPORT YOU READ?

7

8 **JEFFREY SCHWARTZ:** YES CAN, I THINK THERE ARE A NUMBER OF
9 SERIOUS ISSUES. I START OUT WHEN I READ THE REPORT, I FOUND A
10 NUMBER OF SPECIFIC SUGGESTIONS WERE REASONABLE, I THOUGHT MADE
11 GOOD SENSE. I DON'T KNOW ALL THE DETAILS BUT IT CERTAINLY
12 LOOKED LIKE THEY SHOULD BE EXPLORED AND MIGHT BE PRODUCTIVE.
13 HOWEVER, I THINK THE REPORT WAS COMPROMISED BY A LACK OF
14 OBJECTIVITY, BY AN ANTI-INMATE ATTITUDE THAT PERMEATED AND TO
15 SOME EXTENT BY AN ANTI- ADMINISTRATION ATTITUDE THAT REFLECTED
16 SOMETHING OTHER THAN THE LEVEL OF PROFESSIONALISM THAT YOU
17 WOULD HOPE TO SEE.

18

19 **MIRIAM A. KRINSKY:** WHAT DOES THE TESTIMONY THIS MORNING
20 REFLECT TO YOU IN TERMS OF WHETHER THERE HAS BEEN A MEETING OF
21 THE MINDS WITH THE SHERIFF IN REGARD TO HIS PHILOSOPHY AND
22 VIEW OF HOW THE JAILS SHOULD BE RUN?

23

24 **JEFFREY SCHWARTZ:** I THINK IT'S CLEAR THERE IS NOT A MEETING OF
25 THE MINDS AND THE SPECIFIC STEPS THE SHERIFF HAS TAKEN AT

1 LEAST SOME OF THE IMPORTANT STEPS TO START TO DEAL WITH THE
2 USE OF FORCE ISSUES ARE OPPOSED BY ALADS. THE -- WHAT WAS MOST
3 SURPRISING TO ME WAS, SPECIFICALLY, THE SUGGESTION THAT GOOD
4 TIME AND WORK TIME NOT BE GIVEN BY COURTS, THAT THE DEPARTMENT
5 WORK WITH THE COURTS TO STOP THE GRANTING OF GOOD TIME FOR
6 WORK TIME TO INMATES BECAUSE THAT'S A SUGGESTION THAT FLIES IN
7 THE FACE OF OFFICER SAFETY. GOOD TIME AND WORK TIME BEING TWO
8 OF THE MOST IMPORTANT MANAGEMENT TOOLS FOR GETTING MORE
9 REASONABLE BEHAVIOR FROM INMATES. SO, TO SUGGEST THE SACRIFICE
10 THAT IF THEY CAN JUST DO THEIR WHOLE TIME, THEIR WHOLE
11 SENTENCE, IT SEEMS TO BE ON ITS FACE AGAINST THE INTERESTS OF
12 THE MEMBERSHIP AND THERE ARE OTHER REFLECTIONS OF AN ATTITUDE
13 THAT THE ONLY WAY DEPUTIES WILL BE SAFE IS IF THE INMATES ARE
14 AFRAID OF THEM. YOU HAVE HEARD TESTIMONY THIS MORNING THAT
15 IT'S MORE IF YOU RUN JAILS AND PRISONS WITH, TO SOME EXTENT,
16 WITH THE CONSENT OF THE -- THE BEST FACILITIES DON'T RUN OUT
17 OF FEAR. THEY RUN BECAUSE THERE ARE GOOD -- THERE IS GOOD
18 COMMUNICATION AND THE ATMOSPHERE IS REASONABLE AND CONFLICTS
19 ARE RESOLVED ALMOST ALL THE TIME WITHOUT FORCE, NOT BECAUSE
20 FORCE HAS GONE TO SO QUICKLY THAT EVERYONE IS FEARFUL. EVEN
21 THE MOTTO THEY HEARD IN THE JAIL, AND THE MOTTO IS THROUGH
22 STRENGTH IS A REFLECTION OF -- IT'S CODE FOR, IF THEY AREN'T
23 AFRAID OF US, WE'RE IN BIG TROUBLE.

24

25 **MIRIAM A. KRINSKY:** LET ME TURN TO THE WORK THAT YOU DID ON THE

1 USE OF FORCE POLICIES HERE IN LOS ANGELES. OVER THE COURSE OF
2 YOUR WORK, YOU HAD -- I BELIEVE YOU INDICATED THE OPPORTUNITY
3 TO EXAMINE THE CURRENT USE OF FORCE POLICIES AS WELL AS
4 PROCEDURES. CORRECT?

5

6 **JEFFREY SCHWARTZ:** YES.

7

8 **MIRIAM A. KRINSKY:** DID YOU HAVE A VIEW -- DO YOU HAVE A VIEW
9 TO THE ADEQUACY OF OUR L.A. SHERIFF'S DEPARTMENT USE OF FORCE
10 POLICIES?

11

12 **JEFFREY SCHWARTZ:** I DO.

13

14 **MIRIAM A. KRINSKY:** AND WHAT IS THAT VIEW?

15

16 **JEFFREY SCHWARTZ:** IT'S -- IT IS NOT WELL DONE. THERE ARE QUITE
17 SERIOUS PROBLEMS WITH THE CURRENT POLICY. I WENT THROUGH IT
18 IN GREAT DETAIL. I HAVE WORKED WITH THEM A LOT. IT'S NOT AN
19 APPROPRIATE BASE TO TRY TO BUILD A CHANGE IN WHAT HAS BEEN
20 GOING ON WITH USE OF FORCE. FIRST IT'S NOT. THERE IS NO ONE
21 USE OF FORCE POLICY.

22

23 **MIRIAM A. KRINSKY:** WHEN YOU SAY THAT, WHAT DO YOU MEAN?

24

25 **JEFFREY SCHWARTZ:** THE USE OF FORCE POLICIES EXISTS IN THE

1 OPERATION MANUAL IN DIFFERENT PLACES. THE CHAPTER 3, CHAPTER
2 5, DIFFERENT PLACES THERE. IT ALSO EXISTS IN DRAFTS THAT MAY
3 OR MAY NOT BE APPROVED. IT EXISTS IN SOME MANAGEMENT TRAINING
4 MATERIALS, THAT I DON'T THINK ARE POLICY. SOME PEOPLE THINK
5 THEY ARE. IT EXISTS IN MEMOS. SO THERE ISN'T ONE. IN MOST
6 POLICE AND CORRECTIONAL AGENCIES THERE IS A DOCUMENT, WHICH IS
7 A USE OF FORCE POLICY. YOU CAN GIVE IT TO A DEPUTY AND SAY
8 THIS IS LIKELY TO BE THE MOST IMPORTANT POLICY IN THIS
9 DEPARTMENT. THAT'S NOT HERE. IT'S SCATTERED. THERE IS NO
10 AGREEMENT OF WHAT IT IS. THAT'S THE SCOPE OF USE OF FORCE
11 POLICIES HERE.

12

13 **MIRIAM A. KRINSKY:** DOES THAT CREATE CHALLENGES IN TERMS OF
14 ACCOUNTABILITY?

15

16 **JEFFREY SCHWARTZ:** THERE ARE OTHER DEEP-SEEDED POLICIES. THERE
17 ARE MANY ISSUES THAT SHOULD BE COVERED BY USE OF FORCE
18 POLICIES THAT ARE NOT. I WILL GIVE YOU EXAMPLES OF WHAT YOU
19 WANT.

20

21 **MIRIAM A. KRINSKY:** SO WHAT'S MISSING FROM THE POLICY?

22

23 **JEFFREY SCHWARTZ:** THERE IS NO DIFFERENCE BETWEEN THERAPEUTIC
24 RESTRAINTS AND SECURITY RESTRAINTS. THERE IS NO PROHIBITION
25 ABOUT CORPORAL PUNISHMENT, NOTHING AGAINST RETALIATION,

1 AGAINST PROVOKING AN INMATE TO THE POINT WHERE STAFF IS THEN
2 JUSTIFIED AGAINST THREATENING AN INMATE SO THE INMATE WON'T
3 GRIEVE OR SUE OR OTHERWISE COMPLAIN. THEIR -- IT'S HOW
4 RESTRAINTS ARE HANDLED. I COULD GIVE 20 OR 30 EXAMPLES OF
5 THINGS WHICH I BELIEVE ARE IMPORTANT TO HAVE IN A CORRECTIONS
6 FACILITY, CORRECTIONAL AGENCY, A USE OF FORCE POLICIES THAT
7 AREN'T HERE.

8

9 **MIRIAM A. KRINSKY:** DID YOU HAVE CONCERNS ABOUT THE NATURE OF
10 THE REVIEW PROCESS AND THE REVIEW PROCEDURE?

11

12 **JEFFREY SCHWARTZ:** THAT'S ANOTHER ONE OF THE MOST FUNDAMENTAL
13 PROBLEMS. THE REVIEW PROCESS IS NOT WHAT MATT CATE DEFINED AS
14 REDUNDANT, MEANING THERE ARE CHECKS OF POLICIES. WHAT I FOUND
15 IN THE POLICY IS CURRENTLY QUITE CONSISTENT WITH WHAT I SAW
16 WHEN I EXAMINED ITS RAMIREZ CASE AND LOOKED NOT SO MUCH AT
17 POLICY BUT THE PRACTICE THAT WAS EXPOSED IN THAT CASE. THERE
18 ARE OVERLAPPING GROUPS IN INDIVIDUALS. IT ISN'T CLEAR WHO IS
19 GOING TO INVESTIGATE WHAT. SOME OF THE RESPONSIBILITIES ARE AT
20 THE WRONG LEVEL. A SERGEANT. THE SERGEANT WHO MAY BE
21 SUPERVISING THE DEPUTIES INVOLVED IN THE USE OF FORCE IS ALSO
22 THE SERGEANT WHO MAY DECIDE TO MAKE A RECOMMENDATION THERE IS
23 NO FURTHER ACTION NEEDED AND THAT THE CASE SHOULD BE CLEARED
24 OR STOPPED. THAT'S THE WRONG LEVEL FOR THAT TO HAPPEN,
25 OBVIOUSLY. THAT'S THE WRONG SERGEANT TO DO THAT. BECAUSE THAT

1 PERSON FIRST, IF THOSE DEPUTIES ARE FOUND TO HAVE DONE
2 SOMETHING SERIOUSLY WRONG IT REFLECTS ON THAT SERGEANT. THOSE
3 ARE HIS OR HER PEOPLE. SECOND, HE OR SHE MAY BE CLOSE WITH THE
4 PEOPLE, WHICH IS WHY THEY ASK THE LIEUTENANT TO DO AN
5 INTERVIEW WITH A SUSPECT OR VICTIM INJURED. THEY DON'T WANT
6 THAT SERGEANT DOING IT. FOR THE SAME REASON, THE SERGEANT
7 SHOULDN'T BE RECOMMENDING THE CASE BE CLOSED OR LOOKING INTO
8 THE VALIDITY OF THE COMPLAINT OR LOOKING INTO WHETHER A USE OF
9 FORCE OCCURRED.

10

11 **MIRIAM A. KRINSKY:** DID YOU ALSO HAVE CONCERNS ABOUT THE WAY IN
12 WHICH THE POLICIES CATEGORIZED AND SUBDIVIDED TYPES OF USE OF
13 FORCE?

14

15 **JEFFREY SCHWARTZ:** YES. IN MY OPINION, A GOOD USE OF FORCE
16 POLICY, AT A FUNDAMENTAL LEVEL, WILL MAKE ONE DISTINCTION
17 BETWEEN REACTIVE USE OF FORCE AND PLANNED USES OF FORCE. IN
18 THE CASE OF THE POLICY HERE, THERE ARE MULTIPLE DIFFERENT
19 CATEGORIES OF FORCE. THEY AREN'T CONSISTENT. THEY OVERLAP AND
20 ARE INCONSISTENT. SO YOU HAVE DIRECTED FORCE, EMERGENCY FORCE,
21 AND RESCUE FORCE. INTERVENTION FORCE. CATEGORY 1, CATEGORY 2
22 AND CATEGORY 3 FORCE. REPORTABLE FORCE. AND I'M LEAVING A FEW
23 OUT.

24

25 **MIRIAM A. KRINSKY:** IS THE REPORT ALSO BASED IN PART ON

1 CLASSIFICATIONS TETHERED TO INMATE BEHAVIOR?

2

3 **JEFFREY SCHWARTZ:** YES, THERE ARE FOUR CATEGORIES OF INMATE
4 BEHAVIOR, STARTING WITH COOPERATIVE UP THROUGH LIFE-
5 THREATENING, AND THOSE ARE USED IN A MATRIX TO DETERMINE WHICH
6 LEVELS OF FORCE ARE ACCEPTABLE.

7

8 **MIRIAM A. KRINSKY:** AND WHAT'S WRONG WITH THAT?

9

10 **JEFFREY SCHWARTZ:** IT SOUNDS GOOD ON PAPER, IT'S THEORETICALLY
11 APPEALING AND MAYBE THEORETICALLY, IT LOOKS LIKE IT WILL BE OF
12 HELP. BUT THE REALITY OF FORCE SITUATIONS ARE THEY ARE
13 CHAOTIC, VERY FAST OCCURRING AND FAST CHANGING. SO AN INMATE
14 MAY GO FROM COOPERATIVE TO AGGRESSIVE, RESISTIVE, TO SOMETHING
15 ELSE AND BACK TO PASSIVELY RESISTIVE IN 15 SECONDS. ALL A
16 DEPUTY CAN DO IS LOOK AT WHAT THE INMATE IS DOING AND TRY TO
17 MAKE A REASONABLE RESPONSE. THEY CAN'T TRY TO FIX THEIR
18 POSITION IN A FANCY MATRIX. IT BECOMES SOMETHING THAT YOU HAVE
19 TO THEN TRY TO MOLD THE FACTS TO FIT THE POLICY. IF I CAN USE
20 A BRITISH RECENT EXPRESSION, THE -- YOU DO THAT WHEN YOU WRITE
21 YOUR REPORT TO MAKE IT APPEAR YOU FOLLOWED THAT. IT WASN'T
22 YOUR REAL DECISION- MAKING. POLICIES SHOULD BE REALISTIC.
23 MUCH OF, THERE ARE A NUMBER OF PROVISIONS IN THE CURRENT LASD
24 POLICY THAT AREN'T FOLLOWED BY ANYBODY AND EVERYBODY KNOWS
25 THEY'RE NOT FOLLOWED. AND THERE IS NO --

1

2 **MIRIAM A. KRINSKY:** WAS THAT BASED ON WHAT YOU SAW IN THE CASES
3 THAT YOU WORKED ON?

4

5 **JEFFREY SCHWARTZ:** YES, I SAW IT THERE. I SAW IT CURRENTLY WHEN
6 I WAS REVIEWING POLICY AND PRACTICE.

7

8 **MIRIAM A. KRINSKY:** LET ME ASK YOU IF I COULD, TO TURN TO TAB
9 14 IN THE NOTEBOOK.

10

11 **JEFFREY SCHWARTZ:** I HAVE IT.

12

13 **MIRIAM A. KRINSKY:** THAT'S BEEN TESTIFIED TO AS WELL, THIS
14 MORNING, THE SO-CALLED FORCE PREVENTION POLICY. YOU ARE
15 FAMILIAR WITH THIS POLICY?

16

17 **JEFFREY SCHWARTZ:** I AM.

18

19 **MIRIAM A. KRINSKY:** WE HEARD TESTIMONY THIS MORNING FROM MR.
20 HORN THAT THESE PRINCIPLES - FORCE IS A LAST RESORT, USE THAT
21 FORCE THAT IS REASONABLY NECESSARY WHEN IT'S NECESSARY, USE
22 THE MINIMUM AMOUNT NEEDED TO CONTROL THE SITUATION -- WE HEARD
23 HIM DESCRIBE THESE AS VERY FUNDAMENTAL PRINCIPLES. IS IT
24 CONCERNING THAT LOS ANGELES ONLY RECENTLY PUT IN PLACE THESE
25 KIND OF FUNDAMENTAL PRINCIPLES IN ITS FORCE POLICY?

1

2 **JEFFREY SCHWARTZ:** YES, IT IS.

3

4 **MIRIAM A. KRINSKY:** WHY IS THAT?

5

6 **JEFFREY SCHWARTZ:** I THINK MR. HORN TESTIFIED, THEY'RE
7 FUNDAMENTAL ACTIONS. MANY AGENCIES HAVE SOMETHING MORE ON
8 PREVENTING USE OF FORCE. AGAIN, TO NOT BE THEORETICAL WITH YOU
9 ALL, SPECIFICALLY, A POLICY PROVISION THAT SAYS TIME AND
10 CIRCUMSTANCES ALLOWING, AT LEAST TWO ATTEMPTS WILL BE MADE TO
11 RESOLVE THE SITUATION WITHOUT THE USE OF FORCE. THAT'S A
12 COMMON PROVISION. THAT'S VERY SPECIFIC. IT'S VERY HELPFUL. SO
13 THIS, TO ADD NOTHING ON PREVENTING FORCE OR AVOIDING FORCE.
14 IT'S ACTUALLY QUITE UNUSUAL. AND I AM SURPRISED THIS WAS SO
15 RECENT.

16

17 **MIRIAM A. KRINSKY:** LET ME ASK YOU TO LOOK AT SOME FORCE
18 FIGURES THAT HAVE BEEN SUMMARIZED BASED ON DATA RECEIVED FROM
19 THE DEPARTMENT, AT TAB 11.

20

21 **JEFFREY SCHWARTZ:** I HAVE THAT.

22

23 **MIRIAM A. KRINSKY:** SO YOU SEE IN NO. 2 ON THAT PAGE, NO. 1
24 SIMPLY RECOUNTS TOTAL NUMBER OF FORCED INCIDENTS AND WHERE
25 THOSE FORCED INCIDENTS WERE TAKING PLACE, SORT OF WHICH

1 FACILITIES WERE THE MOST COMMON PLACES WHERE WE SEE THE FORCE
2 INCIDENTS TAKING PLACE. WE SEE IN NO. 2 A CLEAR MAJORITY OF
3 FORCE INCIDENTS. THERE WAS SOME DISCUSSION ABOUT THAT THIS
4 MORNING. OUR SIGNIFICANT USE OF FORCE AS OPPOSED TO LESS
5 SIGNIFICANT, THAT 65% OF THE INCIDENTS FROM 2007 THROUGH 2011
6 INVOLVE SIGNIFICANT FORCE AND THAT THAT RATIO HAS BEEN RISING
7 OVER THE YEARS, THAT IT WAS 55% IN 2007, IT WAS 72% IN 2011.
8 DO YOU PERCEIVE THAT TO BE A PROBLEM?

9

10 **JEFFREY SCHWARTZ:** I BELIEVE IT'S A PROBLEM. IT'S
11 EXTRAORDINARY. AGAIN, I THINK THERE WAS SOME MENTION OF THIS
12 IN EARLIER TESTIMONY, BUT MOST USES OF FORCE ARE MINOR AND
13 THEN OCCASIONALLY, THERE IS SOMETHING THAT'S QUITE SERIOUS.
14 BUT TO HAVE MOST OF YOUR USES OF FORCE BE VERY SERIOUS IT
15 DOESN'T MAKE GOOD SENSE. IT'S HIGHLY UNUSUAL. ONE POSSIBLE
16 EXPLANATION FOR THE MOST RECENT DECREASES WOULD BE THAT THE
17 ATTENTION, NOT ONLY FROM THIS COMMISSION BUT THE GENERAL
18 ATTENTION ON USE OF FORCE THAT THE DEPARTMENT HAS RECEIVED,
19 HAS MEANT THAT A LOT OF DISCRETIONARY SITUATIONS THAT MIGHT
20 HAVE GOTTEN TO MINOR USES OF FORCE HAVE BEEN HANDLED WITHOUT.
21 THERE ARE ALSO QUESTIONS AS MARTIN HORN TESTIFIED TO AND I
22 THINK MICHAEL TESTIFIED TO, THAT THERE IS SOME QUESTION ABOUT
23 THE VALIDITY OF THE REPORTING AND WHAT IS BEING REPORTED. THAT
24 I CAN'T ANSWER.

25

1 **MIRIAM A. KRINSKY:** WE ALSO SEE IN NO. 3, INMATE ASSAULTIVE
2 BEHAVIOR PLAYED A ROLE IN UNDER HALF OF THE FORCE INCIDENTS IN
3 2011. HOW MUCH OF A CONCERN IS THAT? ESPECIALLY WHEN ONE
4 COMBINES IT WITH THE FACT THAT IN THAT SAME YEAR, 72% OF THE
5 FORCE INCIDENTS INVOLVE SIGNIFICANT FORCE?
6

7 **JEFFREY SCHWARTZ:** WELL, IN MOST CORRECTIONAL FACILITIES, THE
8 MOST COMMON SINGLE USE OF FORCE IS A CELL EXTRACTION
9 SITUATION. SO TO HAVE THE SIGNIFICANT USES OF FORCE AT THIS
10 FIGURE RAISES A QUESTION ABOUT WHETHER -- WHAT ARE THE OTHERS?
11 WHAT IS IT THAT'S LEADING TO SIGNIFICANT USES OF FORCE WHERE
12 AN INMATE HAS NOT ATTACKED ANOTHER INMATE OR STAFF? WHY HAS IT
13 GOTTEN THAT BAD? IF THERE IS NO ASSAULT INVOLVED, AREN'T WE
14 DOWN IN THE COOPERATIVE OR PASSIVE RESISTANCE AREA? YES, IS
15 THIS WOULD -- I THINK THIS WOULD JUSTIFY A LOT MORE LOOKING AT
16 THE DATA HERE TO GIVE YOU SOME OF THE ANSWERS, BUT YOU ARE
17 RAISING THE SAME QUESTIONS I WOULD HAVE.
18

19 **MIRIAM A. KRINSKY:** WE ALSO SEE ON THE NEXT PAGE, NUMBERS 4 AND
20 5, THAT NON-DIRECTED AND UNSUPERVISED FORCE ACCOUNT FOR THE
21 VAST MAJORITY OF CASES. THAT OVER THE PAST FOUR YEARS, NEARLY
22 THREE-QUARTERS OF THE FORCE INCIDENTS OCCURRED WITHOUT A
23 SUPERVISOR PRESENT AND NEARLY ALL OF THE FORCE INCIDENTS WERE
24 NON-DIRECTED. WHAT DO YOU MAKE OF THAT?
25

1 **JEFFREY SCHWARTZ:** I DON'T LIKE THE DEFINITION OF NON-DIRECTED
2 VS. DIRECTED.

3

4 **MIRIAM A. KRINSKY:** I SHOULD HAVE ASKED YOU WHAT IS NON-
5 DIRECTED FORCE VERSUS DIRECTED FORCE?

6

7 **JEFFREY SCHWARTZ:** DIRECTED FORCE IS WHERE A SUPERVISOR HAS
8 BEEN PRESENT AND DIRECTED, IF YOU WILL, OR SUPERVISED THE
9 ACTUAL USE OF FORCE. NON-DIRECTED IS THE OPPOSITE. IT'S THE
10 REVERSE WAY THAT I AM USED TO SEEING THOSE SITUATIONS DEFINED.
11 IT'S THE SITUATION THAT ALLOWS FOR GETTING A SUPERVISOR THAT
12 BECOMES A PLANNED USE OF FORCE SITUATION. THEN YOU CAN TIE
13 THAT TO REQUIREMENTS FOR A SUPERVISOR ON SCENE, A VIDEO CAMERA
14 PRESENT, MEDICAL ON SCENE OR ON STANDBY, SOME OTHER THINGS
15 WITH A USE OF FORCE SITUATION. ITS REACTIVE FORCE; YOU CAN'T
16 DO THAT BY DEFINITION. HERE, AGAIN IF ONE OF THE MOST FREQUENT
17 COMPONENTS OF USE OF FORCE ARE CELL EXTRACTIONS, THOSE SHOULD
18 BE PLANNED USES OF FORCE AND THEY SHOULD BE IN LOS ANGELES
19 CURRENT TERMS. THEY SHOULD BE DIRECTED USES OF FORCE. THE
20 PERCENTAGE OF NON-DIRECTED USAGE OF FORCE DOESN'T SQUARE WITH
21 MY EXPECTATIONS ABOUT WHERE AND WHEN THOSE THINGS OCCUR.

22

23 **MIRIAM A. KRINSKY:** WHEN YOU SAY --

24

25 **SPEAKER:** CAN I HAVE A POINT OF CLARIFICATION? WHEN I USE THE

1 TERM "ASSAULT," IT'S THE OLD LAW SCHOOL TERM, PUTTING SOMEBODY
2 IN FORCE OR FEAR, THREAT OF FORCE OR FEAR. THERE IS NO
3 TOUCHING. TOUCHING IS THE BATTERY. DO YOU USE THE SAME
4 DEFINITION?

5

6 **JEFFREY SCHWARTZ:** NO. WE'RE TALKING ABOUT BATTERY HERE RATHER
7 THAN ASSAULT. THANK YOU FOR THE CLARIFICATION, JUDGE.

8

9 **MIRIAM A. KRINSKY:** LET ME ASK YOU ANOTHER CLARIFICATION, WHEN
10 YOU SAY "CELL EXTRACTION," DO YOU MEAN TO INCLUDE A SINGLE
11 INMATE REMOVED FROM A CELL AS WELL AS WHAT YOU FOUND IN THE
12 RAMIREZ CASE A SERIAL EXTRACTION OF AN ENTIRE ROW OF THE AREA
13 OF A JAIL?

14

15 **JEFFREY SCHWARTZ:** YES. ALTHOUGH, SERIAL INFRACTIONS ARE VERY
16 INFREQUENT IN THE WORST OF JAILS. THOSE ARE VERY UNCOMMON.
17 MOST ARE SINGLE OR PERHAPS TWO INMATES IN A CELL. MOST OFTEN
18 ONE.

19

20 **MIRIAM A. KRINSKY:** THAT ESSENTIALLY ARISES WHEN SOMEBODY IS
21 REFUSING, NOT COMPLYING WITH AN ORDER TO COME OUT OF THEIR
22 CELLS?

23

24 **JEFFREY SCHWARTZ:** ABSOLUTELY. THE TYPICAL CASE IS YOU SAY, MR.
25 JONES, I'M GOING TO ESCORT YOU FOR SOME OFFENSE YOU COMMITTED.

1 MR. JONES IS YELLING AT YOU SAYING, BASICALLY, COME AND GET
2 ME. IN FACT, I PUBLISHED AN ARTICLE SPECIFICALLY ON CELL
3 EXTRACTIONS AND TITLED IT "COME AND GET ME, BEST AND WORST
4 PRACTICES FOR CELL EXTRACTIONS."

5

6 **MIRIAM A. KRINSKY:** THE LAST THING WE CALCULATED HERE WAS WHAT
7 WE CALLED A RATE OF FOUNDED ALLEGATIONS. YOU CAN SEE HERE THAT
8 FROM 2007 THROUGH 2011, THE SHERIFF'S DEPARTMENT DETERMINED
9 THAT OUT OF 4,460 FORCED INCIDENTS, ONLY 23 INVOLVED FOUNDED
10 ALLEGATIONS OF UNREASONABLE FORCE, WHICH COMES OUT TO AROUND
11 .5%. DOES THAT FIGURE SEEM OUT OF THE ORDINARY OR SURPRISING
12 TO YOU?

13

14 **JEFFREY SCHWARTZ:** IT SEEMS OUT OF THE ORDINARY. IT SEEMS
15 EXTRAORDINARILY LOW BECAUSE YOU NOT ONLY HAVE SITUATIONS WHERE
16 SOMEONE IS FOUND TO HAVE INTENTIONALLY CONTINUED TO BEAT
17 SOMEBODY AFTER THEY WERE IN RESTRAINTS OR RETALIATED AGAINST
18 SOMEBODY WITH FORCE. REALLY EGREGIOUS CASES. YOU ALSO HAVE
19 CASES WHERE THE FORCE IS WILLINGLY USED. ALL THEY, IT'S MORE
20 TECHNICAL. SO THERE ARE TIMES WHEN YOU WILL HAVE A FOUNDED
21 ALLEGATION OF SOMETHING WRONG WHERE IT'S NOT A FIRING OFFENSE
22 AND THAT INTENT, BUT IT'S STILL WRONG AND OUT OF POLICY.

23

24 **MIRIAM A. KRINSKY:** LET ME TURN TO ONE FINAL AREA, YOUR
25 PERCEPTIONS OF SORT OF THE STRUCTURE OF THE DEPARTMENT AND

1 MANAGEMENT AND OVERSIGHT OF CUSTODY. THROUGH YOUR WORK
2 INVOLVING THE SHERIFF'S DEPARTMENT, HAVE YOU HAD AN
3 OPPORTUNITY TO FORM SOME PERSPECTIVES ABOUT THE EFFICACY OF
4 THE SHERIFF'S DEPARTMENTS OVERSIGHT OF THE CUSTODY DIVISION?

5

6 **JEFFREY SCHWARTZ:** I HAVE.

7

8 **MIRIAM A. KRINSKY:** AND WHAT ARE YOUR VIEWS IN REGARD TO THAT?

9

10 **JEFFREY SCHWARTZ:** HERE, LET ME START BY SAYING WHAT I CAN
11 ANSWER WITH ARE IMPRESSIONS. I HAVE DONE NO SYSTEMATIC REVIEW
12 OR SYSTEMATIC STUDY. MY IMPRESSIONS, PARTICULARLY, ARE BASED
13 ON MY RECENT WORK AND ARE THAT THERE ARE SERIOUS PROBLEMS WITH
14 LEADERSHIP, NOT WITH WHERE THE SHERIFF IS AT ON THESE ISSUES,
15 BUT WITH UNITY OF COMMAND AND CLARITY, THE -- THERE IS, THERE
16 ARE PEOPLE WHO ARE NOT CONFORMING TO THE SHERIFF'S VIEW OF
17 WHAT HE IS DOING. THERE ARE MANY -- TOO MANY PEOPLE, I
18 BELIEVE, WHO HAVE A HAND IN SOME OF THE FIX AND NEW IDEAS AND
19 OVERSIGHT OF CUSTODY. IN MY WORK, I NEVER MET THE CHIEF. I WAS
20 VERY SURPRISED. I NEVER MET THE CHIEF OF CORRECTIONS. I DIDN'T
21 MEET THE UNDERSHERIFF, BUT THERE WERE A LOT OF PEOPLE THAT
22 HAVE A HAND IN THE MIX, IF YOU WILL.

23

24 **MIRIAM A. KRINSKY:** IF I ASK YOU TO STOP ONE SECOND. YOU SAY
25 YOU NEVER MET THE CHIEF OF THE CUSTODY DIVISION; IS THAT

1 CORRECT?

2

3 **JEFFREY SCHWARTZ:** THAT'S CORRECT.

4

5 **MIRIAM A. KRINSKY:** THAT WAS OVER THE MONTHS OF REVIEWING USE
6 OF FORCE WITH RESPECT TO CUSTODY?

7

8 **JEFFREY SCHWARTZ:** THE REVIEW PROCEDURES.

9

10 **MIRIAM A. KRINSKY:** I'M SORRY, CONTINUE, YOU WERE SAYING --
11 YOUR IMPRESSIONS. I DON'T KNOW IF YOU FINISHED.

12

13 **JEFFREY SCHWARTZ:** MY IMPRESSIONS WERE THERE ARE A NUMBER OF
14 PEOPLE DEVELOPING DRAFT POLICY, REVIEWING THINGS, THERE ARE
15 THINGS CIRCULATING THAT APPEAR TO BE SOMETHING THAT THE
16 DEPARTMENT IS ABOUT TO DO BUT HASN'T BEEN COMPLETELY AGREED TO
17 YET. SOME PEOPLE THINK IT'S IN FORCE. THE COMMANDERS
18 MANAGEMENT TASK FORCE SITS ATOP A STRUCTURE, REPORTS DIRECTLY
19 TO THE SHERIFF AND SITS ATOP A STRUCTURE WHERE THERE IS A
20 CHIEF AND AN ASSISTANT SHERIFF FOR CUSTODY. BUT A LOT OF
21 THINGS GO DIRECTLY TO THE SHERIFF AND SOME THINGS GO TO
22 TRAINING AND SOME THINGS GO TO OTHER PLACES. I FOUND IT
23 DIFFUSE AND LACKING IN UNITARY COMMAND, LACKING IN CLARITY. IN
24 SOME CASE ONE HAND DIDN'T KNOW WHAT THE OTHER WAS DOING QUITE
25 SPECIFICALLY WITH REGARD TO THE WORK I WAS ENGAGED IN. THAT

1 WAS ONE OF THE IMPRESSIONS. THERE IS -- WILL BE MORE
2 RESISTANCE THAN I THINK IS HELPFUL OR --

3

4 **MIRIAM A. KRINSKY:** RESISTANCE TO WHAT?

5

6 **JEFFREY SCHWARTZ:** TO CHANGE, WITH REGARD TO FORCE AND CODE OF
7 SILENCE, THE ORGANIZATIONAL CULTURE IS DYSFUNCTIONAL. AND
8 THERE ARE DIRECTIONS. THE SHERIFF'S DIRECTION DOES NOT ALWAYS
9 PREVAIL AND WHEN OTHER PEOPLE WHO ARE NOT CONFORMING TO THOSE
10 DIRECTIONS ARE AT HIGH LEVEL, THAT HAS A CORROSIVE EFFECT ON
11 GETTING THE CHANGES AND ON THE ORGANIZATIONAL CULTURE. SO
12 THERE WERE SOME SUBSTANTIAL PROBLEMS. THOSE WERE, AGAIN, LET
13 ME FINISH AT THE SAME PLACE. THOSE ARE IMPRESSIONS. THEY'RE
14 NOT BASED ON ANY KIND OF SYSTEMATIC STUDY. BUT THEY WERE
15 STRONG IMPRESSIONS

16

17 **MIRIAM A. KRINSKY:** WE HEARD TESTIMONY AS WAS REFERENCED THIS
18 MORNING AS YOU MAY HAVE HEARD IN LISTENING TO THE TESTIMONY
19 LAST WEEK FROM BOTH OUR SHERIFF AND UNDERSHERIFF THAT CERTAIN
20 TREND LINES, CERTAIN DATA THAT WE ASKED MR. HORN ABOUT THAT
21 SHOW A SPIKE IN USE OF FORCE WERE APPARENTLY NEVER KNOWN BY OR
22 NEVER SHOWN TO THE UNDERSHERIFF WHO WAS THEN THE ASSISTANT
23 SHERIFF OVER CUSTODY OR THE SHERIFF, HIMSELF. GIVEN WHAT YOU
24 HAVE PERCEIVED AS THE OVERSIGHT OF CUSTODY, THE FUNCTION OF
25 CUSTODY, AND THE DEPARTMENT MANAGEMENT, DOES THAT TESTIMONY

1 SURPRISE YOU?

2

3 **JEFFREY SCHWARTZ:** YES, BECAUSE IT'S SO BASIC. IF YOU ARE
4 RUNNING A FACILITY, IF ARE YOU IN CHARGE OF A FACILITY AND ARE
5 YOU NOT LOOKING AT SERIOUS INCIDENTS THAT ARE RESULTING IN
6 BROKEN BONES OR PERMANENT INJURY, BUT WHAT ARE YOU LOOKING AT
7 AND WHY HASN'T THE -- YOU HAVE TO KNOW WHAT YOU ARE MANAGING
8 TOWARD AND THEN YOU HAVE TO DECIDE HOW YOU ARE GOING TO
9 MEASURE, WHETHER YOU ARE MOVE TOWARDS IT OR AWAY FROM IT. IF
10 NONE OF THAT IS BEING DONE, WHAT ARE YOU LOOKING AT? THIS
11 ISN'T 1950. MOST LARGE CORRECTIONAL AGENCIES ARE MANAGING WITH
12 A LOT OF DATA AND LOOKING AT DATA AND THAT'S NOT THE ONLY
13 THING YOU LOOK AT. THERE'S PLENTY OF INTUITION AND GUT THAT
14 YOU CAN'T -- YOU CAN'T GO BACK TO THE OLD SYSTEM WHERE
15 MANAGEMENT IS ALMOST EXCLUSIVELY BY PERSONALITY AND TRADITION.
16 IF THE NUMBERS ARE BAD, THERE IS SOMETHING THERE THAT NEEDS
17 LOOKING AT. AND WHEN THE NUMBERS AREN'T REACHING THE TOP
18 ADMINISTRATION OR THE SHERIFF IN THIS CASE, PEOPLE SHOULD BE
19 HELD ACCOUNTABLE, INCLUDING PEOPLE AT VERY HIGH LEVELS. IF
20 THEY'RE NOT DOING THAT, WHAT IS IT THEY ARE DOING TO MAKE SURE
21 THAT THE AGENCY IS FLORISHING AND THE COMMUNE IS THE WELL
22 SERVED?

23

24 **MIRIAM A. KRINSKY:** WHAT ORGANIZATIONAL CHANGES OR
25 RECOMMENDATIONS WOULD YOU HAVE US CONSIDER IN LIGHT OF THESE

1 CONCERNS THAT YOU HAVE EXPRESSED

2

3 **JEFFREY SCHWARTZ:** I THINK MY OPINION ON THAT IS JUST ONE
4 PERSON WHO HAS LOOKED AT AND WORKED WITH THE DEPARTMENT A BIT
5 BUT I WOULD THINK IT WOULD BE WORTH LOOKING AT TO CONSIDER A
6 PERSON IN CHARGE OF THE CUSTODY DIVISION WHO REPORTS DIRECTLY
7 TO THE SHERIFF AND WITH FEW EXCEPTIONS, EVERYBODY ELSE IN
8 CUSTODY REPORTS TO THAT PERSON. AND THAT PERSON OWNS THE JAILS
9 AND IS RESPONSIBLE FOR THE JAILS TO THE SHERIFF. THE SHERIFF
10 IS, OBVIOUSLY, RESPONSIBLE TO THE COMMUNITY. BUT RIGHT NOW,
11 THAT'S VERY SCATTERED AND IT ISN'T -- I THINK IT ISN'T
12 HELPFUL. AND I THINK FOLKS DON'T KNOW WHOSE DIRECTION TO TAKE,
13 HOW SERIOUSLY AND WHERE IS IT COMING FROM AND WHO IS IN WHOSE
14 CAMP AND ALL SORTS OF THINGS. IF THERE WERE SOME -- SOMEBODY
15 MAYBE AT THE ASSISTANT SHERIFF LEVEL, ALTHOUGH, I'M NOT
16 ATTACHED TO ANY PARTICULAR ORGANIZATIONAL NAME OR TITLE, THAT
17 KIND OF CLARITY, WHAT I THINK WOULD BE A VERY BIG STEP
18 FORWARD.

19

20 **MIRIAM A. KRINSKY:** ARE THERE ANY ATTRIBUTES THAT THAT
21 INDIVIDUAL SHOULD HAVE?

22

23 **JEFFREY SCHWARTZ:** YES, THEY SHOULD COME FROM OUTSIDE THE
24 DEPARTMENT AND THAT WILL NOT BE A POPULAR SUGGESTION. WITHIN
25 THE DEPARTMENT, ONE HALF A SECOND, BUT THE PEOPLE IN THE

1 DEPARTMENT, THE USE OF FORCE ISSUES I THINK ARE SEVERE. I
2 THINK ARE DEEPLY EMBEDDED AND HAVE BEEN GOING ON FOR A VERY
3 LONG TIME. THE PEOPLE IN THE DEPARTMENT OF MANAGEMENT RANKS,
4 WHO MIGHT BE CONSIDERED FOR THAT KIND OF ASSIGNMENT, EITHER
5 HAVE KNOWN ABOUT THAT AND AT LEAST CONDONED IT WITH SILENCE,
6 AND IN THAT WAY ARE SOMEWHAT COMPROMISED ABOUT BEING THE MAJOR
7 CHANGE ACTED OR THEY'VE GROWN SO CLOSE TO IT THAT THEY DIDN'T
8 RECOGNIZE IT AS SOMETHING WARM, IN BLUNTED TERMS. THAT THEY
9 COULDN'T SEE THE FOREST THROUGH TREES BECAUSE IT'S BEEN LIKE
10 THAT FOR A LONG TIME. THEY DIDN'T SEE IT. GETTING SOMEBODY IN
11 WHO IS USED TO A VERY DIFFERENT STANDARD, A DIFFERENT
12 ORGANIZATIONAL CULTURE AND AN IDENTIFICATION OF THE STAFF
13 WORKING IN THE JAIL AS CORRECTIONS PROFESSIONALS RATHER THAN
14 PLAIN PATROL PROFESSIONALS, SOMEONE WHO HAD HIGH EXPECTATIONS
15 AND HISTORY WITH ISSUES AROUND USE OF FORCE AND OTHER
16 ORGANIZATIONAL CULTURE ISSUES. SOMEONE WHO IS NOT LEANING
17 TOWARDS MAKING SURE INMATES WERE FEARFUL OF DEPUTIES AS THE
18 AVENUE TO RESPECT. WE SAW RESPECT AS SOMETHING COMING OUT OF
19 GOOD COMMUNICATION AND AN OPEN, POSITIVE ATMOSPHERE. THAT'S
20 ONE PERSON'S OPINION.

21

22 **MIRIAM A. KRINSKY:** LET ME ASK YOU, FINALLY MR. SCHWARTZ, WE
23 HAVE SEEN IN THE LAST SEVERAL MONTHS A SUBSTANTIAL DROP IN --
24 OF FORCE IN OUR JAILS. IT IS CLEAR THE SHERIFF IS ENGAGED.
25 SOME WOULD SAY WE ARE WELL INTO SOLVING THE PROBLEMS IN OUR

1 JAILS AND ISSUES ARE WELL ON THEIR WAY TO BEING FIXED. WHAT
2 ARE YOUR VIEWS IN THAT REGARD?

3

4 **JEFFREY SCHWARTZ:** I'M IN STRONG DISAGREEMENT; I WISH THAT WERE
5 THE CASE. I KNOW YOU HAD SOME TESTIMONY THAT IT'S WELL ON ITS
6 WAY. A LOT OF THE CHANGES THAT HAVE BEEN MADE ARE POSITIVE,
7 BUT THE ORGANIZATION, THE MINDSET, ATTITUDES OF THE DEPUTIES
8 WORKING IN THE JAIL. I THINK SOME OF THE CUSTODY ASSISTANTS,
9 PROGRAMS, THOSE ARE LONG STANDING. THEY ARE DEEPLY EMBEDDED.
10 THEY WILL NOT BE TURNED AROUND QUICKLY. TURN-AROUND WOULD BE
11 TWO, TWO-AND-A-HALF YEARS. I'VE SEEN IT DONE IN 18 MONTHS IN A
12 SMALLER AGENCY. I DON'T THINK THERE IS REASON TO BE TERRIBLY
13 OPTIMISTIC NOW. I THINK IT DEMANDS AN HONEST APPRAISAL. MY
14 HONEST APPRAISAL IS THIS IS NOT ON THE WAY. THERE ARE TOO MANY
15 PEOPLE NOT SUPPORTING THE WORK THIS NEEDS. SOME OF THEM ARE AT
16 SUPERVISORY AND MANAGEMENT LEVELS. I DON'T THINK THE UNION IS
17 THERE. I THINK THE SITUATION -- I KNOW THERE ARE A LOT OF
18 PEOPLE SAYING IT'S BEEN FIXED. AS SOON AS THE MEDIA WILL GET
19 OFF OF IT, THE COMMISSION IS DONE, IT'S ESSENTIALLY FIXED. I
20 THINK THAT'S AN AWFULLY LONG WAY FROM THE TRUTH. IF I WERE IN
21 A POSITION OF DECISION-MAKER ON THIS COMMISSION OR SOMETHING,
22 I MIGHT BE TEMPTED TO INVOKE A SONG TITLE, "WE'VE ONLY JUST
23 BEGUN."

24

25 **MIRIAM A. KRINSKY:** WITH THAT, I HAVE NO FURTHER QUESTIONS.

1

2 **HON. LOURDES BAIRD, CHAIR:** COMMISSIONER MURRAY, DO YOU HAVE
3 SOME QUESTIONS?

4

5 **REV. CECIL L. MURRAY:** THANK YOU. SINCE WE SEPARATE PATROL
6 OFFICES FROM CUSTODY OFFICES, SHOULD WE HAVE SEPARATE TRAINING
7 PROGRAMS AND EVEN SEPARATE CAREER TRACKS?

8

9 **JEFFREY SCHWARTZ:** MY OPINION IS, YES, ON BOTH QUESTIONS. ON
10 THE FIRST QUESTION, YES, YOU SHOULD HAVE SEPARATE TRAINING.
11 THERE IS A HUGE COST TO YOUR PATROL OPERATIONS BECAUSE AFTER
12 THAT, THAT'S SIX MONTH ACADEMY TRAINING WHICH GETS HUGE
13 RESOURCES AND HUGE ATTENTION, THOSE CUSTODY DEPUTIES DON'T GET
14 TO GO ON THE STREETS AND LEARN THE SKILLS AND KNOWLEDGE
15 THEY'VE LEARNED IN THE ACADEMY. THEY ARE SENT SOME PLACE LONG
16 ENOUGH, THEY ARE ALL BUT GUARANTEED TO FORGET IT AND LEARN
17 CONTRADICTORY SKILLS AND BEHAVIORS. SO THAT'S ONE, SOMETHING
18 WHICH GAVE YOU A WORK FORCE IN THE JAILS THAT COULD -- WHERE
19 PEOPLE WOULD JOIN PROFESSIONAL ORGANIZATIONS AND CORRECTIONS,
20 READ CORRECTIONS JOURNALS, BE INTERESTED IN WHAT SOME OTHER
21 JAIL WAS DOING THAT LOOKS REALLY PROMISING INSTEAD OF HAVING
22 PEOPLE WHOSE PRIMARY AFFILIATION AND THEIR PACKS FOR THEIR
23 WORK IS LAW ENFORCEMENT.

24

25 **REV. CECIL L. MURRAY:** THANK YOU.

1

2 **HON. LOURDES BAIRD, CHAIR:** COMMISSIONER.

3

4 **SPEAKER:** NO QUESTIONS, THANK YOU. THANK YOU FOR YOUR INSIGHT.

5

6 **ALEXANDER BUSANSKY:** YES, THANK YOU VERY MUCH FOR COMING. I
7 REALLY CAN'T TELL YOU HOW MUCH IT MATTERS TO GET YOUR CANDID
8 ASSESSMENT OF WHAT IS GOING ON AT THE L.A. SHERIFF'S
9 DEPARTMENT AND CERTAINLY YOUR RECENT EXPERIENCE AND EXPOSURE
10 TO WHAT'S HAPPENING THERE. YOU KNOW, ONE OF THE CHALLENGES,
11 AND YOU HEAR A LOT ABOUT THE CHALLENGES, USING THAT PHRASE,
12 BUT IS HOW THIS COMMISSION CAN BE HELPFUL IN SORT OF ADVANCING
13 THAT CHANGE AT THE SHERIFF'S DEPARTMENT. AND JUST LISTENING TO
14 THE CONVERSATION TODAY WITH MATT CATE AND YOURSELF ABOUT WHAT
15 DO YOU DO WHEN YOU HAVE EMPLOYEES, WHEN YOU HAVE DEPUTIES WHO
16 FALSIFIED DOCUMENTS, WHO MAKE DELIBERATE MISREPRESENTATIONS,
17 TO SUPERIORS AND OTHERS, ESSENTIALLY TO COVER UP MISCONDUCT
18 AND MISBEHAVIOR THAT, IF I UNDERSTAND RIGHT, THE RECOMMENDED
19 DISCIPLINE IS TERMINATION FOR THOSE INDIVIDUALS. IS THAT
20 SOMETHING THAT YOU RECOMMEND JUST FOR THE LINE DEPUTY OR IS
21 THAT SOMETHING THAT YOU WOULD RECOMMEND FOR ANYONE IN THE
22 ORGANIZATION WHO WAS TO MAKE THAT TYPE OF DELIBERATE
23 MISSTATEMENT, MISREPRESENTATION A LOT?

24

25 **JEFFREY SCHWARTZ:** THAT'S SUCH A GREAT QUESTION. I AM GLAD YOU

1 BROUGHT IT UP. I SHOULD HAVE MENTIONED IT. ANYBODY WHO -- IT'S
2 GOT TO APPLY MORE STRINGENTLY AT HIGHER RANKS. WITH HIGHER
3 RANKS, IT SHOULD COME NOT ONLY WITH MORE AUTHORITY AND
4 SOMETIMES SOME PRIVILEGES, IT SHOULD ALSO COME WITH MORE
5 RESPONSIBILITY AND A HIGHER DEGREE OF ACCOUNTABILITY. SO THE
6 SERGEANT WHO DOESN'T REPORT SOMETHING IS MORE CULPABLE THAN
7 THE DEPUTIES WHO DIDN'T REPORT SOMETHING IF THEY WERE ALL
8 THERE TOGETHER. THE SERGEANT IS THE FIRST PERSON YOU'D BE MOST
9 DISAPPOINTED WITH. NOW, GRANTED, THIS IS A SMALL PERCENTAGE OF
10 THE WORK FORCE, I KNOW THAT, THE TERMINATION AT ANY LEVEL, IF
11 IT'S A REPORT, AND I DON'T MEAN A MISTAKE. I THINK MATT MADE
12 THE DISTINCTION, WE'RE NOT TALKING ABOUT A MISTAKE.
13 INTENTIONALLY FALSIFYING, COVERING UP, CODE OF SILENCE, YOU
14 SHOULD BE FIRED FOR COVERING UP SOMETHING THAT IF YOU HAD
15 ADMITTED TO, YOU ONLY WOULD HAVE RECEIVED THE DAY SUSPENSION.
16 IT'S TO COVER UP THE AGENCY CAN'T STAND. THAT GOES DIRECTLY TO
17 THE INTEGRITY OF EVERY DEPUTY WORKING AND TO THE AGENCY'S
18 STANCE IN THE COMMUNITY. SO YES, IT HAS TO GO ALL THE WAY UP.
19 TERMINATION IS NOT THE SOLE ANSWER. IF THE TOP LEADERS AREN'T
20 WALKING AND TALKING IN THE INSTITUTIONS, THEIR VIEWS WILL NOT
21 PREVAIL. YOU CAN'T DO THIS FROM YOUR OFFICE. MARTIN HORN SAID
22 THIS VERY WELL...IT'S EXACTLY MY EXPERIENCE OVER MORE THAN 30
23 YEARS, YOU CAN BE REALLY SMART, BRILLIANT. YOU CAN WRITE A
24 GREAT MEMO ALSO. YOU CAN DO A LOT OF THINGS WELL. IF IT'S A
25 PRISON OR A JAIL, YOU GOT TO GET IN THERE OCCASIONALLY ON

1 WEEKENDS, ON EVENING SHIFTS, GRAVEYARD. NOTHING BEATS SITTING
2 DOWN WITH AN OFFICER WITH A CUP OF COFFEE AND TALKING AND
3 CHATTING FOR 20 MINUTES ON A GRAVEYARD SHIFT WHEN THE OFFICER
4 IS NOT DISTRACTED. IF YOU AREN'T DOING -- IF THE TOP PEOPLE
5 AREN'T DOING SOME OF THAT AND THE PEOPLE IN CHARGE OF THE
6 FACILITIES DIRECTLY AREN'T DOING IT FREQUENTLY, LOTS OF BAD
7 THINGS HAPPEN. YOU CAN'T MAINTAIN HOMEOSTASIS IN A POLICE OR
8 CORRECTIONAL AGENCY. THEY'RE EITHER ON THEIR WAY UP OR DOWN.
9 THEY GO DOWN FASTER THAN THAT THEY GO UP, AND EASIER. IN THE
10 ABSENCE OF STRONG POSITIVE LEADERSHIP, LOTS OF ELEMENTS FIND
11 THE LOWEST COMMON DENOMINATOR.

12

13 **ALEXANDER BUSANSKY:** DO HAVE YOU ANY IDEA WHY? I MEAN YOU
14 TALKED ABOUT HOW YOU BELIEVE THE SPOTLIGHT IS ON THE L.A.
15 SHERIFF'S DEPARTMENT AND SHERIFF BACA, AND YOU BEGAN YOU'RE
16 ENGAGEMENT BACK WHEN THE SPOTLIGHT WAS AT ITS MOST POWERFUL
17 TIMES; RIGHT?

18

19 **JEFFREY SCHWARTZ:** YES.

20

21 **ALEXANDER BUSANSKY:** THAT ENDED A FEW MONTHS LATER WHEN YOU NO
22 LONGER CONTINUE TO WORK WITH THEM. WHAT HAPPENS, DO YOU THINK,
23 WHEN THE SPOTLIGHT, TO THE EXTENT IT IS THERE, DISAPPEARS FROM
24 THE SHERIFF'S DEPARTMENT? DO YOU HAVE AN OPINION? IF ALREADY
25 YOU HAVE WALKED AWAY OR LEFT BECAUSE OF THE CHALLENGES YOU

1 HAD?

2

3 **JEFFREY SCHWARTZ:** WITH EVERYTHING THAT IS GOING ON, THE WORK
4 THAT I WAS TRYING TO DO WAS A LITTLE PIECE AND IT CAN BE
5 ACCOMPLISHED, BUT THAT'S NOT THE ISSUE. I DON'T KNOW. I THINK
6 THAT IF THIS COMMISSION'S WORK DOESN'T RESULT IN FUNDAMENTAL
7 CHANGE, I'M NOT TERRIBLY OPTIMISTIC, I'M REALLY SORRY TO SAY
8 THAT. I HAVE HIGH REGARD FOR THE SHERIFF, AND PARTICULARLY FOR
9 HIS COMMITMENT TO THE VALUES HE TALKS ABOUT -- I THINK IS
10 HONEST AND THOROUGH AND REALLY ADMIRABLE AND I FELT REALLY
11 BADLY WHEN I CALLED OFF WHAT WE WERE DOING. I WAS EXCITED
12 ABOUT IT. THERE IS A TIME WHEN YOU HAVE TO PUT DOWN THE
13 SHOVEL. I'D REACHED THAT POINT.

14

15 **ALEXANDER BUSANSKY:** AND HOW DO WE ASSESS, LIKE IN
16 "CASABLANCA," WHEN HE TURNS AND SAYS I AM SURPRISED TO FIND
17 OUT THERE'S GAMBLING GOING ON IN THE INSTITUTION.

18

19 **JEFFREY SCHWARTZ:** GAMBLING AT RICK'S?

20

21 **ALEXANDER BUSANSKY:** WE HEARD THE SHERIFF'S PERSONNEL.
22 SHOCKING, RIGHT, AFTER ALL THESE YEARS TO FIND OUT THIS IS
23 GOING ON, TO THE EXTENT IT WAS GOING ON, WE STOPPED IT. YOU
24 POINTED OUT YOU CHANGE THE USE OF FORCE POLICIES, THE FORCE
25 GOES DOWN. SOME IS MIND OVER MATTER, THIS IS THE WILL. HOW DO

1 WE ASSESS ANY OF THE LEADERSHIP'S CAPACITY? NOT JUST SHERIFF
2 BACA, RIGHT, PUT VALUES ASIDE FOR A MOMENT, BUT THE REALLY
3 ULTIMATE ABILITY TO COMMIT TO CHANGE AND TO BE THE RIGHT
4 PEOPLE TO LEAD THAT CHANGE? WE TALK ABOUT PEOPLE MAKING FALSE
5 STATEMENTS.

6

7 **JEFFREY SCHWARTZ:** I THINK IT'S A PROFOUND QUESTION. I THINK I
8 CAN'T ANSWER IT. I WISH I COULD BE HELPFUL WITH THAT. I THINK
9 I CANNOT. IT WOULD BE WONDERFUL IF IN A FEW YEARS YOU WERE NOT
10 IN THIS KIND OF A POSITION WHERE YOU HAVE TO CHOOSE BETWEEN
11 CONTRADICTORY VIEWS AND THE WAY TO DO THAT, I THINK, IS
12 SOMEHOW THE SHERIFF'S DEPARTMENT HAS TO GET TO WHERE IT HAS
13 THE KIND OF DATA WHERE YOU CAN STOP ARGUING BECAUSE IT'S AN
14 EMPIRICAL QUESTION. IS IT 27 OR HIGHER? WE CAN ALL AGREE ON
15 THAT. IF YOU'VE GOT THE NUMBERS, THEY'RE HALFWAY RELIABLE,
16 LET'S LOOK AT THE NUMBER INSTEAD OF ARGUING ABOUT WHAT IT IS.
17 HERE, IN TOO MANY PLACES, I THINK, YOU ARE LEFT WITH TRYING TO
18 AMONG THOSE WHO ARE ARGUING ABOUT WHAT THE SITUATION IS. IT'S
19 A DIFFICULT POSITION. IT SHOULD BE PRIMARILY EMPIRICAL WHERE
20 WE COULD AGREE. THERE WILL BE PLENTY OF GAPS AND DECISIONS
21 THAT HAVE TO BE MADE. BUT THE DATABASE ISN'T THERE. THE
22 CLARITY OF POLICY ISN'T THERE. THE CLARITY OF REVIEW PROCESS
23 ISN'T THERE. ALL I CAN SAY, IF THAT STUFF COMES, IT WILL
24 PROBABLY BRING WITH IT A GOOD DEAL OF POSITIVE CHANGE. ON THE
25 PERSONNEL ISSUES, I DON'T WANT TO BE GLIB, BUT I WISH YOU THE

1 BEST.

2

3 **ALEXANDER BUSANSKY:** WE WISH OURSELVES THE BEST, TOO. THANK YOU
4 VERY MUCH.

5

6 **HON. LOURDES BAIRD, CHAIR:** COMMISSIONER BONNER.

7

8 **THE HON. ROBERT BONNER:** A COUPLE OF QUESTIONS. REFERING BACK
9 TO YOUR TESTIMONY WITH RESPECT TO THE WHAT I'LL CALL THE "LACK
10 OF PROMPTNESS IN IMPOSING DISCIPLINE," PARTICULARLY FROM WHERE
11 THERE IS A DETERMINATION THAT THERE HAS BEEN AN UNJUSTIFIABLE
12 AND UNREASONABLE USE OF FORCE OR THERE HAS BEEN LYING ABOUT
13 THE USE OF FORCE, DO YOU HAVE ANY SUGGESTIONS FOR US AS TO HOW
14 WE COULD HAVE A MORE EXPEDITIOUS DISCIPLINARY PROCESS IN THE
15 SHERIFF'S DEPARTMENT SO THAT IT DOESN'T TAKE NEARLY TWO YEARS,
16 LIKE IN THE ONE CASE WE LOOKED AT, TO GET FROM THE TIME OF THE
17 INCIDENT TO THE IMPOSITION OF DISCIPLINE? BY THE WAY, THERE
18 ARE A COUPLE OF REASONS TO DO THIS, IT'S NOT JUST TO IMPOSE
19 DISCIPLINE MORE RAPIDLY. IT ALSO CLEARS THE PEOPLE AND GETS
20 THE CLOUD LIFTED FOR DEPUTIES WHO ARE UNDER SUSPICION, WHICH
21 CAN IMPACT TRANSFERS AND ALL SORTS OF OTHER THINGS. SO I JUST
22 WONDER IF YOU KNOW ENOUGH ABOUT THE PROCESS FROM INCIDENT TO
23 INVESTIGATION BY, LET'S SAY, INTERNAL AFFAIRS TO ULTIMATELY
24 THIS LETTER OF INTENT TO IMPOSING DISCIPLINE TO THE HEARING TO
25 THE REVIEW PROCESS AFTER THE HEARING TO THE, ESSENTIALLY,

1 IMPOSITION OF FINAL DISCIPLINE, AND WHERE WE COULD REMOVE SOME
2 OF THOSE IMPEDIMENTS AND MAKE THIS PROCESS MOVE MORE
3 EXPEDITIOUSLY.

4
5 **JEFFREY SCHWARTZ:** I THINK I CAN ANSWER THAT QUESTION. THERE
6 SHOULD BE TIMELY STANDARDS BUILT INTO THE DISCIPLINARY
7 PROCESS, IN EVERY DISCIPLINE CASE. EVERY USE OF FORCE INCIDENT
8 SHOULD BE LOGGED. AND THEN ON THAT LOG, YOU ENTER WHEN THE
9 NEXT STEP TOOK PLACE. AND YOU CAN LOOK AT THE LOG. IT'S
10 PROBABLY ON A COMPUTER THESE DAYS. IT USED TO BE PAPER. AND IT
11 WAS STILL PRETTY EASY TO DO. ONCE YOU HAVE LOGGED IT, THE NEXT
12 STEP IS, IS THE USE OF FORCE PACKAGE OR DISCIPLINARY
13 PRELIMINARY INVESTIGATION COMPLETE? THERE IS A DATE. WHEN
14 THERE IS NO DATE IN THE BOX SOMEONE WHO IS IN CHARGE, WHICH IS
15 ANOTHER ISSUE, BUT IF THERE IS SOMEONE IN CHARGE OF OVERSIGHT
16 OF THAT AREA, THEY LOOK AT THAT AND CALL SOMEBODY AND SAY,
17 MARTHA OR GEORGE, WHAT THE WASHINGTONS, ANYWAY, BUT HOW COME?
18 YOU HAVEN'T BEEN ON -- YOU DIDN'T CALL US, YOU DIDN'T WRITE
19 FOR AN EXTENSION. THERE IS NO -- THIS ISN'T AN UNUSUAL CASE.
20 HOW COME YOU DIDN'T -- THE POLICY SAYS 14 DAYS. IT'S BEEN 20
21 AND I HAVEN'T HEARD FROM YOU. YOU'D BE SURPRISED. THINGS START
22 HAPPENING AND THEN THERE ARE REPORTS SAYING IN THE LAST YEAR,
23 OR THE LAST QUARTER, THIS MANY OF OUR DISCIPLINARY
24 INVESTIGATIONS REACHED THIS STAGE WITHIN POLICY TIME
25 GUIDELINES. THE NEXT STEP WERE THIS MANY. THAT'S, THIS IS

1 IMMEDIATELY SOLVABLE, AS IS THE USE OF FORCE REVIEW PROCESS FOR
2 THE SAME REASONS AND IN THE SAME WAY.

3

4 **THE HON. ROBERT BONNER:** BASICALLY TIME LINE AND EXTRACTION TO
5 GIVES, JUST A MOMENT, SIR, TO GIVE US A TIMELINES, GIVE US A
6 SCHEDULE FROM INCIDENT TO FINAL IMPOSITION OF DISCIPLINE FOR
7 CLEARANCE, BUT IN THE STEPS THAT NEED TO GO THROUGH WHATEVER
8 THE CURRENT TIMELINES ARE FOR COMPLETING VARIOUS PARTS OF THAT
9 IF ANY AND HOW THAT WOULD BE TRACKED AND ANY OTHER SUGGESTIONS
10 WE MIGHT HAVE HERE TO ACCELERATE THE IMPOSITION OF DISCIPLINE,
11 PARTICULARLY IN WHERE UNJUSTIFIED AND UNJUSTIFIED USE OF FORCE
12 HAS BEEN USED OR THERE HAS BEEN LYING, INTENTIONAL
13 FABRICATIONS WITH RESPECT TO USE OF FORCE AND A REPORT, USE OF
14 REPORT SITUATIONS NOW.

15

16 **MIRIAM A. KRINSKY:** JUDGE BONNER, I THINK THERE WAS ANOTHER
17 PART OF MR. SWARTZ'S ANSWER. I THINK HE ALSO INDICATED THAT IN
18 ADDITION TO THE TIMELINE AND THE TRACKING, I KNOW HE'S GOT
19 VIEWS ABOUT THE NEED FOR SORT OF AN INDIVIDUAL SORT OF
20 SOMETHING, MORE THAN JUST A PROCESS, BUT ALSO, YOU KNOW,
21 OVERSIGHT BY SOMEONE, I DON'T KNOW IF HE HAD FINISHED.

22

23 **THE HON. ROBERT BONNER:** OKAY. I MAY HAVE CUT YOU OFF, IF THERE
24 IS SOMETHING ELSE YOU MIGHT ADD TO RECOMMEND TO ACCELERATE THE
25 DISCIPLINARY PROCESS.

1

2 **JEFFREY SCHWARTZ:** TWO BRIEF POINTS I APOLOGIZE, I INTERRUPTED
3 YOU, IT WASN'T THE OTHER WAY AROUND. IF THERE IS SOMEONE IN
4 CHARGE OF SOMETHING LIKE STAFF DISCIPLINE AND, TYPICALLY THAT
5 WOULD BE THE PERSON IN CHARGE, THE CAPTAIN IN CHARGE OF
6 INTERNAL AFFAIRS OR IAB. THAT'S THE PERSON WHO MUST TRACK
7 THOSE THINGS ONCE POLICY IS SET AND THERE ARE GUIDELINES, 14
8 DAYS FOR THIS. 30 DAYS FOR THIS. AND SIMILARLY WITH THE REVIEW
9 OF USE OF FORCE, IT WOULD BE VERY HELPFUL FOR THE DEPARTMENT
10 AT LEAST IN THE NEXT FEW YEARS IF THERE WERE A PERSON,
11 PROGRAMS AT THE CAPTAIN LEVEL OR LIEUTENANT OR COMMANDER THAT
12 PERHAPS CAPTAIN LEVEL, SOMETHING LIKE THAT, WHO WAS IN CHARGE
13 OF EVERYTHING HAVING TO DO WITH USE OF FORCE, INCLUDING MAKING
14 SURE THAT NOTHING FELL THROUGH THE CRACKS. IT WOULD BE ONE
15 PERSON THAT THE SHERIFF COULD TURN TO AND SAY, HOW ARE WE
16 DOING ON THIS? WHERE IS THAT? ARE THE FACILITIES DOING ABOUT
17 THE SAME? THE SECOND POINT I'D LIKE TO JUST ABSOLUTELY
18 REITERATE AND UNDERSCORE WHAT YOU SAID, WHEN A DISCIPLINARY
19 INVESTIGATION IS NOT HANDLED TIMELY, YOU LOSE AT BOTH ENDS.
20 THE IMPACT ON THE OFFICER -- IN THE COUNTY I LIVE IN I HAVE
21 DONE SOME WORK WITH SANTA CLARA COUNTY, SAN JOSE IS THE CENTRE
22 OF OUR COUNTY, SANTA CLARA COUNTY JAIL SYSTEM WENT THROUGH A
23 PERIOD WHERE INVESTIGATIONS OF OFFICERS WOULD BE OPENED AND
24 TWO YEARS LATER, NOTHING HAD HAPPENED. I SAW OFFICERS WHO WERE
25 RUINED BY THAT, LIVING UNDER THAT SORT OF CLOUD ABOVE YOUR

1 HEAD; AFTER A WHILE, WITH EVERYBODY KNOWING IT'S THERE, IT
2 BECOMES IMPOSSIBLE. SO YOU NOT ONLY OWE IT TO THE DEPARTMENT:
3 IT'S GROSSLY UNFAIR TO THOSE OFFICER PERSONALLY NOT TO DO IT
4 IN A PROMPT, TIMELY FASHION. YOU MADE THAT POINT. I SHOULD
5 HAVE DONE IT MYSELF.

6

7 **THE HON. ROBERT BONNER:** I HAVE ONE MORE QUESTION THAT IS, YOU
8 INDICATED IF I GOT THIS CORRECTLY THAT YOU HAD BEEN ENGAGED OR
9 RETAINED AS AN EXPERT WITNESS IN 50 OR 60 USE OF FORCE
10 SITUATIONS, NOW, NOT USE OF FORCE, HOW MANY USE OF FORCE?

11

12 **JEFFREY SCHWARTZ:** I HAVE BEEN IN 50 OR 60 TOTAL CASES WHERE I
13 HAVE BEEN RETAINED AS AN EXPERT. I WOULD GUESS MAYBE 20 OF
14 THOSE HAVE BEEN USE OF FORCE. I'M REALLY NOT VERY CERTAIN.

15

16 **THE HON. ROBERT BONNER:** LET ME TALK ABOUT THE TOTALITY, THE 50
17 OR 60 MATTERS OR LAWSUITS IN WHICH YOU HAVE BEEN ENGAGED AS AN
18 EXPERT. HOW MANY TIMES HAVE YOU BEEN ENGAGED BY THE DEFENDANT
19 IN THOSE CASES, HOW MANY TIMES HAVE YOU BEEN ENGAGED BY
20 PLAINTIFFS?

21

22 **JEFFREY SCHWARTZ:** I THINK I HAVE BEEN ENGAGED BY DEFENDANTS,
23 MORE THAN A FOURTH LESS THAN A THIRD, MORE OFTEN BY
24 PLAINTIFFS, NOT -- IT'S NOT 90/10. I WOULD GUESS IT'S MAYBE A
25 LITTLE MORE THAN ONE-FOURTH OF THE TIME AND LESS THAN A THIRD

1 OF THE TIME I THINK IT'S BEEN ON THE DEFENSE SIDE.

2

3 **THE HON. ROBERT BONNER:** THANK YOU.

4

5 **HON. LOURDES BAIRD, CHAIR:** MR. TEVRIZIAN.

6

7 **HON. DICKRAN M. TEVRIZIAN:** DR. SCHWARTZ, I WANT TO THANK YOU
8 FOR YOUR INSIGHTFUL AND HELPFUL TESTIMONY HERE TODAY. I THINK
9 THIS COMMISSION IS GOING TO DO ITS BEST TO COME UP WITH SOME
10 KIND OF A SERIES OF RECOMMENDATIONINGS. THE QUESTION THAT I
11 HAVE IS -- HOW DOES THIS COMMISSION RECONCILE YOUR POSITION,
12 THE SHERIFF'S POSITION, THE RESISTANCE THAT YOU ENCOUNTERED
13 FROM CERTAIN COMMAND STAFF AND THE POSITION OF ALADS THAT YOU
14 HEARD HERE TODAY IN SOLVING THIS DILEMMA?

15

16 **JEFFREY SCHWARTZ:** I THINK YOU ARE IN THE POSITION OF A JUDGE
17 OR A JURY IN A, SAY IN A CIVIL CASE, WHERE YOU ARE THE FINDER
18 OF FACT. AND THAT YOU HAVE TO LOOK AT WHAT'S BEEN PRESENTED --
19 YOU HAVE TO LOOK AT WHAT'S BEEN PRESENTED TO YOU AND SEE WHICH
20 THINGS YOU FIND MOST IMPORTANT AND MOST PERSUASIVE AND WHICH
21 THINGS YOU THINK ARE TRUE AND WHICH THINGS YOU THINK ARE A
22 REFLECTION OF EITHER SELF INTEREST OR WRONG-HEADED FOR SOME
23 OTHER REASON. AND I DON'T KNOW, I HAVE MY OWN OPINIONS, BUT I
24 KNOW SOME OF THOSE ARE SHARPLY AT ODDS WITH SOME OTHER THINGS
25 THAT YOU HAVE HEARD. AND I DON'T KNOW HOW YOU SORT THAT OUT

1 EXCEPT I'M TEMPTED TO SAY YOU HAVE TO FOLLOW YOUR HEARTS. WHAT
2 DO YOU THINK IS RIGHT? AND WHAT DO YOU THINK IS TRUE? YOU'VE
3 HAD A LOT OF, AN AWFUL LOT IN FRONT OF YOU. I'VE WORKED WITH
4 STAFF AND BEEN ABSOLUTELY DELIGHTED WITH THEIR COMMITMENT AND
5 THOROUGHNESS. I HAVE SEEN THE STAFF OF THE COMMISSION, IF YOU
6 DON'T DO ANYTHING ELSE, YOU HAVE ALREADY DONE THIS COMMUNITY -
7 - IF YOU NEVER ISSUE A REPORT -- YOU HAVE DONE THIS COMMUNITY
8 A HUGE FAVOR BY FOCUSING THE COMMUNITY'S ATTENTION SO MUCH ON
9 THESE ISSUES. IT'S NOT -- IT'S NOT WITHOUT COST. THIS ISN'T
10 EASY FOR PEOPLE WITHIN LASD AND CERTAINLY MANY PEOPLE FEEL
11 UNDER SEIGE, BUT THEY WILL COME OUT THE OTHER END OF THIS I
12 THINK THE BETTER FOR IT NO MATTER WHERE YOU LAND. I CAN'T --
13 IF I WERE TO SIT ON THIS COMMISSION, IN MANY WAYS I'M GLAD I'M
14 NOT. I DON'T ENVY YOU. IF I WERE SITTING ON THE COMMISSION, I
15 THINK I'D HAVE TO, AT SOME POINT, SORT OF SIT DOWN BY MYSELF
16 AND SAY...ON SOME OF THESE FUNDAMENTAL ISSUES WHERE THERE IS
17 DEEP DISAGREEMENT, WHAT DO I THINK IS TRUE? WHAT DO I THINK IS
18 RIGHT? AND I DON'T KNOW IT. YOU DO NOT HAVE AN ANALYTICAL WAY
19 TO GET THE ANSWERS ON SOME OF THESE, ON SOME YOU DO. YOU GOT
20 GOOD DATA THE STAFF HAS PRESENTED TO YOU AND FORMULATED. BUT
21 ON SOME REALLY IMPORTANT ISSUES -- ARE WE MOST OF THE WAY
22 THERE OR ARE WE AT THE BEGINNING? THAT'S AN EDITORIAL "WE" I'M
23 NOT HERE. I THINK I HAVE TO SIT DOWN AND SAY, YOU KNOW, WHAT'S
24 AT THE HEART OF THIS? THAT'S THE TIME WHEN YOU GET TO WHAT'S
25 IT ALL ABOUT? I DON'T KNOW ANOTHER WAY.

1

2 **HON. DICKRAN M. TEVRIZIAN:** YOU KNOW, MY ASSESSMENT IS WE'RE
3 DEALING WITH AN ORGANIZATIONAL CHANGE AND A CULTURAL CHANGE
4 THAT HAS TO TAKE PLACE WITHIN THE DEPARTMENT.

5

6 **JEFFREY SCHWARTZ:** THAT IS MY VIEW AS WELL, SIR, ABSOLUTELY.
7 AND THOSE CHANGES ARE NEVER REALLY QUICK. THEY'RE NEVER EASY.
8 AND THEY'RE NEVER WITHOUT SOME COLLATERAL DAMAGE. YOU NEED TO
9 KNOW THAT GOING IN. SO IT'S NOT EASY. IT'S ALWAYS EASIER FOR
10 THE FOLKS WHO ARE TRYING TO DIRECT THAT CHANGE THAN FOR THE
11 PEOPLE WHO ARE IN THE MIDDLE OF IT TRYING TO LIVE IT AND MAKE
12 IT WORK. YOU KNOW THAT, TOO, BUT IT HAS TO BE DONE. I'M
13 EXACTLY IN AGREEMENT WITH YOU THAT THIS IS ABOUT CHANGING. NOT
14 NECESSARILY THE PEOPLE, BUT THE CHANGES IN LEADERSHIP, CHANGES
15 IN ORGANIZATIONAL CULTURE AND CHANGES IN ACCOUNTABILITY. IF
16 YOU THE -- TO THE EXTENT YOU CAN DO THAT, I THINK THAT'S WHAT
17 THIS IS ABOUT.

18

19 **RICHARD E. DROOYAN:** I HAVE ONE QUESTION FOR MY FOLLOW-UP. DR.
20 SCHWARTZ, I'D ASK TO YOU COMMENT A BIT ABOUT THE DISCIPLINE
21 PROCESS AT THE SHERIFF'S DEPARTMENT. WE'VE HEARD ABOUT IAB,
22 WITH THE CHIEF OF LEADERSHIP AND TRAINING WHO REPORTS TO THE
23 SHERIFF. ICIB, WHICH REPORTS TO THE SHERIFF. THE EXECUTIVE USE
24 OF FORCE REVIEW COMMITTEE, WHICH REVIEWS IAB INVESTIGATIONS.
25 CUSODY FORCE REVIEW COMMITTEE, WHICH REVIEWS THE INITIAL

1 INVESTIGATIONS AND THE COMMANDERS FORCE REVIEWS TEAM WHICH
2 ROLLS OUT THE THINGS THAT IAB DOESN'T ROLL OUT. COULD YOU
3 COMMENT ABOUT THE STRUCTURE OR SYSTEM IN PLACE FOR THE
4 INVESTIGATION OF ALLEGATIONS OF FORCE?

5

6 **JEFFREY SCHWARTZ:** YES, IT ISN'T A SYSTEM. IT IS A BUNCH OF
7 POSSIBILITIES. I THINK IN TOO MANY CASES NO ONE KNOWS WHAT
8 EXACTLY IS GOING TO HAPPEN. THAT'S WHY THERE IS SO LITTLE
9 ACCOUNTABILITY IN THAT SYSTEM. ON SOME CASES IT'S CLEAR. IF AN
10 INMATE ATTACKS ANOTHER INMATE THAT'S GOING TO I THINK IT'S
11 ICIB --

12

13 **RICHARD E. DROOYAN:** ICIB.

14

15 **JEFFREY SCHWARTZ:** IS GOING TO CRIMINAL INVESTIGATION OR
16 CRIMINAL PROSECUTION, POTENTIALLY. IF THERE IS AT THE OUTSET A
17 CLEAR ALLEGATION OF MALFEASANCE BY A STAFF MEMBER, THAT'S
18 ABOUT ALL THAT'S CLEAR. WHETHER THE -- I'VE LOST THE FORCE
19 REVIEW TEAM -- WOULD SOMEONE HELP ME -- ?

20

21 **MIRIAM A. KRINSKY:** CUSTODY FORCE REVIEW TEAM.

22

23 **JEFFREY SCHWARTZ:** THANK YOU VERY MUCH. WHETHER THE CFR TEAM
24 GOES OUT ON A SPECIFIC INCIDENT HAS TO DO WITH WHETHER IA IS
25 CALLED. IF IA ISN'T CALLED, I ASKED THAT QUESTION. I THOUGHT

1 THE CFRT SERGEANTS WERE NATURAL TO TAKE, THOSE WERE THE
2 OBJECTIVE PEOPLE WITH A LITTLE MORE EXPERIENCE WITH THIS WHO
3 OUGHT TO BE DOING THE INITIAL INVESTIGATIONS. I QUICKLY
4 DISABUSED THAT NOTION, THE FUNDING ISN'T SURE. BUT THERE IS
5 NOWHERE NEAR ENOUGH OF THEM. THAT'S WHY THE SERGEANT WHO IS
6 THE ON-SCENE SERGEANT, WHO IS NOT THE OBJECTIVE PERSON YOU
7 WOULD CHOOSE, HANDLES MOST OF THOSE, BUT THEN YOU HAVE POLICY
8 PROVISIONS THAT SAY IF SOMEONE REPORTS THE USE OF FORCE TO A
9 DEPUTY, THE DEPUTY IS OBLIGED TO REPORT IT VERBALLY
10 IMMEDIATELY TO A SUPERVISORS. THE SUPERVISORS SHALL
11 IMMEDIATELY MAKE AN INVESTIGATION TO DETERMINE IF IT'S A VALID
12 ALLEGATION. WELL, NOW THAT DOESN'T WORK, BUT THAT'S THE
13 POLICY. THERE IS ANOTHER POLICY THAT SAYS THAT IF YOU ARE A
14 WITNESS TO USE OF FORCE, YOU GO TO A SERGEANT WHO DECIDES
15 WHETHER OR NOT YOU SHOULD WRITE A REPORT ON WHAT YOU
16 WITNESSED. THAT'S NOT WORKABLE. ALADS MADE A BIG THING OF,
17 WELL IF THERE IS 100 WITNESSES, WE HAVE TO GO INTERVIEW 100
18 INMATES. THAT IS NOT GOING TO HAPPEN. NOR SHOULD IT, NOR WOULD
19 IT. YOU ARE GOING TO PICK SOME INMATES WHO ARE CLOSE. YOU ARE
20 GOING TO DO SOMETHING ELSE. NO ONE IS GOING TO ASSIGN A WHOLE
21 BUNCH OF STAFF TO INTERVIEW 100 INMATES. BUT THE SITUATION,
22 THE POLICIES ARE WRONG. AND IN SOME WAYS, UNTIL YOU FIX THE
23 POLICY, YOU ARE REUPHOLSTERING THE DECK CHAIRS ON THE TITANIC.
24
25 **HON. LOURDES BAIRD, CHAIR:** MR. SCHWARTZ, I CAN'T THANK YOU

1 ENOUGH. YOUR TESTIMONY HAS BEEN VERY INSIGHTFUL.

2

3 **JEFFREY SCHWARTZ:** THANKS TO THE COMMISSION FOR THE LONG DAY
4 AND THE WORK YOU ARE DOING.

5

6 **HON. LOURDES BAIRD, CHAIR:** WE CERTAINLY APPRECIATE IT. WE HAVE
7 SEVERAL INDIVIDUALS WHO HAVE ASKED TO HAVE PUBLIC COMMENT. I'M
8 GOING TO CALL THREE UP AT A TIME. CAN YOU GET OUT OF YOUR SEAT
9 IN THE ORDER I CALL YOU. THEN WE WILL HAVE THE COMMENTS. FOR
10 THOSE OF YOU WHO ARE NOT FAMILIAR WITH THIS, YOUR COMMENTS ARE
11 TO BE LIMITED TO NO MORE THAN 3 MINUTES BECAUSE OF THE HOUR,
12 AS SOON AS THAT LIGHT GOES ON, YOU ARE GOING TO HAVE TO GRAB
13 UP. SO I'M STARTING WITH ARNOLD SACHS. PATRICE COLOURS AND
14 TYREE EDWARDS. YOU CAN TAKE A SEAT UP THERE. MR. SACHS, COME
15 ON UP.

16

17 **SPEAKER:** THANK YOU, GOOD AFTERNOON. ARNOLD SACHS. A COUPLE
18 THINGS, THE TWO GENTLEMAN THAT TESTIFIED WHO WERE FROM NEW
19 YORK MADE SOME INTERESTING POINTS. ONE OF THE CHAIRPERSONS UP
20 HERE MENTIONED THEY WANT TO GET A COPY OF A TRAINING MANUAL. I
21 WOULD SUGGEST YOU GET A COPY OF THE TRAINING MANUAL USED IN
22 NEW YORK CITY, BECAUSE, ACCORDING TO WHAT THEY SAID, THEY
23 DON'T USE IMPACT WEAPONS AND THEY HAVE A TRAINING MANUAL OF 16
24 WEEKS AND THE L.A. SHERIFFS DEPARTMENT USES IMPACT WEAPONS IN
25 THEIR TRAINING MANUALS. MAYBE YOU COULD COMPARE THE TWO

1 DIFFERENCES IN THE TRAINING MANUALS AND SEE WHY THEY GET AWAY
2 WITHOUT USING IMPACT WEAPONS IN NEW YORK AND IN PENNSYLVANIA
3 AND IN THE STATE AND THE SHERIFFS NEED IMPACT WEAPONS HERE. I
4 WOULD LOOK INTO -- THEY MENTIONED THE COURT PROCEEDINGS WITH
5 THE INTAKE OF INMATES SO MUCH HIGHER IN L.A. THAN IN NEW YORK.
6 THE AMOUNT PEOPLE THAT ARE RELEASED ON THEIR OWN RECOGNIZANCE,
7 THAT THEY MENTIONED THEIR TRAINING, STAFF, THEIR STAFF IS
8 HIGHER THAN MOST STAFF MEMBERS. HOW IT WAS ACCOMPLISHED. THE
9 COST OF INCARCERATION. NOW, WHEN THEY TALKED ABOUT THE
10 REALIGNMENT PROGRAM, THE SHERIFF HERE, THE SHERIFF IN THIS
11 COUNTY CHAMBERS MENTIONED THAT HE'D BE HAPPY FOR THE
12 REALIGNMENT, BECAUSE THE STATE OF CALIFORNIA PAYS AT A HIGHER
13 RATE THAN THE COUNTY'S COST FORCE REALIGNMENT FOR
14 INCARCERATION, SO WHAT IS THE COST OF INCARCERATION IN NEW
15 YORK? WHAT IS THE COST OF INCARCERATION IN L.A.? THE LAST
16 GENTLEMAN THAT SPOKE MENTIONED SHELBY COUNTY. IT TOOK SIX
17 YEARS FOR THEM TO TURN THE PROGRAM AROUND. DID THAT INVOLVE
18 STAFFING RATIOS? THE IMPACT WEAPONS? THE COSTS, THE DIRECT
19 CAUSE AND EFFECT OF LIABILITIES TO THE STAFFING INCREASES,
20 LEAD TO A REDUCTION IN LIABILITY COSTS FOR COUNTY? I MEAN,
21 BOTH, ALL THREE OF THE SPEAKERS ALSO MENTIONED BASICALLY THE
22 SYSTEM. THE SYSTEM IS BROKEN. IT'S NOT JUST THE SHERIFF. BUT
23 IT'S A GOVERNMENT SYSTEM. YOU HAVE A CORRECTIONS COMMISSIONER
24 THAT DOESN'T ACTUALLY -- ANSWER TO THE SHERIFF. THE POLICE
25 DON'T POLICE THE FACILITIES. THESE ARE TRAINED PERSONNEL WITH

1 TRAINED BACKGROUNDS FOR POLICE AND FACILITY, AND ALLOWS YOU TO
2 PUT MORE PEOPLE ON THE STREET, WHICH MAY REDUCE THE AMOUNT OF
3 CRIME. I DON'T KNOW. BUT THE FACILITIES AND THE ALLOWING THE
4 SYSTEM TO CONTINUE, YOU WANT TO DO IT, VERY QUICKLY. IF YOU
5 FLIP A COIN 100 TIMES, AND GET ONE TAILS, THAT'S 1%. THE YOUNG
6 LADY MENTIONED THAT THE AMOUNT OF CASES THAT WERE INVESTIGATED
7 HERE WAS .05%. YOU HAVE PRETTY LUCKY COIN THEN.

8

9 **HON. LOURDES BAIRD, CHAIR:** THANK YOU, MR. SACHS. MR. --

10

11 **ARNOLD SACHS:** THANK YOU, JUDGE BAIRD. A COUPLE QUICK THINGS
12 THAT PARTICULARLY CAUGHT MY ATTENTION. I KNOW THE COMMISSION
13 HAS HEARD A LOT. JUDGE, THE REASON YOU TALKED ABOUT CULTURE --
14 TWO THINGS CLEAR TO ME, IF YOU COMPARE MR. HORN'S AND
15 JACOBSON'S COMMENTS AND THE WAY YOU GAIN RESPECT AND MANAGE IT
16 AND DEAL WITH INPAYMENTS FROM THE ALADS' MODEL THEY'RE NIGHT
17 AND DAY. I WOULD VENTURE THAT GIVEN THE REPUTATIONS AND THE
18 HISTORY AND THE ACCOMPLISHMENTS OF MR. HORN AND JACOBSON, YOU
19 NEED TO PUT A LOT OF STOCK IN HOW THEY MANAGE IF WE CAN'T PUSH
20 THEM AROUND AND WE HOLD TOWN HALLS TO HEAR THEIR COMPLAINTS,
21 WE LOSE CONTROL OF THE INSTITUTION, I THINK THAT'S A TROUBLING
22 VIEW, CULTURE VIEW, OBVIOUSLY, THERE ARE INMATES IN THERE WHO
23 ARE DIFFICULT PEOPLE, MANY VIOLENT ONES. SOMEHOW HOLDING TOWN
24 HALL MEETINGS, YOU HAVE LOST CONTROL OF THE -- I THINK THAT
25 INDICATES THE KIND OF CULTURAL PROBLEM YOU ARE REFERING TO.

1 THE SECOND THING I WOULD SAY IT WAS VERY INTERESTING WHEN MR.
2 JACOBSON AND MR. HORN TALK AND DATA. MR. TANAKA SAYS THE
3 PROBLEMS WEREN'T BROUGHT TO ME. IT IS CLEAR TO ANYBODY AROUND
4 CUSTODY, HE WAS ASSISTANT SHERIFF OVER CUSTODY. HE NEVER
5 LOOKED AT THAT TIME AT THE INADEQUATE USE OF FORCE REPORTS. HE
6 NEVER LOOKED FOR THEM. ASK TO SEE THOSE, YET FOR TWO AND A
7 HALF YEARS HE SAID HE NEVER ONCE LOOKED AT THOSE, I THINK THAT
8 IS VERY TELLING. IN ADDITION, I THINK WHAT MR. CATE SAID ABOUT
9 HOW DO WE VIEW WHEN WE DO FORCE INVESTIGATIONS, HOW DO WE
10 TREAT INMATES? HE SAYS WE DON'T START WITH THE IDEA OF ANYONE
11 LYING. THE ALADS, EVERY TIME THE ACLU PUT OUT A REPORT, THE
12 RESPONSE WAS THE ACLU EXAGGERATES AND INMATES LIE. OF COURSE,
13 SOME INMATES LIE. WE NOW KNOW FROM THE CORPORAL REPORT AND
14 ANOTHER DATA SOME DEPUTIES LIE. BUT THE IDEA WE START WITH THE
15 PRESUMPTION THAT THE INMATES ARE LIARS, IT'S INSULTING FOR OIR
16 TO SUGGEST MAYBE CAMERAS COULD BE A GOOD TIE-BREAKER. WHY
17 WOULD YOU PRESUME THE DEPUTIES LIE WHEN WE KNOW THE INMATES
18 LIE. YOU CAN'T DO HONEST INVESTIGATION OR REVIEW IF YOU START
19 WITH THE PRESUMPMTION THE INMATES, EVEN IF THEY HAVE BROKEN
20 BONES OR SHATTERED CHEEKS, ARE LYING. THE LAST THING I'D SAY,
21 MR. BUSANSKY, I THINK AN IMPORTANT QUESTION TO ASK IS, WE KNOW
22 FROM MIKE BORNMAN MORE THAN 100 SAT IN DRAWERS FOR A TIME. DID
23 OIR KNOW THAT? MY QUESTION; IF THEY ARE DOING OVERSIGHT HOW
24 DID THOSE SIT IN A DRAWER WITHOUT THAT EVER COMING TO OIR'S
25 ATTENTION. IT IS TRUE, JUDGE BONNER, IT IS IMPORTANT YOU HAVE

1 TRACKING. THAT SHOULD NEVER HAVE HAPPENED AT THE LINE LEVEL.
2 IF YOU HAVE AN OVERSIGHT MECHANISM, HOW DID IT NOT KNOW
3 HUNDREDS OF FORCED INVESTIGATIONS WEREN'T BEING PROCESSED? ARE
4 THEY LOOKING AT WHAT THE SHERIFF'S DEPARTMENT GIVES THEM? I'M
5 NOT SURE THAT'S AN EFFECTIVE MODEL OF OVERSIGHT.

6

7 **HON. LOURDES BAIRD, CHAIR:** THANK YOU. MR. EDWARDS.

8

9 **TYREE EDWARDS** YES. GOOD AFTERNOON. EXCUSE ME, I COULDN'T HELP
10 BUT TO GET A LITTLE OVERWHELMED WITH SOME OF THE TESTIMONY
11 TODAY. MY NAME IS TYREE EDWARDS, FORMER INMATE 905473. IN THE
12 REAL WORLD, I'M A CELEBRITY PERSONAL TRAINER AND CHEF. JUST
13 FOR THE RECORD, I HAVE NEVER BEEN IN TROUBLE. NEVER GOT IN
14 TROUBLE. I'M NOT A CAREER CRIMINAL. HOWEVER, I WAS IN 18 YEARS
15 AGO AND SINCE THE DIVORCE OF MY EX-WIFE, SHE HAS BEEN MAKING
16 IT PAINFULLY HARD FOR ME TO SEE MY CHILD. AND IN ONE INSTANCE,
17 I WAS FALSELY ACCUSED OF MISAPPROPRIATING MYSELF DURING A
18 CHILD VISIT. WHEN I CAME BACK IN FEBRUARY, I WAS ARRESTED AT
19 MY STUDIO BY SOME DEPUTIES AND OFFICERS ON A FELONY FUGITIVE
20 WARRANT. WELL, I GOT TO L.A. COUNTY AND BEYOND ME KNOWING THAT
21 I WAS TOLD TO KEEP MY MOUTH SHUT ABOUT MY, THE CRIME AND THE
22 NATURE OF MY INCIDENT, NOT KNOWING THAT I WOULD BE GIVEN A
23 BAND TO MAKE ME STAND OUT AS A SEXUAL OFFENDER. NOT ONLY DID I
24 HAVE PROBLEMS WITH THE INMATES THAT SAW THAT BAND, BUT I HAD A
25 LOT OF ISSUES WITH SOME OF THE DEPUTIES AND THE SHERIFFS. ONE

1 INCIDENT WAS ON MARCH 9th AFTER A VISIT, I MADE THE MISTAKE OF
2 KNOCKING ON THE COMMAND TOWER DOOR. WHEN THE DEPUTIES NOTICED
3 THAT I WASN'T LIKE EVERYBODY ELSE, HE ASKED ME, HAD I BEEN
4 THERE BEFORE? AND I TOLD HIM NO. SO HE TOLD ME WELL, THIS IS
5 HIS HOUSE AND THEY WANT TO SHOW ME HOW THEY DO THINGS AROUND
6 HERE. WELL, THEY LED ME TO A TANK AND APPARENTLY THEY HAD
7 MAKE-SHIFT WEAPONS READILY AVAILABLE IN THE CELL. THEY ALLOWED
8 THEM TO GO AHEAD AND WORK ME OVER FOR A FEW SECONDS TO GET A
9 TASTE OF HOW THEY DO THINGS HERE IN L.A. COUNTY. AT WHICH POINT
10 THEY LED ME TO ANOTHER DOOR, THEY MACED ME, KICKED ME AND BEAT
11 ME FOR ANOTHER SEVERAL MINUTES AND LEFT ME THERE UNTIL THE
12 NEXT MORNING WHEN THE NEW SHIFT CAME AND GOT ME. I DIDN'T LOOK
13 PRETTY. I DIDN'T SAY ANYTHING ELSE ABOUT IT. AND DID I FILE
14 CHARGES? NO, I HAVEN'T. NOT AS OF YET. WAS I EVEN GIVEN AN
15 INVESTIGATION IN NO, I WASN'T. I WAS EXTRADITED TO TEXAS,
16 AFTER FIVE MONTHS, IT TOOK THEM ALL BUT TWO DAYS TO LET THEM
17 KNOW EVERYTHING WAS BOGUS BASED ON INFORMATION I GAVE THEM.
18 THEY SAID I WAS FREE TO GO. THE GRAND JURY EXONERATED ME, GIVE
19 ME NO BILL. I'M HERE TODAY TRYING TO PUT MY LIFE BACK TOGETHER
20 OVER SOMETHING I DIDN'T DO. I LISTENED TODAY OF ALL THE
21 TESTIMONY AND ALL THE EVIDENCE THAT'S BEEN PRESENTED TO YOU
22 GUYS, AND WHAT TO DO ABOUT IT. AND IN MY OPINION, IT HAS
23 SOMETHING TO DO WITH THAT. IT'S ABOUT RIGHT AND WRONG. I'M
24 JUST LIKE ANY ONE OF YOU. I WAS INNOCENT. I CAN BE YOUR SON, I
25 CAN BE YOUR BROTHER, I COULD BE YOU. BUT IF THIS HAPPENED TO

1 YOU, WHAT WOULD YOU WANT TO BE DONE? ESPECIALLY IF THE
2 LEADERSHIP IS BEING QUESTIONED AND ALL THE EVIDENCE HAS BEEN
3 PUT BEFORE TO YOU DO SOMETHING ABOUT IT. THANK YOU.

4

5 **HON. LOURDES BAIRD, CHAIR:** THANK YOU. WE HAVE TWO MORE. THAT'S
6 PATRICE COLOURS AND AN ARNOLD SACHS. NO.

7

8 **PATRICE COLOURS:** GOOD AFTERNOON COMMISSIONERS, MY NAME IS
9 PATRICE COLOURS. I HAVE GROWN UP IN LOS ANGELES MY ENTIRE
10 LIFE. I HAVE BEEN A COMMUNITY ORGANIZER THE LAST 11 YEARS,
11 MOSTLY IN FIXING PIPELINES. THE ISSUE OF EXCESSIVE FORCE IN
12 THE L.A. COUNTY JUSTICE SYSTEM AFFECTS ALL OF LOS ANGELES, ALL
13 OF CALIFORNIA, ALL OF U.S. AND FRANKLY THE ENTIRE GLOBAL. MY
14 FAMILY IS BOTH VICTIMS AND SURVIVORS OF A JAIL SYSTEM THAT
15 COULDN'T PROPERLY CARE FOR MY BROTHER. THIS LACK OF CARE AND
16 DIGNITY LED TO MY BROTHER WAKING UP IN A POOL OF BLOOD BY HIS
17 BEDSIDE AND THE DETENTION CENTRE. MY ENTIRE FAMILY EXPERIENCED
18 INTENSE TRAUMA BECAUSE OF THIS INCIDENT AND HAS LEFT US WITH
19 AN INABILITY TO HOLD TRUST IN THE L.A. COUNTY JAIL SYSTEM. I
20 TRULY BELIEVE THAT THE FAMILIES THAT HAVE COME FORWARD TO
21 ADDRESS THEIR ABUSE NEED A PUBLIC APOLOGY. I BELIEVE SHERIFF
22 BACA AND HIS ENTIRE STAFF NEEDS TO BE HELD ACCOUNTABLE FOR THE
23 LEVEL OF TRAUMA THAT HAS BEEN INFLICTED ON THE PEOPLE OF LOS
24 ANGELES. I WANT TO ADVOCATE FOR A CIVILIAN REVIEW BOARD THAT
25 PROVIDES OUTSIDE OVERSIGHT OF THE L.A. COUNTY JAIL SYSTEM

1 AROUND LASTLY, I WILL BE HERE NEXT MONTH ON SEPTEMBER 7th WITH
2 A SIGNIFICANT AMOUNT OF COMMUNITY MEMBERS WHO ALSO WANT TO BE
3 INVOLVED IN HELPING SHIFT THE CURRENT JAIL SYSTEM.

4
5 **HON. LOURDES BAIRD, CHAIR:** THANK YOU VERY MUCH. AND NOW MS.
6 LYNCH.

7
8 **SPEAKER LYNCH:** I'M A MOTHER. LAST YEAR, MY SON WHO HAS
9 MULTIPLE DISABILITIES WAS ARRESTED. IT SHOULD HAVE BEEN A
10 5150. EVERYONE SINCE STATED THAT. HOWEVER, HE WAS ARRESTED. HE
11 WAS TAKEN TO LAPD JAIL BECAUSE IT WAS A THURSDAY NIGHT, HE WAS
12 HELD OVER UNTIL THE FOLLOWING MONDAY FOR ARRAIGNMENT. I
13 IMMEDIATELY CALLED THE LAPD AND I SAID, HERE'S THE LIST OF HIS
14 DISABILITIES. HE WAS RECENTLY DIAGNOSED WITH SCHIZOPHRENIA. HE
15 HAS CHRONIC OBSTRUCTIVE PULMONARY DISEASE, HE HAS A NON-
16 CRIPPLING FORM OF CEREBRAL PALSY, HE IS PROFOUNDLY DEAF AND
17 HAS LANGUAGE DISORDER, AND HE HAS INABILITY TO PROCESS
18 AUDITORY SIGNALS MANY TIMES. I TOLD THEM THE MEDICATIONS HE
19 WAS ON. THE NEXT MORNING I WENT IN AND -- I'M SORRY, I'M
20 PRETTY EMOTIONAL. THE NEXT MORNING WE WENT IN I SAID, "HERE IS
21 HIS MEDICINE IN CASE YOU DON'T HAVE IT." THEY SAID, "NO, NO,
22 HE WON'T TAKE IT SO WE CAN'T GIVE IT TO HIM." I SAID, "LET MY
23 HUSBAND GIVE IT TO HIM." THEY SAID, "NO, HE WON'T TAKE IT." I
24 SAID, "IF HE HAS A SUDDEN DROP, YOU CAN'T DO THAT ON THIS
25 MEDICINE." THEY SAID, "SORRY," FOUR DAYS LATER, HE IS TAKEN TO

1 SHERIFFS. WE SEE HIM FOR THE FIRST TIME IN COURT. HE IS
2 TOTALLY UNRESPONSIVE. THE ASL INTERPRETER -- ASL IS NOT HIS
3 FIRST LANGUAGE -- IS SAYING HE DOESN'T UNDERSTAND THESE
4 PROCEEDINGS. WE ARE SUPPOSED TO TAKE HIM -- TO GET HIM INTO A
5 HOSPITAL. THAT DOESN'T HEPP HAPPEN. THE JUDGE IS HOLDING HIM
6 OVER FOR BAIL. WE DON'T OWN A HOUSE, WE DON'T HAVE \$25,000 IN
7 THE BANK. NOW WE SPENT THE NEXT FIVE DAYS SHOWING UP EVERY
8 DAY, WE ARE TOLD BY THE DEPUTILES, HE DOESN'T WANT TO GO TO
9 COURT. I WAS ABLE TO SEE HIM ONCE ON VISITATION, BY, BY THE
10 WAY, THE WAY YOUR SHERIFFS TREAT MOTHERS AND WIVES IS TOTALLY
11 UNCONSCIONABLE. I FINALLY SEE MY SON. HE'S IN THE PSYCHIATRIC
12 UNIT. HE'S NAKED. HE IS SHACKLED AT THE LEGS. HE HAS A DRAPE
13 AROUND HIM AND HE'S SPEAKING IN MULTIPLE PERSONALITIES AT ONE
14 POINT SCREAMING, "THERE IS NO CRYING IN JAIL. THERE IS NO
15 CRYING IN JAIL." BY THE FIFTH DAY IN SHERIFF'S CUSTODY,
16 SOMEONE FINALLY SAYS TO US, "GOSH, IT'S SUCH A SHAME HE WAS
17 NOT A CLIENT OF THE REGIONAL CENTRE?" I SAY, "OF COURSE HE IS;
18 HE IS A CLIENT AT BIRTH." SUDDENLY THEY GO ON CAMERA AND HE
19 HAS RIGHTS. NOW, THE SHERIFFS ARE SUPPOSED TO LET HIM OUT ON A
20 5150. THEY WON'T LET HIM GO. THE FOLLOWING DAY, THEY WON'T LET
21 HIM GO. HE'S NOW BEEN IN CUSTODY FOR NINE DAYS. AND WHEN WE
22 FINALLY GET TO THE HOSPITAL, HE'S COVERED IN BRUISES. I START
23 TAKING PICTURES. A SHERIFF'S DEPUTY STOPS ME AND SAID, "IF YOU
24 DO THAT ONE MORE TIME I WILL TAKE YOUR PHONE." MY HUSBAND GOES
25 TO THE EXAM ROOM AND SEES HIS TORSO IS COVERED IN BRUISES.

1 NOW, MY SON AFTER THIS REQUIRED BEING CONSERVED, WE HAVE ALL
2 SEVEN RIGHTS. THEY ARE TALKING ABOUT INTAKE. I DON'T TURN MY
3 CREDIBILITY ON THIS TABLE RIGHT NOW. I'M ADJUNCT FACULTY OF
4 THE CAL STATE CAMPUS. I AM A COLUMNIST. I AM QUOTED IN TWO
5 DOCTORAL VISITATIONS. I WILL GIVE YOU THE RIGHTS TO GO IN AND
6 LOOK AT HIS FILES AND TELL ME WHERE YOU THINK THOSE BRUISES
7 CAME FROM BECAUSE HIS DISABILITIES HAVE ALL BEEN EXACERBATED.
8 HE IS NOW IN A FULL TIME DAY PROGRAM AT A MENTAL HEALTH
9 FACILITY WHEN LAST YEAR HE WAS IN COLLEGE. NOW, WHEN I LOOK AT
10 WHAT HAPPENED, WHAT I SEE HAPPENS TO THE RIGHTS OF THE
11 DISABLED, THEY DON'T EXIST ONCE YOU ARE TAKEN INTO CUSTODY.
12 WHEN I SEE WHAT HAPPENS TO THE PARENTS WHO ARE THERE, IT IS
13 ASSUMED THAT YOU WERE A CRIMINAL TOO. AND WHEN I HAVE SEEN
14 OVER THIS YEAR, BY THE WAY WE DIDN'T FILE A REPORT BUT I COULD
15 NEVER GET ANYONE FROM THE SHERIFF'S DEPARTMENT TO CALL ME
16 BACK. YOU HAVE A DOCTOR WHO WAS THERE PART TIME. SHE ALSO PART
17 TIME COUNTY, PART TIME AT A BOARDING CARE FACILITY. I DON'T
18 KNOW WHEN HE SLEEPS. WE COULD NEVER GET A CALL BACK UNTIL THAT
19 FIFTH DAY. WHAT WE SAW WAS SO UNCONSCIONABLE ESPECIALLY IN THE
20 LIGHT OF THE FACT THAT I SPENT THE FIRST TEN YEARS OF MY
21 CAREER WRITING NETWORK TELEVISION SHOWS, POLICE PROGRAMS, MAKE
22 YOU GUYS LOOK LIKE HEROES AND I'M STILL TRAVELING THE WORLD, I
23 GET RESIDUALS. I RESENT EVERY MOMENT THAT I JUST ASSUMED I
24 COULD TRUST POLICE BECAUSE WHAT I HAVE SEEN NOW IS JUST
25 UNBEARABLY PAINFUL AND I'M SO SORRY. I NEED TO KNOW THAT

1 SOMETHING IS GOING TO BE DONE TO PROTECT THE RIGHTS OF THE
2 DISABLED BECAUSE IF I AM THERE WITH A MASTER'S DEGREE, A
3 COLLEGE PROFESSOR AND I CAN'T MAKE THIS SYSTEM WORK, HOW DOES
4 SOMEONE WITH A HIGH SCHOOL EDUCATION OR A NEW IMMIGRANTS WHO
5 SPEAK ENGLISH AS A SECOND LANGUAGE, MAYBE -- HOW DO THEY
6 EFFECTIVELY MAKE THIS SYSTEM RESPOND TO THEM? WHAT ARE YOU
7 GOING TO DO? PLEASE, FOR THE DISABLED? AND WHO DO I TURN OVER
8 THIS INFORMATION TO? WHO DO I GIVE PICTURES TO? WHO DO I
9 ASSIGN THE RELEASES TO? SO THAT YOU CAN LOOK AT THIS FILE?
10 BECAUSE I CANNOT LET THIS GO. HAVE YOU FIVE PEOPLE WHO WERE
11 DESTROYED BY THIS, MY SON, MY HUSBAND AND I AND HIS TWO
12 YOUNGER BROTHERS. YOU NOW HAVE SOMEONE WHO COULD HAVE BEEN A
13 PRODUCTIVE MEMBER OF SOCIETY WHO HAD ONE EMOTIONAL BREAKDOWN
14 AND NOW WILL PROBABLY NEVER, EVER CONTRIBUTE. SO, PLEASE TELL
15 ME, WHO IS THE PERSON THAT I HAND MY DOCUMENTS TO?

16

17 **HON. LOURDES BAIRD, CHAIR:** THANK YOU VERY MUCH.

18

19 **RICHARD E. DROOYAN:** YOUR HONOR, SHE CAN HAND THEM TO US.

20

21 **HON. LOURDES BAIRD, CHAIR:** ALL RIGHT. THANK YOU VERY MUCH. IS
22 THERE A MOTION TO ADJOURN?

23

24 **SPEAKER:** MOTION.

25

1 **HON. LOURDES BAIRD, CHAIR:** MOTION GRANTED. WE RESUME AGAIN AT
2 8:00 a.m. 8:00 IN THE MORNING ON SEPTEMBER 3rd. AND THE
3 HEARING IS THE 7TH OF SEPTEMBER. SCHOOL MAY BE BACK IN SESSION.
4 SO TRAFFIC MAY BE A LITTLE BIT HEAVIER.

5

6 **MIRIAM A. KRINSKY:** BRIGHT AND EARLY, WE'LL HAVE COFFEE, THANK
7 YOU, COMMISSIONERS.

8