

# Summary of Findings and Recommendations

WHAT HAPPENS INSIDE JAILS AND PRISONS DOES NOT STAY INSIDE JAILS AND PRISONS. IT comes home with prisoners after they are released and with corrections officers at the end of each day's shift. When people live and work in facilities that are unsafe, unhealthy, unproductive, or inhumane, they carry the effects home with them. We must create safe and productive conditions of confinement not only because it is the right thing to do, but because it influences the safety, health, and prosperity of us all.

The daily count of prisoners in the United States has surpassed 2.2 million. Over the course of a year, 13.5 million people spend time in jail or prison, and 95 percent of them eventually return to our communities. Approximately 750,000 men and women work in U.S. correctional facilities as line officers or other staff. The United States spends more than 60 billion dollars annually on corrections. Many of those who are incarcerated come from and return to poor African-American and Latino neighborhoods, and the stability of those communities has an effect on the health and safety of whole cities and states. If there was ever a time when the public consequences of confinement did not matter, that time is long gone.

Some of the people confined in our jails and prisons have committed serious and violent crimes. We can legitimately deprive them of liberty, but we cannot allow anyone who is incarcerated to be victimized by other prisoners, abused by officers, or neglected by doctors. We must remember that our prisons and jails are part of the justice system, not apart from it.

There are nearly 5,000 adult prisons and jails in the United States—no two exactly alike. Some of them are unraveling or barely surviving, while others are succeeding and working in the public's interest. To succeed, jail and prison administrators everywhere must confront prisoner rape, gang violence, the use of excessive force by officers, contagious diseases, a lack of reliable data, and a host of other problems. Solving these problems takes dedication and dollars. But there is no reason why health and safety should be limited to only some correctional facilities and no reason why even the best institutions cannot make a larger contribution to public safety and public health. The findings and recommendations outlined below, and explored in detail throughout the pages of this report, address the most pressing problems facing corrections today and the reforms that can and must occur.

## I. Conditions of Confinement

### I.1. VIOLENCE

**Finding:** Violence remains a serious problem in America's prisons and jails.

There is disturbing evidence of individual assaults and patterns of violence in some U.S. prisons and jails. Corrections officers told the Commission about a near-constant fear of being assaulted. Former

prisoners recounted gang violence, rape, beatings by officers, and in one large jail, a pattern of illegal and humiliating strip-searches. Former Florida Warden Ron McAndrew described small groups of officers operating as “goon squads” to abuse prisoners and intimidate other staff. And in February, 2006, while the Commission was gathered in Los Angeles for a final hearing, more than a thousand prisoners were attacking each other in the Los Angeles County jails, days of violence that the press described as riots. At that hearing, California corrections Secretary Roderick Hickman told the Commission: “Quite frankly, no one denies that violence occurs in prisons and jails in this country.”

**Finding:** We know which conditions in correctional facilities fuel violence and, therefore, how to prevent violence.

Violence and abuse are not inevitable. Every correctional facility can provide a safe environment for prisoners and staff. As Donald Specter, director of the Prison Law Office in California, told the Commission: “Prisons don’t have to be as dangerous and as violent as they are. The culture of our prisons virtually dictates the level of violence that you will have in them. And if you change that culture, you will reduce the violence.”

The majority of prisons and many jails hold more people than they can deal with safely and effectively, creating a degree of disorder and tension almost certain to erupt into violence. Similarly, few conditions compromise safety more than idleness. But because lawmakers have reduced funding

for programming, prisoners today are largely inactive and unproductive. Highly structured programs are proven to reduce misconduct in correctional facilities and also to lower recidivism rates after release. Results from a Zogby International poll released in April, 2006, show the public’s support for protecting public safety through better programming: 87 percent of Americans favor rehabilitative services for prisoners as opposed to punishment only.

Decisions about where to house prisoners and how to supervise them also have an enormous impact on safety. A well-developed system to objectively classify prisoners by risk reduces violence among them. So does an approach to supervision in which officers are engaging with prisoners throughout the day. Yet the best classification and supervision systems still are not commonplace around the country.

Teaching and modeling non-forceful ways for officers to resolve conflict is crucial because the unnecessary or excessive use of force and weapons provokes broader violence. Such guidance is especially important given the increasing use of pepper spray, TASER guns, and other weapons that can cause serious injuries if used excessively. Former general counsel of the Texas prison system, Steve Martin, told the Commission that these weapons are often used as a “first strike” response, before other tactics are considered or attempted.

Finally, the ties with family and community that former prisoners depend on after release also promote safety during incarceration. Unfortunately, the distance between home and the correctional facility—and a culture in some facilities that does not welcome visitors—makes it hard to maintain those ties. There are even barriers to maintaining contact by phone when the cost of receiving a collect call from someone in prison—much higher than in the free world—operates like a tax on poor families.

## PREVENT VIOLENCE: RECOMMENDATIONS

**1. Reduce crowding.** States and localities must commit to eliminating the crowded conditions that exist in many of the country’s prisons and jails and work with corrections administrators to set and meet reasonable limits on the number of prisoners that facilities can safely house.

**2. Promote productivity and rehabilitation.** Invest in programs that are proven to reduce violence and to change behavior over the long term.

**3. Use objective classification and direct supervision.** Incorporate violence prevention in every facility’s fundamental classification and supervision procedures.

**4. Use force and non-lethal weaponry only as a last resort.** Dramatically reduce the use of non-lethal weapons, restraints, and physical force by using non-forceful responses whenever possible, restricting the use of weaponry to qualified staff, and eliminating the use of restraints except when necessary to prevent serious injury to self or others.

**5. Employ surveillance technology.** Make good use of recording surveillance cameras to monitor the correctional environment.

**6. Support community and family bonds.** Reexamine where prisons are located and where prisoners are assigned, encourage visitation, and implement phone call reform.

**Finding:** We need more reliable measures of violence behind bars than we have today.

Data about deadly violence show decreasing rates nationally of homicide and suicide, but we do not have equally reliable data about the much larger universe of non-lethal violence. There are prisons and jails that are not collecting or reporting information about assaults: For example, Arkansas, North Dakota, and South Dakota each reported zero assaults among prisoners statewide in the year 2000. In-depth studies suggest that actual levels of violence among prisoners are at least five times higher than what even the best administrative records capture. Equally troubling, we have no national measures of non-lethal physical violence perpetrated by staff against prisoners, despite widespread agreement that excessive use of force happens. Chief statistician for the federal Bureau of Justice Statistics Allen Beck told the Commission, “I cannot measure well the level of assaults using administrative records as they exist today.”

## I.2. MEDICAL CARE

**Finding:** High rates of disease and illness among prisoners, coupled with inadequate funding for correctional health care, endanger prisoners, staff, and the public.

Much of the public dismisses jails and prisons as sealed institutions, where what happens inside remains inside. In the context of disease and illness, which travel naturally from one environment to another, that view is clearly wrong. Left untreated, staph infections and diseases such as tuberculosis, hepatitis C, and HIV directly affect our families, neighborhoods, and communities.

As a result of poverty, substance abuse, and years of poor health care, prisoners as a group are much less healthy than average Americans. Every year, more than 1.5 million people are released from jail and prison carrying a life-threatening contagious disease. At least 350,000 prisoners have a serious mental illness. Protecting public health and public safety, reducing human suffering, and limiting the financial cost of untreated illness depends on adequately funded, good quality correctional health care.

Unfortunately, most correctional systems are set up to fail. They have to care for a sick population on shoestring budgets and with little support from community health-care providers and public health authorities. Capturing the degree of failure in California, Dr. Joe Goldenson told the Commission, “There are facilities with four or five thousand people that only have two or three doctors.” Around the country, some physicians are operating on a license that restricts their work to correctional facilities because they are deemed not qualified to provide care in the community. The public has yet to face the broad and long-term costs of these kinds of failures.

**Finding:** Medical neglect and the spread of infectious disease are not inevitable; there are solutions to the health-care dilemmas facing corrections.

Correctional facilities have a tremendous opportunity to provide health care to people in jail and prison that also protects the public health. But

### PROVIDE HEALTH CARE THAT PROTECTS EVERYONE: RECOMMENDATIONS

- 1. Partner with health providers from the community.** Departments of corrections and health providers from the community should join together in the common project of delivering high-quality health care that protects prisoners and the public.
- 2. Build real partnerships within facilities.** Corrections administrators and officers must develop collaborative working relationships with those who provide health care to prisoners.
- 3. Commit to caring for persons with mental illness.** Legislators and executive branch officials, including corrections administrators, need to commit adequate resources to identify and treat mentally ill prisoners and, simultaneously, to reduce the number of people with mental illness in prisons and jails.
- 4. Screen, test, and treat for infectious disease.** Every U.S. prison and jail should screen, test, and treat for infectious diseases under the oversight of public health authorities and in compliance with national guidelines and ensure continuity of care upon release.
- 5. End co-payments for medical care.** State legislatures should revoke existing laws that authorize prisoner co-payments for medical care.
- 6. Extend Medicaid and Medicare to eligible prisoners.** Congress should change the Medicaid and Medicare rules so that correctional facilities can receive federal funds to help cover the costs of providing health care to eligible prisoners. Until Congress acts, states should ensure that benefits are available to people immediately upon release.

corrections cannot do this alone. Lawmakers must provide adequate funding, and health-care providers from the community must get involved. Together, they can recruit qualified and caring medical staff who are able to manage contagious and costly diseases. Proper screening and treatment of infectious diseases in correctional facilities makes a difference: Between 1992 and 1998, New York City reduced tuberculosis cases citywide by 59 percent, and drug-resistant cases by 91 percent, through this kind of partnership.

Improving correctional health care requires more than partnerships. Many short-term cost-saving measures imposed by local, state, and federal legislatures have long-term negative consequences. To drive down the costs, legislators pressure corrections administrators to require prisoners to make co-payments for their medical care. While co-payments seem reasonable on the surface, they cost more in the long run by discouraging sick prisoners from seeking care early on, when treatment is less expensive and more effective and before disease spreads.

Equally troubling, misguided federal law deprives correctional systems of desperately needed Medicaid and Medicare dollars to fund decent health care. Many people in prison and jail qualify for these federal benefits and lose them when they are incarcerated. Just like any other community health-care provider, correctional agencies should be reimbursed for the cost of providing health services to people who are Medicaid and Medicare eligible. Finally, along with committing more funds to care for mentally ill prisoners, states and counties need to expand treatment in the community. Our jails and prisons should not function as mental institutions.

### I.3. SEGREGATION

**Finding:** The increasing use of high-security segregation is counter-productive, often causing violence inside facilities and contributing to recidivism after release.

#### LIMIT SEGREGATION: RECOMMENDATIONS

- 1. Make segregation a last resort and a more productive form of confinement, and stop releasing people directly from segregation to the streets.** Tighten admissions criteria and safely transition people out of segregation as soon as possible. And go further: To the extent that safety allows, give prisoners in segregation opportunities to fully engage in treatment, work, study, and other productive activities, and to feel part of a community.
- 2. End conditions of isolation.** Ensure that segregated prisoners have regular and meaningful human contact and are free from extreme physical conditions that cause lasting harm.
- 3. Protect mentally ill prisoners.** Prisoners with a mental illness that would make them particularly vulnerable to conditions in segregation must be housed in secure therapeutic units. Facilities need rigorous screening and assessment tools to ensure the proper treatment of prisoners who are both mentally ill and difficult to control.

Separating dangerous or vulnerable individuals from the general prison population is part of running a safe correctional facility. In some systems around the country, however, the drive for safety, coupled with public demand for tough punishment, has had perverse effects: Prisoners who should be housed at safe distances from particular individuals or groups of prisoners end up locked in their cells 23 hours a day, every day, with little opportunity to be productive and prepare for release. People who pose no real threat to anyone and also those who are mentally ill are languishing for months or years in high-security units and “supermax” prisons. In some places, the environment is so severe that people end up completely isolated, confined in constantly bright or constantly dim spaces without any meaningful human contact—torturous conditions that are proven to cause mental deterioration. Prisoners often are released directly from solitary confinement and other high-security units directly to the streets, despite the clear dangers of doing so.

Between 1995 and 2000, the growth rate in the number of people housed in segregation far outpaced the growth rate of the prison population overall: 40 percent compared to 28 percent. As lawyer, scholar, and prison monitor Fred Cohen told the Commission, segregation is now a “regular part of the rhythm of prison life.” There is troubling evidence that the distress of living and working in this environment actually causes violence between staff and prisoners. And the consequences are broader

than that: Housing a prisoner in segregation can be twice as costly as other forms of confinement, and the misuse of segregation works against the process of rehabilitating people, thereby threatening public safety.

## II. Labor and Leadership

**Finding:** Better safety inside prisons and jails depends on changing the institutional culture, which cannot be accomplished without enhancing the corrections profession at all levels.

Most corrections professionals work under extremely difficult circumstances to maintain safety and help prisoners improve their lives. But because the exercise of power is a defining characteristic of correctional facilities, there is constant potential for abuse. In the worst cases, the institutional culture can devolve into one where, in the words of prison chaplain Sister Antonia Maguire, prisoners are treated like “animals, without souls, who deserve whatever they get.” Cultivating a positive culture inside our correctional facilities is more than a “feel good” idea. As former Minnesota Warden James Bruton wrote, “Security and control—given necessities in a prison environment—only become a reality when dignity and respect are inherent in the process.”

Today there are efforts to improve the underlying culture of prisons and jails in places as far apart as Oregon, Arizona, Massachusetts, and Maryland. Corrections administrators leading those reforms understand that an “us versus them” mentality endangers prisoners and staff and, over time, harms the families and communities to which prisoners and staff belong. “We’re moving away from having that feeling of being safe when offenders are all locked up, to one where we’re actually safer because we have inmates out of their cells, involved in something hopeful and productive,” explained Mary Livers, Maryland’s deputy secretary for operations.

Efforts at culture change cannot succeed and bear fruit, however, without recruiting and retaining a highly qualified officer corps and great corrections leaders. All too often, that is not the case. The rate of turnover among officers averages 16 percent annually—and is higher where the pay is lower. Directors of systems remain on the job for no more than three years on average, and their rapid turnover destabilizes entire systems.

State and local governments must improve pay for officers and find other ways to develop the labor force at all levels. Training for officers must improve so that they are better prepared to interact effectively with prisoners from diverse backgrounds. The skills and capacities of lieutenants, captains, and wardens—staff who have the greatest influence on the culture of prisons and jails day to day—must be developed. And governors and local officials must hire the best qualified professionals to lead correctional systems and give them the freedom and resources to do the job well.

## III. Oversight and Accountability

**Finding:** Most correctional facilities are surrounded by more than physical walls; they are walled off from external monitoring and public scrutiny to a degree inconsistent with the responsibility of public institutions.

### CHANGE THE CULTURE AND ENHANCE THE PROFESSION: RECOMMENDATIONS

- 1. Promote a culture of mutual respect.** Create a positive culture in jails and prisons grounded in an ethic of respectful behavior and interpersonal communication that benefits prisoners and staff.
- 2. Recruit and retain a qualified corps of officers.** Enact changes at the state and local levels to advance the recruitment and retention of a high quality, diverse workforce and otherwise further the professionalism of the workforce.
- 3. Support today’s leaders and cultivate the next generation.** Governors and local executives must hire the most qualified leaders and support them politically and professionally, and corrections administrators must, in turn, use their positions to promote healthy and safe prisons and jails. Equally important, we must develop the skills and capacities of middle-level managers, who play a large role in running safe facilities and are poised to become the next generation of senior leaders.

All public institutions, from hospitals to schools, need and benefit from strong oversight. Citizens demand it because they understand what is at stake if these institutions fail. Prisons and jails should be no exception. They are directly responsible for the health and safety of millions of people every year, and what happens in correctional facilities has a significant impact on the health and safety of our communities.

Corrections leaders work hard to oversee their own institutions and hold themselves accountable, but their vital efforts are not sufficient and cannot substitute for external forms of oversight. Former Oklahoma Warden Jack Cowley cautioned, “When we are not held accountable, the culture inside the prisons becomes a place that is so foreign to the culture of the real world that we develop our own way of doing things.” Or as U.S. Department of Justice Inspector General Glenn Fine, who oversees all federal prisons, told the Commission, “There is tremendous pressure within an institution to keep quiet.” Despite increased professionalism within the field of corrections, there remains resistance to scrutiny by “outsiders” that must be overcome.

The most important mechanism for overseeing corrections is independent inspection and monitoring. Every U.S. prison and jail should be monitored by an independent government body, sufficiently

empowered and funded to regularly inspect conditions of confinement and report findings to lawmakers and the public. Today, this is the case in only a few states and localities. While independence is a crucial feature, the relationship with corrections should be collaborative: insiders and outsiders working together to ensure safe and effective facilities.

The federal courts also have an important role to play. Federal civil rights litigation ushered in life-saving reforms over the past 30 years. Several misguided provisions of the Prison Litigation Reform Act enacted in 1996 must be changed so that the federal courts can deliver justice to individual prisoners who are victims of rape, excessive use of force, and gross medical neglect, and compel reform in facilities where prisoners and staff are in danger. Equally important, the U.S. Department of Justice must step up efforts to monitor correctional facilities and, when appropriate, bring civil or criminal actions in response to abusive conditions. States should develop similar capacities. Finally, every prison and jail should allow the press to do its job; invite lawmakers, judges, and citizens to visit facilities; and work in other ways to inform the public about life behind bars.

**Finding:** Internal oversight and accountability is no less crucial than monitoring from the outside. We need to strengthen the mechanisms that exist and make more use of them.

The American Correctional Association (ACA) has developed a solid set of standards governing all aspects of correctional operations and provides a process whereby facilities can become accredited by complying with the standards. Yet today only a tiny fraction of the nation’s jails and fewer than half of America’s prisons are accredited. Every prison and jail should be accredited, and the ACA should raise some standards—pushing institutions to excel beyond acceptable practice to good practice—and continue to strengthen the accreditation process.

Internal oversight also depends on listening to those who are incarcerated and to the officers who work the tiers and pods. No director, warden,

## **INCREASE OVERSIGHT AND ACCOUNTABILITY: RECOMMENDATIONS**

**1. Demand independent oversight.** Every state should create an independent agency to monitor prisons and jails.

**2. Build national non-governmental oversight.** Create a national non-governmental organization capable of inspecting prisons and jails at the invitation of corrections administrators.

**3. Reinvigorate investigation and enforcement.** Expand the investigation and enforcement activities of the U.S. Department of Justice and build similar capacity in the states.

**4. Increase access to the courts by reforming the PLRA.** Congress should narrow the scope of the Prison Litigation Reform Act.

**5. Monitor practice not just policy.** Ensure that American Correctional Association accreditation more accurately reflects practice as well as policy.

**6. Strengthen professional standards.** Improve and support American Correctional Association standards.

**7. Develop meaningful internal complaint systems.** Corrections managers should strengthen the systems that allow them to listen to those who live and work in prisons and jails.

**8. Encourage visits to facilities.** Create opportunities for individual citizens and organized groups, including judges and lawmakers, to visit facilities.

**9. Strive for transparency.** Ensure media access to facilities, to prisoners, and to correctional data.

or shift commander alone can know all he or she needs to know. In many correctional facilities, there are inadequate, sometimes wholly meaningless, systems for receiving and responding to prisoners' grievances and reports by staff about misconduct, and there are failures to safeguard from retaliation those who speak out. Corrections administrators must encourage prisoners and staff to voice their concerns and then protect them.

## IV. Knowledge and Data

**Finding:** Uniform nationwide reporting on safety and abuse in correctional facilities is essential. Incomplete and unreliable information currently hampers the ability of corrections leaders, legislators, and the public to make sound decisions about prisons and jails.

All correctional facilities should be required to record and report to the federal government essential information about safety and health inside facilities. The data we have today is incomplete and unreliable in ways that make it impossible to get a complete picture of safety and abuse in correctional facilities, compare levels of safety in systems and facilities across the country, or dependably track trends over time within a single state or local system. There must be public demand for more and better information about the health and safety of our correctional facilities. Without it corrections administrators cannot make the best management decisions, legislators cannot make the best policy decisions, and the public has no way to judge whether those decisions protect or hurt the community.

The federal Bureau of Justice Statistics, the Association of State Correctional Administrators, and others are working to standardize the data collection process. Congress should pass legislation that builds on those efforts by funding uniform, nationwide reporting, and state legislatures should mandate compliance with the national reporting requirements. Congress also should enact legislation that provides incentives for states to track the success of former prisoners, using the most sophisticated measures, and then analyze the outcomes alongside conditions of confinement, including levels of violence. This is a tremendously difficult task, but it is work that policymakers should embrace as it will contribute directly to public safety.

Finally, we cannot hold corrections administrators accountable for the safety of prisoners and staff, and for public safety, if we do not provide the resources necessary to effectively manage their facilities. Every criminal statute, every sentencing policy, and every policy related to probation and parole has consequences for the conditions inside our prisons and jails and for the health of communities. Legislators should be required to confront the potential consequences of the laws they are considering and publish impact statements before voting.

## In Conclusion

We all bear responsibility for creating correctional institutions that are safe, humane, and productive. With so much at stake for our citizens' health and safety, with so many people directly affected by the conditions in our prisons and jails, this is the moment to confront confinement in the United States. ■

### IMPROVE KNOWLEDGE AND DATA: RECOMMENDATIONS

- 1. Develop nationwide reporting.** Federal legislation should support meaningful data collection, and states and localities should fully commit to this project.
- 2. Fund a national effort to learn how prisons and jails can make a larger contribution to public safety.** The federal government and states should invest in developing knowledge about the link between safe, well-run correctional facilities and public safety.
- 3. Require correctional impact statements.** The federal government and states should mandate that an impact statement accompany all proposed legislation that would change the size, demographics, or other pertinent characteristics of prison and jail populations.