

0146

1 1:47 p.m.)

2 CHAIRMAN WALTON: Okay. We are now ready
3 to proceed with the final panel, which is entitled
4 the "Impact of Staffing, Structure, and Prison
5 Culture in Staff and Inmate Sexual Assault
6 Misconduct Cases."

7 We have four witnesses on this panel.

8 First, we have the director of the CRC
9 Unit, the California Correctional Peace Officers
10 Association in Sacramento, California; Professor
11 Sharon Dolovich, who is a professor of law at the
12 University of California at Los Angeles School of
13 Law; Mr. Bryan Lowry, who is president, Council of
14 Prison Locals, American Federation of Government
15 Employees; and Isaac Ortiz, who is president of the
16 American Federation of Government Employees
17 Local 1010.

18 Thank you for appearing. If all of you
19 would take the oath.

20 Do each of you solemnly swear or affirm
21 that the testimony you will provide to this
22 Commission will be the truth, the whole truth, and
23 nothing but the truth, so help you God?

24 MR. JOE BAUMANN: I do.

25 MS. SHARON DOLOVICH: I do.

0147

1 MR. BRYAN LOWRY: I do.

2 MR. ISAAC ORTIZ: I do.

3 CHAIRMAN WALTON: Thank you.

4 Mr. Baumann, thank you for being here.

5 MR. JOE BAUMANN: Appreciate your time,

6 sir.

7 CHAIRMAN WALTON: Thank you. You may

8 proceed.

9 MR. JOE BAUMANN: My name is Donald Joseph
10 Baumann. I'm a correctional officer. I have been
11 with the California Department of Corrections for
12 approximately 22 years.

13 I'm the chapter president of the California
14 Correctional Peace Officers Association, the
15 California Rehabilitation Center in Norco. I have
16 been the union president there going on nine years.
17 I have been an activist with CCPOA for about the
18 last 12.

19 The institution that I work at is the only
20 coed facility in the California Department of
21 Corrections. We house approximately 4,000 male and
22 700 female inmates in separate compounds.

23 My institution is funded for approximately
24 520 correctional officers. We had a brief exchange
25 at the previous hearing at Folsom about inmate/staff

0148

1 ratios and the inability to properly supervise
2 inmates.

3 Someone on the panel -- I'm sorry. I don't
4 remember the gentleman's name -- came back and said
5 something to the effect of we enjoyed an 8:1 ratio
6 on paper. Statistically on day shift, the busiest
7 shift of the day, our ratio averages about 29
8 inmates to one staff.

9 Whenever you take into account days off,
10 people calling in sick, going on vacation, off at
11 training, so on and so forth, the 8:1 ratio
12 diminishes extremely quickly.

13 My institution is all open dorms. There is
14 not a single cell. The men's facilities average --
15 or the average housing in the men's facility house a
16 hundred inmates. On graveyard you have one officer
17 supervising them.

18 Female inmate housing is a hundred women to
19 a unit divided up into rooms that house between
20 three and eight female inmates with one officer
21 supervising them.

22 At times supervision becomes an issue
23 because of budget constraints. We'll run as high as
24 20, 25 percent vacancies as supervisors.

25 So you'll have whole facilities that have

0149

1 absolutely no supervision. So it turns into Camp
2 Run Amuck both directions.

3 Right now I have a total funding of
4 officers, sergeants, and lieutenants of 628
5 positions, and I have 76 hireable vacancies. And
6 each one of those 76 vacancies generates an overtime
7 shift a day.

8 So I have 12 percent of my positions on any
9 given day that are vacant, and someone either has to
10 either volunteer for overtime or has to be mandated
11 to stay involuntarily for overtime.

12 It worked out real well on Thanksgiving.
13 We only had two people ordered over. I'm
14 anticipating probably close to 80 or 90 come
15 Christmas and New Year's Day. So it becomes a
16 driving factor.

17 Recruiting retention for correctional
18 officers in California has not been a very high
19 priority with the current governor and leadership
20 within the department. They're trying to correct
21 the shortages, but because of political
22 considerations, they closed our training academy for
23 13 months. They closed down background
24 investigations for the same length of time, so
25 trying to get the process back up to speed.

0150

1 But currently between the institutions and
2 paroles, we have almost 4,000 vacant hireable
3 positions. I can't think of an institution off the
4 top of my head that's less than 10 percent
5 vacancies, and some are running upwards of
6 20 percent vacancies.

7 I have entire understaffed workforce that's
8 just being run into the ground.

9 The department's gotten better in the last
10 18 months about filling the supervisory positions,
11 but then that just generates more overtime for the
12 supervisors, both mandatory and voluntary.

13 I just want to touch a couple of points
14 that Mr. Gunn brought up in his earlier testimony
15 concerning post and bid and other things.

16 I don't control 70 percent of the staffing
17 at my institution. I sit down with my management
18 and negotiate. My management takes the 30 percent
19 of the jobs that they feel are critical for them to
20 run. The other 70 percent go out to my members who
21 bid on them based on their seniority.

22 You have other states that enjoy higher
23 percentages. I believe New York and Massachusetts
24 run 100 percent post and bid. I kind of found it
25 ironic that I was overmanaging the institution, and

0151

1 yet Mr. Gunn kind of made a point, at least I walked
2 away listening to him -- or after listening to him,
3 that management -- a bunch of appointees and not so
4 much by merit but by political considerations and so
5 on and so forth, but somehow giving 70 percent of
6 the positions up by seniority was me impeding their
7 ability to manage. I just found it ironic.

8 Investigations, he brought up the point
9 that my members get every shred of evidence before
10 they go into an investigation. That is incorrect.

11 The Peace Officers Bill of Rights in
12 California provides certain protections for a peace
13 officer going into an investigation. They have the
14 right to representation. They have the right to
15 know the course and scope of the investigation going
16 in. It doesn't mean they get any evidence. They
17 have the right to know what the course and scope of
18 the investigation is. And they have the right to
19 tape it.

20 Our contract says that they get the notice
21 of the time, the place, the person, and the course
22 and scope in writing 24 hours before the interview.

23 They have the right to all the evidence
24 prior to going to the State Personnel Board once the
25 department decides that they're going to take a

0152

1 personal action against the employee. That's basic
2 due process.

3 I just felt that his testimony was slightly
4 skewed.

5 On the issue of the State Personnel Board
6 and the recommendation that the department do its
7 own internal -- or their own internal discipline and
8 that we would appeal it to an internal board of
9 rights is contrary to the California State
10 Constitution.

11 The State Personnel Board has sued the
12 Department of Personnel Administration for
13 negotiating that away with the California Highway
14 Patrol. It's something that we don't even have the
15 right to negotiate one way or the other. It's
16 mandated in the state constitution.

17 So anyway, the issue came up with cameras.
18 And as long as it doesn't affect my already low
19 staffing ratios, I don't think anybody has a problem
20 with cameras being in the institutions. There are
21 times where cameras catch employees doing bad
22 things. Get them out of there.

23 We have a long history as an organization
24 of going to the legislature, spending our
25 membership's dues, passing legislation to enhance

0153

1 training -- that's one reason why we have a 16-week
2 academy and background investigations. We have a
3 preemployment mandatory psych screen.

4 The formation of the Office of Inspector
5 General was based on a bill that we sponsored.
6 We've supported numerous media access bills that
7 have been vetoed by the last two governors.

8 So anyway, that concludes my testimony.

9 CHAIRMAN WALTON: Thank you very much.
10 Professor.

11 MS. SHARON DOLOVICH: Chairman Walton and
12 members of the Commission, thank you for the
13 opportunity to speak to you today.

14 I'm a professor of law at UCLA's School of
15 Law where I teach criminal law, legal ethics, and a
16 course on prison law and policy.

17 My research focuses on the legal policy and
18 normative implications of incarcerating convicted
19 offenders.

20 Now, I have been asked to talk today about
21 issues relating to prison rape from the perspective
22 of labor. I should say I'm not a correctional
23 officer, so I can't speak as someone with front-line
24 experience.

25 Instead, what I want to do is step back and