

1           that we have.

2                         MR. CHAIRMAN:   So those several  
3           individuals who the States Attorney said they can't  
4           proceed against, what will happen to those cases?

5                         THE WITNESS:   Well, we sent this letter  
6           indicating what our problems are and what our  
7           resource was.   That's when we sent a copy to the  
8           Michigan State Police and to the State's Attorney  
9           General's Office.   So what's going to happen from  
10          there, I can't tell you.

11                        Oh, I did say I was going to give you a  
12          solution.   When I tried to assess this since  
13          Tuesday or Monday, whenever I got the call, if  
14          there are grants or federal monies available to be  
15          able to prosecute those cases, then that's  
16          something we would be able to do.   But I can't sit  
17          here and tell you picking, at this point, even one  
18          full-time person because unless you get that case,  
19          and oftentimes you will, it's reciprocal.   I can't  
20          tell you honestly that it's going to take one or  
21          two full-time people because I haven't had chance  
22          to assess it.   So it might be a situation where we

1           need resources for one and a half persons.

2                   And so, again, if you were interested in that  
3           kind of assessment, I can do that.  When we look  
4           back in our records, then we can certainly assess  
5           from the Michigan State Police how many of these  
6           cases they investigate and give you or anybody an  
7           accurate picture of what kind of resources we're  
8           talking about.

9                   COMMISSIONER FELLNER:  I'm very  
10          sympathetic to the pressures of resources in your  
11          office and I can think it's distressing that you  
12          are so underpopulated with resources in the  
13          criminal justice system as you are.  Nevertheless,  
14          I assume that the inmates who are in prison in your  
15          area are counted as residents of this area.  They  
16          are for census purposes and for all federal funding  
17          purposes and state and everything else counted as  
18          residences, and I have a hard time understanding  
19          that any group of residents is simply removed from  
20          the protection that they are entitled to when their  
21          rights are violated.

22                   We're not talking victimless crimes, we're

1 talking about people who have been raped and  
2 assaulted. Whether they're state employees,  
3 whether they're perpetrators, whether they're in a  
4 state facility or if they are here, they deserve  
5 the protection of your office, I believe. But I  
6 also understand what you're saying about tension.

7 And I wondered if you could tell me how many  
8 cases do you prosecute, for example, what I would  
9 call victimless drug crimes? How much of your  
10 caseload involves street level drug transactions,  
11 for example?

12 MS. WORTHY: Well, let me go back to the  
13 context and the impression was. First of all,  
14 nobody suggested at all that people incarcerated in  
15 Wayne County, whether they be prisoners or in a  
16 jail as "citizens who are arrested for an offense."  
17 Nobody suggested that they don't have rights, and  
18 nobody suggested that their case shouldn't be taken  
19 seriously. I think you missed the point, quite  
20 frankly.

21 COMMISSIONER FELLNER: No, I understand  
22 the point, which is that you don't have the

1 resources to take on those cases and the state is  
2 not, apparently, willing to take them on. But if  
3 you would take on anybody else, you are making a  
4 line between by which cases you will take and which  
5 cases you won't of people in your -- and I believe  
6 all victims of violent crime have a right to have  
7 law enforcement take their cases seriously. So I'm  
8 just wondering in terms of the resources, because I  
9 understand there are real limitations, can you give  
10 us a sense or do you have statistics on how your  
11 office allocates its resources between drug crimes,  
12 theft, public order offenses, homicide? I mean do  
13 you have that kind of data with you that you could  
14 share with us?

15 MS. WORTHY: No. I think to do that  
16 would be irresponsible for many reasons. Number  
17 one, we're not talking about going over --  
18 interviewing a prisoner in the Ryan (ph.) facility.  
19 That's not what we're talking about. That would be  
20 a trip that would take about 15 minutes. But we're  
21 talking about traveling to the UP and other places  
22 in Michigan that we don't have the resources to go

1 to, number one. So I just want to make that clear.

2 But, I don't make where you have five points  
3 for homicides, so we're going to prosecute that,  
4 four points for criminal sexual conduct, so that's  
5 a part of it, three points for child abuse. We  
6 don't do that. We do it based on the warrants that  
7 are brought to the office. And we have to have a  
8 line of demarcation somewhere. And our line of  
9 demarcation is that we have to travel outside of  
10 the county to interview the victim of a crime in a  
11 state institution when we feel that the State  
12 Attorney General should be doing that. That's  
13 where I draw the line.

14 So do I have stats of how many drug cases that  
15 we do? Of course, I do. Do I have homicides about  
16 how many homicide cases that we do? Yes, I do, not  
17 with me, but I can provide it.

18 COMMISSIONER FELLNER: Thank you.

19 COMMISSIONER SMITH: Good afternoon. I  
20 guess what you're hearing from Commissioner Fellner  
21 and which you're also hearing from me is, first of  
22 all, I think you did an excellent job in terms of

1 marshaling sort of exactly -- crystallizing exactly  
2 what the issue is. But if we focus on those three  
3 cases, for example, that a State's Attorney  
4 General's Office decided that for complex reasons  
5 they're not going to prosecute, then what happens  
6 is you have a situation where we've heard a  
7 tremendous amount of testimony on that its  
8 corrosive to the correctional environment, it's  
9 exclusive in terms of public safety and/or where  
10 neither the State's Attorney General's office or  
11 the county prosecution office is going to do  
12 anything about, okay?

13 MS. WORTHY: I agree with you. Sure.

14 COMMISSIONER SMITH: So what happens  
15 then? What should happen then?

16 MS. WORTHY: What should happen is that  
17 people who are concerned about this issue should  
18 put their money where their mouth is and provide  
19 the resources so that we can do these cases. It's  
20 with the same vigor and zeal that we do all the  
21 cases. That's what should happen.

22 You know, no prosecutor or no person in law

1 enforcement who is responsible for public safety,  
2 especially in a county as large as this one, should  
3 have to beg for resources to make the streets safe  
4 or to make the jails safe or to make the churches  
5 safe. That's a responsibility that I should not  
6 have, but I do. So what I think should happen is  
7 if people are serious about prosecuting these  
8 cases, then they need to give us the dollars to do  
9 so.

10 COMMISSIONER SMITH: Where do you see  
11 that coming from? How can we be helpful because  
12 that's what it's always all about from our  
13 perspective. How can we be helpful in creating  
14 that space because, again, what we continue to hear  
15 and you've actually articulated it, is that staff  
16 are not coming forward, prisoners are not coming  
17 forward in these cases. Then you can understand  
18 the reluctance if you paid for it, and you put  
19 yourself out there again --

20 MS. WORTHY: Oh, I can, yes.

21 COMMISSIONER SMITH: -- and nothing ever  
22 happens. And because we know people's cycle in and

1 out of the system that they might have to go back  
2 there.

3 So I mean what can we do in order to support  
4 that? I mean where are the buttons to push here?

5 MS. WORTHY: I understand your question.  
6 I guess having been a person that sat on the  
7 Commission for the Governor of the state on a whole  
8 other issue, what I think should happen, and I  
9 assume that you're going to make recommendations to  
10 Congress or to whatever body empowered you, one of  
11 the primary recommendations should be, if not the  
12 primary recommendation, that there should be  
13 adequate resources allocated to state, local and  
14 federal authorities to aggressively and zealously  
15 prosecute these cases. And that means we have to  
16 have the dollars and the bodies to do so. That  
17 would be my first recommendation. That's the way  
18 that the job could get do.

19 COMMISSIONER SMITH: And would that be  
20 specific resources that say for prosecution within  
21 a correctional setting?

22 MS. WORTHY: I have no problem with the

1           wording. I have no problem with you saying to me,  
2           you have to have a specific person that does this  
3           and these cases and this person is charged or these  
4           people are charged with the prosecution of these  
5           types of crimes. I have no issue with that because  
6           if that was provided, that's what I have to do.  
7           And I assume that I have to report back, and both  
8           audits and everything else I'd have to do --

9                        COMMISSIONER SMITH: About what happened  
10           with those prosecutions.

11                       MS. WORTHY: I have no problem with that.  
12           If however they want to word it is going to help me  
13           get to issues within our prison walls, I have no  
14           problem with that.

15                       MR. CHAIRMAN: Well, our main thing is to  
16           make recommendations to the Congress and President  
17           and the state and local officials.

18                       MS. WORTHY: I'll say again, I think that  
19           your recommendation should be exactly as I outlined  
20           and that would take care of the resource problem.  
21           I can't speak for the rest of the DAs across this  
22           country or even the rest of the DAs in the state,

1 but I can speak for my office having been there for  
2 a very long time, even as a worker and that is that  
3 there would be no reluctance in pursuing a case  
4 just because it's harder. And if any assistant  
5 prosecutor feels that way, they should not be an  
6 assistant prosecutor.

7 MR. CHAIRMAN: Anyone else?

8 COMMISSIONER FELLNER: I guess I still  
9 don't understand. And maybe if you would bear with  
10 me and try and clarify it.

11 You do do drug cases, I assume, that are  
12 street level transactions?

13 MS. WORTHY: Of course.

14 COMMISSIONER FELLNER: Of course. So  
15 your office has made a choice to continue to do  
16 those cases. Could you, could you not, say because  
17 we're underresourced, understaffed, you know,  
18 whatever, we are not going to do any, quote,  
19 victimless crimes, we are only going to focus on  
20 crimes where somebody claims to have been  
21 physically assaulted, sexual abused, or had their  
22 property stolen from them.

1                   MS. WORTHY:  There's no such thing as a  
2                   victimless crime.

3                   COMMISSIONER FELLNER:  I understand that,  
4                   but I'm saying you could say -- you would have the  
5                   authority, I gather, to say exercising my  
6                   discretion, we're only going to focus on crimes in  
7                   which a person alleges a violation of either their  
8                   physical integrity or theft of their property,  
9                   which would exclude most drug cases, which don't  
10                  involve, you know, rape, homicide, sexual assaults,  
11                  you know, robbery stuff.  Why wouldn't you --

12                  MR. CHAIRMAN:  Political suicide.

13                  COMMISSIONER FELLNER:  Well, I understand  
14                  it's political suicide, but what I'm saying is  
15                  underneath what you're saying is you've got a  
16                  resource problem, but you have chosen, and I am  
17                  just going to be very blunt, you have chosen to  
18                  sort of cut off from the benefits of your office  
19                  the most politically powerless, most unpopular  
20                  constituency possible.

21                  MS. WORTHY:  I don't agree with you all.

22                  COMMISSIONER FELLNER:  You don't think

1 prisoners are politically powerless?

2 MS. WORTHY: There are many people that  
3 we do prosecute on a daily basis that are  
4 politically powerless. I mean I don't really  
5 understand. So I'm supposed to look at -- first,  
6 let me answer your question. No, I would never  
7 exercise my discretion in that manner and I would  
8 never think about exercising my discretion in that  
9 manner, to be quite frank with you.

10 I am going to look at the person and say, no,  
11 I'm not going to prosecute your car theft case?  
12 I'm going to look at -- like I said, there's no  
13 such thing as a victimless crime. I'm going to  
14 look at the neighborhood on the east side or  
15 wherever in Detroit or across the county and say,  
16 no, I'm not going to prosecute the five drug houses  
17 or crack houses --

18 COMMISSIONER FELLNER: But you're saying,  
19 no, you're not going to prosecute the prisoners?

20 MS. WORTHY: Excuse me, excuse me --  
21 because they're a victimless crime? Come on. I'm  
22 not going to do that.

1           What I've tried to make clear to you is that I  
2           cannot spare a warrant prosecutor to take a half a  
3           day or a day to travel to an institution outside of  
4           my county. I can't do that. I'm happy to do that,  
5           if you or anyone on your Commission or this  
6           Commission as a whole want to make a recommendation  
7           that resources be allotted for that. So I am not  
8           going to rank the crimes in that way.

9           I have different sections in my office, child  
10          abuse, homicide, elder abuse, general files, public  
11          integrity. We have all of those units. And I'm  
12          certainly not going to say to my public defender  
13          unit that because the potential defendant in your  
14          case is a public official or police officer, we're  
15          not going to do these cases because we should do  
16          prisoner cases. We're not doing it based on the  
17          quote, unquote, class of the person. And I think  
18          that's the point that you're missing. We're doing  
19          it based on I don't have the resources to send  
20          someone to the UP two or three times to interview  
21          somebody to work on a case. I can't do it, but  
22          that's the one point, the first point. But I think

1           there are appropriate people in the state that can  
2           do it that do have the resources.

3                    COMMISSIONER SMITH:  Ms. Worthy, let me  
4           just ask one question, and I am going to speak  
5           loudly.  If, for example -- I assume that there's a  
6           Detroit County Jail, right?

7                    MS. WORTHY:  There's a Wayne County Jail.

8                    COMMISSIONER SMITH:  Wayne County Jail,  
9           Wayne County Jail.  If an inmate on inmate sexual  
10          assault occurred in the Wayne County Jail or if  
11          staff sexual misconduct occurred in the Wayne  
12          County Jail --

13                   MS. WORTHY:  You do those cases.

14                   COMMISSIONER SMITH:  -- you would do  
15          those cases?

16                   MS. WORTHY:  We do those cases.

17                   COMMISSIONER SMITH:  Okay.

18                   MS. WORTHY:  We walk across the street  
19          and interview them.

20                   COMMISSIONER SMITH:  And if it's in the  
21          county, if it's -- what about Wayne County?

22                   MS. WORTHY:  We probably could do most of

1           those cases, but the problem becomes, and this is  
2           what happens all the time, that generally once the  
3           incident occurs, the inmate is removed from this  
4           area and they're sent to another part of the state.  
5           And so by the time the case is brought to us, none  
6           of the people involved are anywhere within a  
7           100-mile radius, generally. And I don't want to be  
8           quoted. I'm just giving you an example. That's  
9           the problem. That's the problem. It's not based  
10          on the fact that they're prison inmates. It's not  
11          based on that. You know, we prosecute homeless  
12          victims. We prosecute all kinds of people. It's  
13          based on the resources to be able to send the  
14          assistants up to the UP or other places to be able  
15          to do a proper investigation.

16                 Now if you want to me to base it on the paper  
17          that comes before me, if I choose to conduct myself  
18          in that irresponsible nature, then sure we can do  
19          it. But we're going to afford that prisoner a  
20          proper investigation, interview each and every  
21          witness that that inmate may have to their assault,  
22          and on top of that interview each and every witness

1           that that witness may lead us to, which leads us,  
2           oftentimes, all over the state. So I am not going  
3           to take a piece of paper or warrant package that a  
4           police agency brings to me, even though I know it's  
5           a good police agency, and have my assistants sign  
6           off on that without talking to the people involved.  
7           They deserve that. And for me to treat them  
8           differently than I treat something that happens  
9           across the street when I take the resources to go  
10          and interview those people and I'm not going to go  
11          and interview people who say they are sexually  
12          assaulted, that's irresponsible. And I'm not going  
13          to conduct my business that way.

14                        COMMISSIONER SMITH: Because I want to  
15          make clear that some of the questioning that I  
16          perceive that you got from Commissioner Fellner was  
17          because it appeared that there was a blanket policy  
18          that we're just not going to do prison cases any  
19          more.

20                        MS. WORTHY: We're not going to do prison  
21          cases where we have to -- we're not going to do  
22          prison cases, that's right, but we do jail cases

1 all the time.

2 COMMISSIONER FELLNER: So even if the  
3 prisoner was still in -- the prison -- the state  
4 prison is in Wayne County.

5 MS. WORTHY: But that's not the way it  
6 works. In a perfect society you would have --  
7 well, in a perfect society you wouldn't have this  
8 issue. But in a perfect society beyond the assault  
9 itself, that inmate would still be there, the  
10 witnesses would still be there, the prison  
11 personnel would still be there and everybody would  
12 still be there and we say why don't you go and do  
13 that and issue a warrant or not issue a warrant.  
14 And then, it's not only that, at the time that the  
15 trial comes and/or pretrial issues because we have  
16 motions where we have to bring the prisoners back  
17 and forth all the time in other types of cases --  
18 and let me just make clear, we do cases all the  
19 time where we have inmates as witnesses, but then  
20 you're talking about this particular case. And if  
21 you have six months down -- not six months, but  
22 four months down the road when this case comes to

1 trial, all the people are still the same place,  
2 that would be one issue, but that's never the way  
3 it happens, never.

4 COMMISSIONER FELLNER: Is there something  
5 the DOC could do that would help you so that you  
6 could take these cases within reasonable  
7 constraints?

8 MS. WORTHY: Even if I had the resources  
9 to do so?

10 COMMISSIONER FELLNER: No. Is there  
11 something -- given your current lack of resources,  
12 could the DOC, the Department of Corrections or  
13 whatever the technical name is --

14 MS. WORTHY: DOC, yes.

15 COMMISSIONER FELLNER: -- behave  
16 differently to handle things differently to make it  
17 easier for you?

18 MS. WORTHY: No, because I think it's  
19 appropriate that they move the inmate away from the  
20 place of the assault. I think that's appropriate.  
21 So, no, I don't think it's the fault of the  
22 commission of the Department of Corrections. It is

1           what it is. It's a resource issue.

2                         THE CHAIRMAN: Well, we have another  
3 panel to move to. We truly appreciate you  
4 responding to us on such a short notice.

5           I, having been a big city prosecutor myself  
6 for a long time, appreciate the problem that you  
7 have, plus I know what you say. You've got a room  
8 full of victims. You're talking about human beings  
9 who are waiting to --

10                        MS. WORTHY: Talking about, literally, a  
11 room full of victims. But if there are any  
12 questions that you have or you want me to provide  
13 that to you, I can certainly do that for you,  
14 directly in some cases and other cases it would  
15 take me a while to put that together. But I would  
16 be willing to assist you in any way that I can with  
17 the information you may need. If you think of a  
18 question later on that you have for me, just call  
19 me and I'll be able to put that information  
20 together for you.

21                        THE CHAIRMAN: I'm sure we all find this  
22 distressing, the fact that these cases cannot be

1 prosecuted because I'm sure we would like to get  
2 those figures from you as to a county of this size  
3 in our country clearly in this situation.

4 MS. WORTHY: Well, there are many other  
5 reasons that probably haven't even been addressed  
6 yet. I mean there are written questions far beyond  
7 cases not being prosecuted. There are written  
8 questions when that person does not have these  
9 needs met and addressed when their case is not been  
10 prosecuted when they're released and returned back  
11 to society. Sometimes it will affect how they live  
12 their lives and you may see them back as  
13 recidivists. And they may not have been a  
14 recidivist if their issue had been addressed.

15 So there are many issues far beyond what I've  
16 addressed, you know, criminal justice issues and  
17 others, mental health issues -- don't get me  
18 started -- provide the proper mental health to the  
19 person in the first place. There are many issues  
20 beyond what we're talking about here.

21 THE CHAIRMAN: Thank you very much.  
22 We'll take a five-minute break.