

Abolition and the Universal Carceral

Mike Larsen

This edition of the *Journal of Prisoners on Prisons* is based, in part, on papers delivered at the 12th International Conference on Penal Abolition (ICOPA XII), hosted by the Howard League for Penal Reform in London on July 23-25, 2008. As part of ICOPA XII, the *Journal of Prisoners on Prisons* organized a Colloquium on the Universal Carceral,¹ with the goal of creating “a space for focused discussion – within an abolitionist framework – about the changing and expanding dynamics of imprisonment, and about those aspects of the carceral experience that seem to remain constant across geography and time” (Howard League for Penal Reform, 2008, p. 3). The conference brought together academics, activists, ex-prisoners, lawyers and practitioners, and featured a number of works – several reproduced in this volume – written by current prisoners, but presented by delegates who were able to travel to London in their stead. The choice of London, England as the location for ICOPA XII struck many of us as apposite, given that the city has become the surveillance capital of the world, home to a vast and diffuse network of CCTV cameras that extinguished any expectations of privacy (see Surveillance Studies Network, 2006). Surely, there can be few better places to host a conference on penal abolition than a metropolis that is slowly and inexorably transforming itself into an open-air detention centre for vigilant citizen-prisoners.

Some of our deliberations engaged directly with penal abolitionism, considered as both a movement and as a stance (Mathiesen, this volume), while others represented efforts to map and define the “proliferation of new forms of carceral control” (Gaucher, 2007, p. 1). Both topics are reflected in this edition of the *JPP*, which is appropriate, as one of the key lessons of past ICOPAs is that the targets of the abolitionist movement are ever-shifting and diversifying, requiring a similar flexibility and openness from abolitionists. Indeed, as Mathiesen (1974) has argued, the strategy of penal abolitionists must be consciously and deliberately *unfinished*, pairing specific, targeted abolitions with a recognition of the consequent expansion of the boundaries of structures and systems of control, which in turn creates new targets for abolition.

The first ICOPA was held in Toronto, Canada, in 1983, and at the time, the focus was on prison abolition. While the prison remains central to the abolitionist movement, it was quickly recognized that focusing on the eradication of this institution without also addressing the punitive, exclusionary, and retributive policies and practices that drive incarceration,

the long-term goals of abolitionism could not be realized. Accordingly, the second ICOPA expanded its focus from prison to penal abolition, a theme that continues to inform both targeted abolitionist efforts and efforts to build non-punitive, transformative, and community-based alternatives (Morris, 2000).

Unfortunately, the abolitionist goal remains elusive. Despite – or in some cases, through the co-optation of – the best efforts and intentions of reformers (Rothman, 1980; Cohen, 1985; Piché and Strimelle, 2008), the systematic deprivation of liberty through systems of control and confinement has intensified over time, driven by the expansion of the prison-industrial complex (Christie, 2000; Herivel and Wright, 2008), the proliferation of retributive policies and the rhetoric of penal populism, the large-scale adoption of carceral techniques (Foucault 1995 / 1977) in the realms of health and immigration, and the exceptionalizing politics of (in)security and neo-absolutism (Huckelbury, 2007). Bauman (2004) explains this growth of systems and spaces of exclusion as the consequence of an approach to modernity that allows whole categories of humanity to be essentialized and framed as (at best) redundant or (at worst) hazardous waste, subject to casting-out and enclosure (see also Young, 1999). It is this wholesale growth of the mentality of exclusion and its associated practices of surveillance, confinement and control that we attempted to address with the Universal Carceral Colloquium. In particular, we sought to highlight the proliferation and normalization of detention as a disposal or management tactic in spheres peripheral to the traditional criminal justice system, and to incorporate these spaces of confinement into the overarching abolitionist framework.

The issue begins with three articles that deal with health provision in prisons – a central topic discussed at ICOPA XII and one of the primary examples of the use of carceral techniques to deal with complex social problems. In “The Continuing Horror of Spiegelgrund”, Peter Collins² draws on two Canadian case studies to demonstrate the sheer incongruity between the needs of individuals dealing with mental illnesses and the characteristics of carceral spaces. While mental health issues require compassion and a recognition of vulnerability, prisons deliver isolation and coercion, with predictable and tragic consequences. Collins concludes by arguing that “[t]hese prison horrors exist and operate in your name, funded with your taxes. You have the right and frankly, *the obligation* to speak up”. This call to action, fuelled by a dual sense of indignation and responsibility, is echoed throughout the issue, and sets the tone for our exploration of the Universal Carceral. In “Abrogation of the Therapeutic Model in Prison Health Care and the Implications for Public Safety”,

Susan Nagelsen and Charles Huckelbury³ continue the discussion of health care and imprisonment, this time with a focus on the United States. They describe a prison health care system that is structurally flawed and demonstrably incapable of meeting the needs of patients, and suggest that the perpetuation of this failure is made possible by the perceptual fallacy that prisons are disconnected from communities. Nagelsen and Huckelbury make the case for short-term abolitionist reforms, in the form of community-based alternatives to incarceration and the concomitant shifting of health care services to non-carceral spaces. Such a shift, they argue, will help to erode the sentiment of difference that allows the public to turn its back on prisoners, which will in turn facilitate long-term abolitionist goals. Eugene Alexander Dey, writing from California, discusses the “Correctional Asylums of the 21st Century” by providing a vignette of an attempted suicide by a prisoner. His argument is straightforward and powerful: the carceral environment, which threatens to break the spirit of the most resilient prisoners, is an inherently inappropriate place to put individuals dealing with complex mental health issues.

Moving from the realm of health care to the realm of immigration – but continuing the discussion of incarceration as a tactic of exclusion that operates beyond a framework of “crime and punishment” – I, along with Sophie and Mohamed Harkat⁴ discuss the recent history of security certificate detention in Canada. In “Justice in Tiers”, Sophie and Mohamed describe the practice of secret trials, where the precautionary logic of national security combines with the recognition of diminished rights for non-citizens to create a shifting system of indefinite detention, both within and outside the prison. Echoing Collins’ call to action, we argue for the abolition of security certificates. In “Bush” (no, not George W.), Joe Lekarowicz talks about his disorienting experience as a prisoner in a United States immigration detention facility. He describes the atmosphere of systematic brutality and uncertainty that characterizes immigration detention, and provides a powerful account of the resilience provided by human relationships in dehumanizing places. I am happy to see these two articles published in the *JPP* as they shed light on forms and spaces of incarceration that are not generally discussed in these pages. The growth of immigration detention and the securitization of migration (Bigo, 2002), driven by resurgent nationalism and the fear of “Others”, are key vectors in the expansion and universalization of the carceral.

The final article in the issue is “Political Prisoners in Australia?” by Craig W.J. Minogue.⁵ This article reminds us that abolition is a political project, the success of which depends in large part on the actions of politically-motivated prisoners. Minogue argues for a definition of political

imprisonment that is based on the awareness and action of prisoners – and the state’s response to these actions – as opposed to a determination of the motivations of the actions that led to their imprisonment. According to this framework, Australia has an active population of political prisoners, and Minogue calls on the transnational abolitionist movement to recognize and support this community.

Following the main articles, the issue continues with a special *Response* piece by Thomas Mathiesen on “The Abolitionist Stance”. This article, based on his plenary address at ICOPA XII, directly engages with the questions “what is penal abolition?” and “how do we practice abolition?”. Mathiesen argues that abolitionism is, first and foremost, a stance – an attitude of saying “no” that informs action. This stance has been at the heart of past successful abolitions, and, if maintained and fostered, will help us to realize the goals of penal abolitionism. I note that this stance, this attitude of saying “no” to systems of carceral control and of refuting arguments that they are in some way “necessary”, informs each of the articles included in this volume of the *JPP*. This is encouraging. It shows, I think, that the abolitionist spirit is alive and well, and that our critical assessments of the disastrous consequences of incarceration are informed by a politics of hope, along with a rejection of the position that imprisonment need be viewed as a normal and inevitable part of our future.

This is a stance well worth adopting.

ENDNOTES

- ¹ The Universal Carceral Colloquium was organized by Claire Delisle, Mike Larsen and Justin Piché. For more information, consult the colloquium website at http://web.mac.com/mikelarsen1/The_Universal_Carceral/Welcome.html.
- ² Presented at the panel “What is the Universal Carceral?” at ICOPA XII.
- ³ Presented at the panel “Experiences of the Universal Carceral I” at ICOPA XII.
- ⁴ Based on presentations at the panels “What is the Universal Carceral?” and “Experiences of the Universal Carceral II” at ICOPA XII.
- ⁵ Presented at the panel “Experiences of the Universal Carceral II” at ICOPA XII.

REFERENCES

- Bauman, Zygmunt (2004) *Wasted Lives: Modernity and its Outcasts*, Cambridge: Polity.
- Bigo, Didier (2002) “Security and Immigration: Toward a Critique of the Governmentality of Unease”, *Alternatives*, 27: 63-92.

-
- Christie, Nils (2000) *Crime Control as Industry*, New York: Routledge.
- Cohen, Stanley (1985) *Visions of Social Control*, Oxford: Polity Press.
- Ericson, Richard (2007) *Crime in an Insecure World*, Cambridge: Polity.
- Foucault, Michel (1995 [1977]) *Discipline & Punish: The Birth of the Prison*, New York: Vintage Books.
- Gaucher, Bob (2007) "Editor's Introduction: Carceral Universals", *Journal of Prisoners on Prisons*, 16(2): 1-7.
- Herivel, Tara and Paul Wright (eds.) (2008) *Prison Profiteers: Who Makes Money Off Mass Incarceration*, United States: New Press.
- Howard League for Penal Reform (2008) *ICOPA XII Conference Report*, http://www.icopa12london.org.uk/fileadmin/howard_league/user/pdf/Icopareport.pdf.
- Huckelbury, Charles (2007) "Neo-Prussian Politics: Absolutism in the United States", *Journal of Prisoners on Prisons*, 16(2): 97-112.
- Mathiesen, Thomas (1974) *The Politics of Abolition: Essays in Political Action Theory*, Oxford: Martin Robertson.
- Morris, Ruth (2000) *Stories of Transformative Justice*, Toronto: Canadian Scholars Press.
- Piché, Justin and Véronique Strimelle (2008) "Restorative Justice Program Evaluation Frameworks: A Site of Pitfalls and Opportunities", *International Journal of Restorative Justice*, 3(2): pp. 40-56.
- Rothman, David J. (1980) *Conscience and Convenience: The Asylum and Its Alternatives in Progressive America*, New York: Aldyne de Gruyter.
- Surveillance Studies Network (2006) A Report on the Surveillance Society: For the Information Commissioner by the Surveillance Studies Network, http://news.bbc.co.uk/2/shared/bsp/hi/pdfs/02_11_06_surveillance.pdf.
- Young, Jock (1999) *The Exclusive Society*, London: Sage.

The Continuing Horror Story of Spiegelgrund: Mental Health, Compassion, Awareness and Incarceration

Peter Collins

Between the 1950s and the 1970s, Canada was secretly working with the CIA to facilitate and participate in psychiatric experimentation on Canadians (Collins, 1988). Along with the standardized sensory experiments, which included massive doses of LSD and other psychoactive drug cocktails, they were pushing and testing pain and sanity thresholds. This litany of horrors was perpetrated in the quest to develop and hone “tools” which could be used to extract information from Soviet spies (*after all, we have to watch out for those damn communists ... oh sorry, it's the Muslims now, isn't it?*). All that “experimentation” is now sadly paying dividends in Guantanamo Bay and other secret American-run torture prisons, all neatly tucked away from prying eyes (Klein, 2007).

When we look into Canada's not-so-distant past, the ripples in toxic pools of government sanctioned torture are still touching the shores. Experimentation on prisoners, the socially isolated, the mentally frail, using state certified lobotomies, electroshock, castration and sterilization – this is Canada's deplorable legacy. It would be dishonest to overlook the extensive commercial pharmaceutical experiments which were conducted without consent in Canadian prisons and psychiatric asylums where the prisoners were *legally* considered to be people without any rights. All of this torture was inexplicably carried out on the heels of World War II, after the Allies had “discovered” what had gone on behind the not-so-closed doors of the Nazi war machine with its many scientists and doctors performing large scale human experiments in support of their genocidal “final solution”.

A side dish to the main course is Spiegelgrund,¹ a clinic asylum in Vienna, Austria which performed grotesque experiments and “scientific” murders in the quest to “cleanse” the Arian race. Dr. Heinrich Gross of Spiegelgrund fame was complicit in thousands of murders and his signature appears on over 200 documents declaring children unfit to live during the Nazi *Lebensunwertes Leben*² (Life Unworthy of Life programme) (Agamben, 1998). Dr. Gross, post WWII, became one of Austria's most respected neuro-psychologists and forensic experts, receiving many awards and accolades while working for the Austrian courts of law as a psychiatric expert until 1997. Dr. Gross kept body parts of children he murdered and continued to work on them in his archive at Spiegelgrund

right into the late 1990's. Many of the murder victims were children of the so-called "socially undesirable" – the mentally ill, gypsies, gays, Jews, Blacks and criminals or anyone not "acceptably" Arian. Post-WWII, some of this gruesome collection was portioned and shared with research clinics around the world, so the violations continued after their deaths and after Europe's liberation.

The corrupting stench of complicity has wafted across oceans of water and time. The years have passed, memories have faded, revulsion replaced by apathetic complacency. Time marches on and the crushing black boots have been replaced by business suits in our age of distraction, Super Bowls, terrorism, World Cups, crime rates, celebrities, the Olympics, reality TV and fashion – a blended opiate-swill for the masses. All this glitter built on the backs of the disenfranchised, the dispossessed and poor, while multi-national conglomerates rape the earth, steal the future and hoard misappropriated wealth with governmental blessings. Wal-Mart sells us cheap televisions and front row seats, while CNN and the like deceive, distract and conceal with their repetitious, rapid-fire sound bite "news reports". Our complacency allows complicit governments to cut, tear and shred the environment and social safety nets while filling the coffers of the few and the rich.

With the hard winds of opportunity, greed and crisis blowing, many Canadian social programs have been cut and nowhere is this more evident than in the mental health facilities that have been closed by Conservative governments (*in name and spirit*). Individuals with mental health problems who run afoul of the Canadian State find themselves placed in prison instead of social and supportive mental health facilities. Seventy-five percent of Canadian youth prison / custody populations have a diagnosed mental disability (Howe and Covell, 2007, p. 168). Canada criminalizes mental disability and through this atrocity fails to protect the most vulnerable. Judge Irwin Lampert is quoted in the *Moncton Times* and in a court transcript on April 24, 2007 as saying:

Jails have become de facto mental institutions ... [G]overnment needs to put more resources in place so mentally ill people get the treatment they need and aren't left to be dealt with by the justice system.³

A glance backward provides some context. The British Parliament passed the "Confinement Act" in the early 1800s, an act that regularly consigned the mentally ill to life inside miserable prison asylum walls. In 1810, while working to document and validate "treatment" at the hospital of St. Mary of Bethlehem ("Bedlam Asylum") in London, William Black

created a table (Black's List) of mental illnesses. While Black's list appears similar to the current psychiatric black book of authority *The Diagnostic and Statistical Manual of Mental Disorders*, we have not strayed very far from Bedlam. We have some meandering debates among our academics and complicit "correctional experts" have published papers documenting, commenting, and venturing down the road of examining for the purpose of validating the horrific practice of imprisoning those with mental disabilities (Hayes, 2005; Glaser and Florio, 2004; Jamieson et al, 2000). Our predisposition to shovel inconvenient members of the human family off behind closed doors is an enduring conduct that exposes the rot that eats away at our credibility and underlines human unkindness.

The current annual budget of the Correctional Service of Canada is close to \$2 billion, approximately 72% of which is allocated to "care and custody" expenses (Correctional Service Canada Review Panel, 2007). This figure is in addition to provincial correctional expenditures. Despite the continuing drop in crime rates, incarceration rates in Canada continue to increase, including incarceration rates for women (Canadian Association of Elizabeth Fry Societies, 2008). The current Canadian Conservative government intends to build regional super prisons while simultaneously lengthening sentences, increasing minimum sentencing and reducing parole. This government is constantly trying to pass repressive prison-oriented legislation clearly mistaking intelligent holistic responsive action to reduce the causes of crime with being "soft on crime". Under Conservative right wing ideology, the overall prison population and the costs to society will rise dramatically. Over the last 25 years, Canadian legislators have created some of the longest prison sentences in the world and Canada is no longer just flirting with the U.S. culture of incarceration. This enthusiasm for incarceration occurred before and during the patterned closures of many Canadian mental health facilities.⁴ Canada is also dealing with – or failing to deal with – an increasingly complex homelessness problem. The streets and prisons are now Canada's dumping ground for the mentally ill. As funding for mental health care has diminished the Canadian justice system continues to press the mentally ill into prisons. Indeed, the 2004 Report of the Office of the Correctional Investigator found that the percentage of federal prisoners with a diagnosed mental disorder rose 61 per cent between 1997 to 2004 (Office of the Correctional Investigator, 2005). Prisons have neither the facilities nor are they structured to improve, assist or deal with mental health issues. Prison guards simply do not have the skills, the training or the collective will to meaningfully deal with these issues.

A recent and particularly horrible example of Canadian prison injustice

came into view on October 19, 2007, at 7 am, when the body of nineteen year old Ashley Smith was pulled from a segregation cell in Grand Valley Prison (GVI) in southern Ontario. GVI is a federal prison ironically built to replace Kingston's medieval Prison for Women (P4W), which was shut down under the weight of Madam Justice Louise Arbour's scathing commission⁵ into the brutalising conduct of male Correctional Services Canada (CSC) prison guards who had stripped and cut the clothes off a number of female prisoners while filming the procedure in front of other males. At fifteen years old, Ashley had been sentenced to youth detention (*prison for children*) for throwing crab apples at a postal worker. Under the crushing weight of imprisonment, Ashley was immersed into endless personal trauma and crisis, but received no meaningful assistance from Canada's federal prison service. Four years later, while on suicide watch Ashley died a lonely death in a bleak segregation cell. CSC will not divulge when Ashley was transferred from the children's prison system into adult prisons and there is no explanation as to why she was shipped so far from her home province of New Brunswick. What we do know is that while Ashley was being held at the Saskatchewan Regional Psychiatric "Treatment" Centre (RTC), she was assaulted by prison staff. A guard supervisor by the name of John Tarala was subsequently suspended, and formally charged with assault, though the charges were later dropped (Dalton, 2008). After the alarm that Ashley had been assaulted was raised, she was transferred to GVI prison and placed on a suicide watch, and it appears the guards actually watched, or walked away, while she died (see Ombudsman and Child and Youth Advocate, 2008; Office of the Correctional Investigator, 2008).

It is an undeniably dangerous venture to bring charges against a Canadian prison guard (*in this case, John Tarala*), no matter how abhorrent the guard's conduct. The guard's "brotherhood" protectively circles, are powerful, influential and remorseless in defence of each other. Regardless of their self-protection efforts, nine prison guards were suspended without pay following Ashley's death and two guards were charged with criminal negligence causing death. In November 2007, the Canadian Television Network (CTV) reported that prison guards had seen Ashley alive with a ligature around her neck and walked away. Clearly, Canadian prisons are not the soft places that guards, the media and political hacks claim. If you remain unconvinced just visit young Ashley's grave and ask her.

Notwithstanding the moral obscenity perpetrated in the name of justice when courts place the young and the mentally ill in prison settings, it seems clear that we all bear responsibility for the social and state mistreatment of the vulnerable, both pre- and post-imprisonment. It is far too late to

say we did not know. If we did not, it is because we did not want to know. While there are too many shocking stories to share, I would like to share another situation that involves a prisoner who has mental developmental issues (*and who is still alive*) and how he was treated by many (*guards and prisoners*) in the prison in which I am currently incarcerated. I recognize, with deep sadness, this scenario is playing out every day in different Canadian prisons.

His name is W.W. and his conduct and crimes flow from inherited congenital mental defects that were exacerbated through traumatic childhood experiences in which he was the victim of sexual abuse from his primary caregiver – his father, who emotionally, physically and sexually abused him. Coupled with mental illness, his horrific childhood and the lack of community support, supervision and protection, he did what many victims of sexual abuse do, he passed it on, and it involved the most vulnerable – children. While everyone recoils in horror, it would serve us well to remember W.W. is damaged and the violations he experienced as a child, along with his social isolation, and psychological and physiological mental impediments contributed to his inappropriate conduct. We need to consider this child trapped in a man's body. I agree that children need to be protected from W.W., but W.W. apparently needs to be protected from us.

Context is required. If we do not look beyond the immediate circumstances of the offence and acknowledge the whole picture, who will? W.W. presents in the mental age range of 8 to 12 years old and is clearly operating with a diminished mental capacity. His general ability to understand social situations is skewed. He has personal boundary and “appropriateness” issues, which clearly contributed to his crimes and continues to drive a wedge between him and meaningful social contact. W.W.'s problems are further compounded by health and hygiene difficulties. Prison guards at Warkworth federal prison encouraged W.W.'s antics by “playfully” writing up charges and then laughing with each other as he would feign outrage and rip up the charge sheet. While amusing for the guards, it also provided W.W. interaction in a non-threatening environment. However, the interaction also reinforced socially unacceptable behaviour. Throwing fits was defused and funny at Warkworth, but after his transfer to Bath prison the guards say they interpreted his conduct as threatening and unpredictable. It seems that W.W. also learnt to mimic socially corrosive communication techniques from some of the prisoners and guards. When W.W. was not welcome or bothered someone he received rude and abrupt communication (e.g., “*Get the fuck out here!*” or “*Beat it ya fucken goof!*”). As eloquent as this appears on paper, in the prison context it is very offensive and can even

result in the loss of life. W.W. would mimic this without understanding the potential dangers inherent in these prison warnings and challenges, and his uttering them should not be held against him. However, this concept may be difficult to grasp if the prisoner who was being spoken to in this manner has no comprehensive appreciation of W.W.'s limitations. In that situation there could be an abrupt and permanent end to W.W.'s story as non-response or turning the other cheek to a challenge in prison can result in an escalation of violence.

In W.W.'s continuing effort to be accepted he tries to shake everyone's hand, straining for acceptance and confirmation that he is safe. He talks endlessly and repetitively about anything, everything and nothing. His effort to receive a human connection is something many of us experience daily and take for granted. Trapped in prison with a sentence that he does not fully understand, he lives in perpetual loneliness and fear. No peer, no equal, no friend. He seeks acceptance from most everyone, regardless of how barren and insincere it may be when it is offered. At best, he is patronized, at worst, ridiculed, harassed and dogged with hostility. Instead of human kindness, W.W. finds himself ignored – a common human response to situations that make us uncomfortable. While there are generally accepted (*if somewhat limited*) methods of evaluating someone's intelligence and emotional quotient, this did not prevent W.W. from being sent to prison. Clearly his IQ and EQ are of a diminished capacity. On the other hand, those who knowingly treated him so poorly obviously suffer emotional hindrances which prevent them from finding the required empathy, kindness, compassion, and understanding to be gentle with someone so frail and vulnerable. I have no doubt that those who conducted themselves in either fashion continue to have many justifications and explanations.

The all too predictable result of hostilities directed at W.W. was that he sought (seeks) refuge with prison guards which then resulted in accusations from and against some prisoners (correctly or not). The guards would then threaten blanket sanctions against all the prisoners (guilty or not). Then the guards would simply return to whatever it is they do in their concrete towers, blissfully unaware that they have only aggravated the problem. As all of these various issues were bubbling to the forefront of prison life, guards and prison administrators had begun to complain that W.W. was "too much" to manage in Bath prison (*we tried nothing and that didn't work!?*).

With the piety that accompanies the oblivious, misguided and opportunistic, the label of informant was hung on W.W. and this served the dual purpose of validating their anger and justifying the further

ostracization of this mentally limited, vulnerable and socially alienated individual. In reinforcing circles some prisoners were telling each other or anyone who would listen that “he’s not really *that* mentally retarded”. They would argue that he is dirty and does not shower, but they never consider he is afraid to go to the shower because of hostility in the prison and due to his history of abuse. Several of the very same prisoners who would call W.W. an informant stand with guards discussing all manner of issues. Over the years, the one truth I have noticed is that, almost invariably, those loudly labelling others as informers do so to conceal or distract attention from their own informing conduct. I have heard how reviled our self-appointed “social champions” are by W.W.’s crime. I notice, however, that they do not harass, belittle or intimidate other people with similar convictions at this prison and the only difference I can see is that those individuals are not as weak, alone or vulnerable and therefore may be more capable of defending themselves.

W.W. experienced many additional difficulties from being exposed to prison environments, guards and some of the prisoners. While many prisoners and guards for that matter, have empathy and compassion when it comes to the unrelenting limitations of someone with developmental hindrances, this is not always the case. Short of being removed from a prison environment altogether, what W.W. needed was to live in one of Bath Prison’s self contained 10 men units and not be exposed to the traditional prison range environment. In the 10 man living units there are private showers and food preparation areas, which would have resulted in W.W. being able to go to the bathroom and shower behind a locked door and thereby without being fearful. It would have meant that W.W. would not have had to go to the main prison Kitchen food service area which feeds a couple of hundred men. The result of this would have reduced the contact W.W. had with those prisoners who are currently incapable of the required maturity, insight and kindness.

As the Peer Health Counsellor and a concerned person, I proposed that W.W.’s problems could be resolved by moving him to a 10 man unit with several more mature, ethical, and concerned prisoners trained to assist him by providing support and structure while helping to undo some of the reinforced negative behaviours that he had learnt in prison, to help him develop useful life skills in a predictable and friendly environment. Bath authorities did not accept the housing alternative. The Prisoner’s Committee advised me the Warden decided W.W. needed more supervision than was available in the housing units and left him on the prison range. It is my opinion, however, that the supervision pretence was just a thoughtless, convenient and callous excuse to avoid making

the effort to address the problem in a meaningful way. A “correctional illusion” that exists in the prison context is that a guard capable of looking down a prison range from a security bubble provides supervision. In this context, it is a diversionary red herring. Guards may watch, but this provides no support for someone like W.W. – for instance, no one looking from the security bubble can see in a cell, the laundry room or the washroom. No guard, for example, saw someone pour water into and subsequently ruin W.W.’s television, a television that would have taken W.W. well over a year to purchase because he spent most of his limited income on cigarettes.

At any rate, my suggestions were not acted on and the “status quo” resulted in the Bath administration eventually finding enough excuses to state they were unable to deal with W.W.’s problems and “Emergency Transferred” him into solitary confinement in Millhaven Maximum security prison.

I cannot imagine any more vulnerable individuals than Ashley due to her youth, distance from home, lack of support and obvious emotional stress, and W.W. because of his mental frailty, his physical weakness and the lack of support or friendship. Incapable of defending themselves they were chained and forced into places you would be terrified to enter. Now Ashley is dead and W.W. is held in isolation at Millhaven prison. I fear he is destined for Ontario’s Regional Psychiatric Treatment Center – an even harsher prison.

That we should care so little, as a society, about the impact and outcomes of our approach to mental health services and the way we treat people with mental health disabilities is a shame. That we treat children and young people with disabilities with the same lack of concern is doubly shameful.⁶

These prison horrors exist and operate in your name, funded with your taxes. You have the right and frankly, *the obligation* to speak up.

The measure of any human being, organization or country can be estimated by what they are capable of doing and what they actually do. Shame on Canada for placing the young and the mentally disabled in prisons. If after reading this you do not write to your Member of Parliament and complain, shame on you.

Say nothing, and you are the problem at the lower end of the Spiegelgrund spectrum.

ENDNOTES

- ¹ Spiegelgrund (1999 Documentary) by Angelika Schuster, Tristan Sindelgruber and BBC News (Europe) Tuesday, March 21, 2000 & Sunday, April 21, 2002.
- ² Hitler's "euthanasia programme".
- ³ Judge Irwin Lampert as quoted in the *Moncton Times and Transcript* on April 24, 2007.
- ⁴ In no way does this author endorse the use of psychiatric asylum prisons. However, I note that effective and properly staffed facilities which are geared to assist people get on their feet and develop the ability to function with whatever support is required to assist them in such socially oriented endeavours that provide mechanisms toward independent living has to be better than placing the intellectually challenged and / or damaged, along with those dealing with mental disabilities in prisons under which conditions they will suffer endless abuses or worse by prison administrations that are incapable of dealing with complex issues without resorting to force and punishment (not to mention the predatory behaviours of some of the other prisoners).
- ⁵ See the *Report of the Commission of Inquiry Into Certain Events at the Prison for Women in Kingston* (1996), a.k.a. "The Arbour Commission".
- ⁶ *Connecting the Dots: A report on the condition of youth-at-risk and youth with very complex needs in New Brunswick*. New Brunswick Ombudsman and Child Youth Advocate (Mr. Bernard Richard), January 2008, p. 52.

REFERENCES

- Agamben, Giorgio (1998) *Homo Sacer: Sovereign Power and Bare Life*, Stanford: Stanford University Press.
- Collins, Anne (1988) *In the Sleep Room: The Story of the CIA Brainwashing Experiments in Canada*, Toronto: Lester & Orpen Dennys.
- Commission of Inquiry Into Certain Events at the Prison for Women in Kingston (1996) *Report of the Commission of Inquiry Into Certain Events at the Prison for Women in Kingston*, Ottawa: Public Works and Government Services Canada.
- Correctional Service Canada Review Panel (2007) *A Roadmap to Strengthening Public Safety: Report of the Correctional Service of Canada Review Panel*, October, Ottawa: Minister of Public Works and Government Services Canada.
- Dalton, Melinda (2008) "Charges Dropped Against Jail-Death Guards: Two Local Men, Two Others Fired after Suicide", *The Hamilton Spectator* – December 8, retrieved from <http://www.thespec.com/News/BreakingNews/article/478860>
- Canadian Association of Elizabeth Fry Societies (2008) *Fact Sheet: Criminalized & Imprisoned Women*, retrieved from <http://www.elizabethfry.ca/eweek08/pdf/crmwomen.pdf>
- Glaser, William and Florio, D (2004) "Beyond Specialist Programmes: A Study of the Needs of Offenders with Intellectual Disability Requiring Psychiatric Attention", *Journal of Intellectual Disability Research*, 48(6): 591-602.
- Hayes, Susan (2005) "Prison Services and Offenders with Intellectual Disability: The Current State of Knowledge and Future Directions", paper presented at the

- 4th International Conference on the Care and Treatment of Offenders with a Learning Disability – 6-8 April, retrieved from [www.ldoffenders.co.uk/conferences/4thCon2005/4thConFiles/Prison ServicesSusanHayes.doc](http://www.ldoffenders.co.uk/conferences/4thCon2005/4thConFiles/Prison%20ServicesSusanHayes.doc)
- Howe, Brian, and Covell, Katherine (ed's.) (2007). *A Question of Commitment: Children's Rights in Canada*, Waterloo: Wilfred Laurier University Press.
- Jamieson, Elizabeth, Martin Butwell, Pamela Taylor and Morven Leese (2000) "Trends in special (high-security) hospitals 1: Referrals and Admissions", *British Journal of Psychiatry*, 176(3): 253-259.
- Klein, Naomi (2007) *The Shock Doctrine: The Rise of Disaster Capitalism*, Toronto: Knopf Canada.
- Ombudsman and Child and Youth Advocate (2008) *Ashley Smith: A Report of the New Brunswick Ombudsman and Child and Youth Advocate on the Services Provided to a Youth Involved in the Youth Criminal Justice System*, June, Fredericton: Office of the Ombudsman & Child and Youth Advocate.
- Office of the Correctional Investigator (2008) "Correctional Investigator Submits Final Report to Minister Stockwell Day on Death of Ms. Ashley Smith at Grand Valley Institution, Kitchener", *Office of the Correctional Investigator*, June 24, retrieved from <http://www.oci-bec.gc.ca/comm/press/press20080624-eng.aspx>.
- Office of the Correctional Investigator (2005) "Report Highlights Dramatic Increase in Numbers of Inmates Mentally Ill: Implementation of National Strategy Urged to Address Crisis", *Office of the Correctional Investigator* – November 4, retrieved from <http://www.oci-bec.gc.ca/comm/press/press20051104-eng.aspx>.

ABOUT THE AUTHOR

Serving a life sentence in prison, *Peter Collins* knew he had to come to terms with the consequences of his actions and so dedicated himself to working for positive social change. Since the late 1980s, when the official position of the Correctional Service of Canada was that intravenous drug use, tattooing, and sex were illegal – therefore not happening – until today when prisoners continue to be denied access to clean needles and syringes, Peter's tireless efforts to defend the health and human rights of prisoners have often led to strained relationships with prison officials, undermining his efforts to get paroled. While in prison, Peter earned an honours diploma in Graphic and Commercial Fine Arts, as well as a certification as a Frontier College ESL tutor. He is an Alternatives to Violence Project facilitator and Peer Education Counsellor. Peter was instrumental in setting up a Peer Education Office in his prison and has advocated on behalf of fellow prisoners on issues ranging from health access to employment. Regularly donating his time, expertise, and artwork to numerous charities and social justice initiatives, Peter's dedication has contributed to improved health and safety in the prison system, and by extension, in the community at large.

Abrogation of the Therapeutic Model in Prison Health Care and the Implications for Public Safety

Susan Nagelsen and Charles Huckelbury

The United States, long acknowledged as the principal advocate of incarceration as a means of social control, continues to lead the world in imprisoning its citizens, even in the face of declining crime rates and economic crisis. Many state governments also continue to defy the industrialized world's call for an end to capital punishment. According to the Pew Center's Public Safety Performance Project, at the beginning of 2008, the country's prisons and jails housed 2,319,258 men and women. The per capita figure of 750 prisoners per 100,000 adults ranks ahead of Russia's 628 per 100,000 and the raw numbers exceed China's second-place finish of 1.5 million adults (Crary, 2008, A2). The burden such a policy imposes on the economy is onerous: \$60 billion spent in 2007¹ versus \$11 billion spent in 1987, an increase six times greater than the increase in funding for higher education, a counterproductive approach that underwrites "soaring costs that [states] can ill afford and [that] fail to have a clear impact on either recidivism or overall crime" (ibid).

President George W. Bush tacitly promotes such a feckless approach by alternately cajoling and threatening Congress to pass more intrusive legislation that would continue the government's practice of spying on anyone it chooses without judicial oversight.² Such a tactic promotes a climate of fear and obviates existing legal safeguards. He has nevertheless been successful in persuading the electorate to support an uncompromising approach to criminal justice issues, resulting in public approval for rendition, secret prisons, indefinite incarceration and even torture, in spite of the fact that when polled, 87 percent of Americans prefer a rehabilitative model rather than punishment for incarcerated Americans.³ Although this is not an environment in which abolitionist proponents would normally be sanguine, possibilities for progress do exist.

THE PERCEPTUAL FALLACY

The United States continues to imprison people at a rate unequalled by any society at any other time in recorded history and yet most people have no contact with the criminal justice system, getting their news and forming their opinions in the insulated environment of their living rooms. This creates a perceived disconnect between their lives and those of the men and women sentenced to prison. They therefore arrive at the conclusion

that prisoners more or less get what they deserve for committing their crimes and if they suffer a little physical pain or deprivation in the process that does not keep many people awake nights. One of us (Nagelsen) brought this information to students and asked what they thought about the United States having 2.3 million men and women behind bars. One student responded, “I think the cops are doing a good job”.

Robert Johnson, in his book *Hard Time: understanding and reforming the prison* (2002, p. 21) puts this attitude in a historical context of society’s predilection for isolating “dangerous” people: “[T]he notion of confinement... would derive from reactions to recurring experiences in nature, particularly those that posed threats to the survival of the species. The original threat...was probably contagious disease”. Prior to the identification of pathogens and disease vectors, banishment continued until the illness had run its course or the patient died. Thus, expulsion from the community was a natural way to “prevent [infection] of the healthy” (ibid).

Given the primitive state of medical knowledge and the prevalence of superstition, it is not surprising that disease has historically assumed a mystical guise, one that implied the moral imperfection of the suffering individual, much as the Old Testament prophets⁴ castigated specific elements of the community for their apostasy or pointed a finger at Jerusalem’s destruction and the Babylonian exile as evidence that they got what they deserved. As Johnson (2002, p. 21) puts it, “[c]onfinement would punish the infected people for their impurity in a way that [was] poignantly symbolic”. The segment of the community who remained healthy would thus see no connection between their own “purity” and the contamination of those it ostracized, caring little about their welfare. The theme Foucault explores in his book *Discipline and Punish: The Birth of the Prison* (1977), of course, offers a similar description of the link between disease and confinement when he speaks of prison as evocative of the leper colony, where those confined are cut off from all contact with those left behind.

Contemporary attitudes have remained consistent with the historical models elucidated by Johnson (2002) and Foucault (1997), as disease remains a common metaphor when discussing men and women cast out from society to serve their prison sentences. Moreover, their treatment while they are imprisoned mirrors the same response that characterized preliterate societies: onset of disease or chronic disorders arouses neither sympathy nor empathy among those charged with their care. Explanations for such an insensitive reaction usually include a nexus of the substandard qualifications of the health-care providers and the

public's attitude toward those it imprisons – each inextricably wedded to the other.

COMPROMISED CREDENTIALS

Imagine employment representatives coming onto a college campus and recruiting from the bottom quartile of the graduating class. Further, imagine a professional firm hiring applicants with histories of misfeasance, malfeasance and even criminal misconduct, including having their pertinent licenses either revoked or suspended in other locations. Now consider the potential results of placing those same cohorts in decision-making positions that will ultimately affect the health and welfare of hundreds of thousands of men, women and children. It would be the equivalent to appointing a disbarred personal-injury lawyer with limited legal experience Attorney General or Lord Chancellor.

This simple thought experiment should produce alarms across the political spectrum and in every social stratum. And yet, Western societies continue to accept and even encourage the practice without question, or, if questions arise, justify the pattern in financial terms. The very real potential for facilitating the spread of diseases like HIV/AIDS, drug-resistant tuberculosis and hepatitis C into the community, however, hardly validates the putative economic benefits.

Substandard medical care inside prisons is incarceration's worst kept secret. Although industry publications avoid them, legal journals are replete with synopses of legal settlements against prisons and jails responsible for injuring or killing prisoners. The causes run the gamut of medical malpractice, from withholding medication to misdiagnosis to collusion in concealing physical abuse. *Prison Legal News*, for example, recently described a diabetic federal prisoner who was given insufficient doses of insulin. After suffering a blackout, the prisoner complained and was sent to segregation instead of the hospital. Because the prison was run by a private contractor, those responsible for denying his medication were not liable under federal law (*Prison Legal News*, 2008, p. 16).

In Delaware, for example, the state Department of Corrections hired a private contractor to provide health care to prisoners.⁵ A United States Department of Justice report found that the contractor was not interested in attracting and retaining “individuals that would be qualified to fill vacant positions”. Efforts to reduce costs included assigning licensed practical nurses (LPNs) to positions normally held by registered nurses, such as screening new arrivals for communicable diseases, including tuberculosis. The DOJ report, however, stated that “LPNs typically do not have appropriate education and training to perform exploration of medical

symptoms” (Reutter, 2008, p. 25). The obvious conclusion is that if the health care providers in the Delaware DOC did not care enough to provide adequate screening for incoming prisoners, treatment would have been equally indifferent, resulting in contagious individuals being released into the community.

Notwithstanding well-known legal precedents in the United States,⁶ prison medical personnel in a disturbing number of institutions, both public and private, continue to inflict pain and suffering on a regular basis, irrespective of the dangers such practices pose to an unwitting public. Even terminally ill patients are not immune from such treatment.

Yvette Louisell is a life-term prisoner at the Women’s Correctional Institution in Mitchellville, Iowa. Louisell, incarcerated as juvenile for a homicide twenty years ago, described an incident where she and a group of friends assisted a dying prisoner to the prison’s infirmary for treatment because she could not keep anything down and was having difficulty standing. The nurse on duty told the women that she had already informed the patient that she was dying and that there was nothing she could do for her. She then ordered the women, including the dying woman, to return to their cells (Nagelsen, 2008).

The question of how this practice became accepted and even proliferated is one the public needs to ask, and the search for answers should begin with an examination of the credentials and professional records of the health care providers.

ECONOMIC DETERMINANTS

As the cost of higher education in the United States continues to climb, graduate degrees become progressively more difficult to afford for many qualified students. Even graduates with baccalaureate degrees enter the work force deeply in debt. The George Washington University, for example, recently increased undergraduate tuition and costs to over \$50,000 a year.⁷ These costs make state jobs and benefits even more attractive. When times are tough and the prospect of unemployment is looming, life as a prison guard becomes very attractive because it is one of the highest paid unskilled labour jobs in America.

Operating under legislative budgetary constraints, prisons cannot compete for these men and women who find far more lucrative careers in private practice, resulting in a concentration of providers with mediocre academic records, inferior training and disciplinary histories that automatically close the doors to traditional opportunities in the private sector. Prison then becomes, to paraphrase Samuel Johnson, the last refuge of the marginally qualified.

The situation is aggravated in an era of fiscal austerity, when prisons often find themselves faced with mandatory cuts in funding, which usually begin with programs that then radiate outward to include such necessities as food and health care. Most prisons, for example, have now instituted some sort of co-payment procedure, whereby prisoners assume partial financial responsibility for going to sick call. These fees are often beyond the prisoners' means and as a result they choose to forego treatment.⁸ It is not rare to encounter cases where treatment was denied because the patient was nearing his parole date, the prison preferring to avoid incurring an expense that could be absorbed by the community instead.⁹

This pattern is inverted, however, in the case of geriatric prisoners, one of the most rapidly growing segments of the prison population at the rate of 10 percent per year (Nagelsen and Huckelbury, 2006). The Centers for Disease Control in Atlanta, Georgia, estimates an annual cost of \$70,000, or nearly triple that for younger men and women, to treat a geriatric prisoner for the diseases and conditions that are an expected part of the aging process, especially when "[m]ost prisons have neither the infrastructure nor the philosophical inclination to deal with geriatric conditions" (Nagelsen and Huckelbury, 2006, p. v). Rebecca Craig, the former president of the American Correctional Health Services Association confirms the pattern: "entire prisons [will be] licensed as acute care settings" (p. v).

And yet, instead of releasing infirm men and women, many of whom are not ambulatory, or diverting them to community-based programs where they could be controlled and monitored just as easily, they remain in an environment that should be the last option reserved for the most dangerous prisoners. This bizarre practice of releasing prisoners who pose a health threat to the public while keeping those who do not siphons off limited resources that could and should be applied to critical care needs, increasing the risk of local or even national epidemics in the process.

Aggravating an already dangerous situation are prison administrations that tend to subordinate all operational programs and services to security needs. Read the mission statement of any prison and the first sentence will articulate the duty of protecting the public, which naturally means elevating the security and operation of the physical plant to priority status. This philosophy results in a zero-sum solution to every funding crisis. Given the choice between hiring two more correctional officers or one more registered nurse, salaries will be diverted to security first.

Such stark choices, however, fall into the category of the either-or logical fallacy, as if no other options existed, which is clearly not the

case. Laos Schumann is serving a twenty-five to life sentence at The Men's Colony in California. He has devoted his time in prison to helping those prisoners who suffer from HIV/AIDS. While he was imprisoned at Vacaville, he and other prisoners began a program that was eventually funded by the state to start a hospice program for dying prisoners. It was the first of its kind in the state and he has done the same at The Men's Colony where he is now housed (Nagelsen, 2008).

The lack of qualifications of some prison medical personnel, coupled with a gross indifference to the suffering of their patients, is not, however, universal. Unfortunately, the men and women who possess the fundamental education, training and empathy necessary to discharge their obligations professionally are often compelled to work with – and at times for – others who share neither their qualifications nor philosophy. It is the latter group who is responsible for the vilification of the entire staffs' reputations, and putting their patients and the public at risk for communicable diseases.

PUBLIC COLLUSION

Restricting health services to prisoners is myopic in the extreme. Although the immediate result is a deterioration in the prisoner's overall physical well-being, the repercussions do not stop there as the potential for contracting a communicable disease devolves to the communities to which over 90 percent of prisoners will return. The danger is especially acute if the prisoner is unaware that he or she is infected.

Even if all infected prisoners had life sentences, they would still pose a threat to prison staff who could then transmit the diseases to their families and others with whom they came in contact. Given the incidence of HIV/AIDS and hepatitis C in American prisons,¹⁰ delaying or refusing treatment – or in many cases, refusing routine testing to detect the disease – verges on the suicidal.¹¹

That dire potential for mass infection appears to have eluded the public consciousness and is perhaps the underlying cause of inferior health care in prisons, tolerating and at times encouraging unnecessary suffering. This tendency of the public to support a punitive model of incarceration, one that limits programs and services to a bare minimum, while enforcing strict discipline and austerity, reflects attitudes based largely on misconceptions fuelled by media reports or entertainment versions of prisons and prisoners.

Elected officials are often complicit in this disinformation campaign, constantly urging citizens to accept more restrictions on their freedom and

implying that those under arrest or serving prison sentences are benighted members of a subspecies, and therefore less deserving of the consideration extended to the untainted population. This government-inspired terror unfortunately gains credence from real-life tragedies, like those recently played out on the campuses of Northern Illinois University and Virginia Tech, where students and faculty were killed by gunmen who subsequently committed suicide.¹²

Threat inflation is, of course, hardly a novel political tool. In a recent essay, “The Greatest Threat to Us All”, in the *New York Review*, Joseph Cirincione (2008, p. 19) observed, “[t]he manipulation of fear to promote programs that Americans would otherwise not support is different from honest disagreement over the scale of the threats”. Indeed it is, as recent history confirms. Recall the hyperbole by government officials who orchestrated a campaign that convinced a supermajority of the American public that torture, secret prisons and indefinite imprisonment without trial or representation, even when applied to American citizens, was necessary to protect the “homeland”. How easy, then, to point to men and women who have actually committed illegal acts to justify their mistreatment on that basis, with the assumption that nothing done to them will reverberate in the community from which they came.

THE OPPOSITION

Changing the public’s attitudes will not, however, be easy. Jeff Neal, a spokesman for Rhode Island’s governor, Don Carcieri, puts the conflict in perspective: “If we don’t find a way to better manage the population at the state prison, we will be forced – to spend money to expand the state’s prison system – money we don’t have” (Henry, 2008, A2). Although many states are now facing the same woes, all frame the argument in terms of a management problem, not a philosophical epiphany.

Individuals and groups with long-term interests in maintaining the status quo are more forthright, if perhaps overwrought. Lynn Heaton, a police officer in Providence, Rhode Island invokes the shibboleth of public security to forestall any change in policy: “You’re talking about victim [and] community safety. You can’t balance the budget on the backs of victims of crime” (Henry, 2008, A2). Jerry Dryer, the Chief of Police in Fresno, California, echoes Heaton’s alarm, maintaining that moving from a carceral model to a rehabilitative one “will ultimately jeopardize safety in communities”. Finally, Terrence Jungel, the executive director of the Michigan Sheriffs’ Association asserts that “Economics cannot be the engine that drives the train of public safety” (Henry, 2008, A2).

A SHIP ON THE HORIZON

These two examples are instructive both for their methods and their successes in reversing what had been hard-wired public opinions. Incremental change must therefore be the key to reducing and eventually eliminating prisons as well. Even in the United States one can find reason for optimism. Congress recently approved, for example, amendments to the United States Criminal Code to eliminate the disparity in penalties between possession of crack and powdered cocaine, which will conceivably result in the release of thousands of current prisoners.¹³ Until that change, possession of one ounce of crack carried the same penalty as possession of ten times that amount of powdered cocaine.

The law had racial overtones as well, because most crack convictions were of minority defendants.¹⁴ Even so, previous efforts to correct this fundamental injustice got nowhere in the face of vigorous opposition and public outcry. This time, however, the modifications met with only token resistance, proving that consistent effort and measured change are the most viable methods to effect a social transformation.

Efforts to halt the carceral juggernaut are also making inroads at the state level. Susan Urahn, managing director of the Pew Centre's Public Safety Performance Project, says, "We're seeing more and more states being creative" in order to relieve the financial strain. Even law-and-order bastions like Texas and Kansas are "making greater use of community supervision for low-risk offenders" (Crary, 2008, A2).

Eight states are now considering transferring qualified prisoners to rehabilitation programs at an estimated savings of \$450 million in California and Kentucky alone, acknowledging that "treatment, which is cheaper than prison" is the trend to follow. Such programs, contrary to the ominous warnings of opponents, exclude violent offenders and those guilty of committing sexual offences (Henry, 2008, A2). As David Muhlhausen of the conservative Heritage Foundation admits, the reasoning transcends a strictly fiscal analysis: "We need to be smarter. We're probably incarcerating people who don't need to be" (Crary, 2008, A2).

A MODEST PROPOSAL

The number of men and women in prison in the United States is morally unjustifiable and economically unsustainable. As Senator Bernie Sanders (I-VT) puts it, "[t]hese sad facts reflect a very distorted set of national priorities" (Crary, 2008, A2). His observation is especially relevant when considering that over 53 percent¹⁵ of the men and women in the federal

system were convicted for non-violent possession or use of drugs, many of whom are infected with HIV/AIDS or Hepatitis C. Transferring these men and women, as well as geriatric patients, into community-supervised, out-patient treatment programs to take advantage of existing staff and resources already in place (Medicaid, Medicare) would accomplish two things: 1) emptying prison cells; and 2) freeing money that could then be used to attract more competent personnel inside the remaining facilities.

Barbara Sampson, chair of the Michigan Parole Board, recognizes that if the goal is to equip prisoners who will re-enter society with the tools necessary to succeed, the deracinating process that inheres inside contemporary prison compromises that objective: "Getting that prisoner back to the community so that he can stay connected to his family, getting him back into the work force ... that's a positive thing" (Henry, 2008, A2). Evidence that supports this self-evident observation abounds.

Since 1952, the St. Anthony Foundation has operated a 315-acre organic dairy farm outside Santa Rosa, California. During a six-month program, addicts attend counselling and daily recovery classes with the physical labour the farm requires. The convergence of introspection and meaningful work, according to John Glionna (2008, A2), promotes a healing that "comes from being a part of something bigger than yourself, from putting the needs of others first".

The proposal is perhaps an ambitious beginning, considering the size of the prison population involved. Prison officials, however, can easily identify those low-risk men and women who would be most expected to benefit from such a shift in treatment and housing. A small transfer from a minimum-security facility would therefore be a logical place to launch such a strategy, keeping in mind that the program must quickly demonstrate its efficacy in terms of treating diseases, preventing their spread and reducing antisocial behaviour,¹⁶ all of which the community will support, especially if accompanied by a substantial savings by shrinking a monolithic system with a reputation for being grossly cost ineffective.

Strictly economic arguments for abolition will not, however, carry the day. Each prisoner in the United States costs the taxpayers an average of \$23,876 per year (Crary, 2008, A2) and Americans have repeatedly demonstrated their willingness to pay that price, often compromising their children's education in the process. Neither will a moral argument win the battle, because most Americans and most citizens of Western societies continue to express a faith in a version of St. Anselm's ontological argument that prisons must exist simply because we can conceive of them as the greatest good. Only by establishing a bridge between prisoners and the community will abolition become a reality. The first step along

that difficult road must be recognizing the literal threat current health care policies pose to the public, while also moving selected prisoners out of their cells and into community-based facilities where they will be adequately treated.

Prior to the Civil War, abolitionists knew they were engaged in a struggle that had no immediate conclusion. After the war and ratification of the 13th and 15th Amendments, the civil rights movement fought pitched battles against a philosophically entrenched opposition that denied the fundamental humanity of African Americans and adopted lynching as the primary tool of oppression. And yet those warriors never surrendered their dream, as Martin Luther King, Jr. so eloquently described. The result was a series of relatively small events that eventually culminated in Barack Obama becoming the nation's first black President.

Just as their slavery abolitionist predecessors refused to countenance defeat, prison abolitionists must also look to modest victories that will lead to a major shift in public sentiment, and not be discouraged by the hostility and determination of those dedicated to maintaining the morally bankrupt and financially insupportable prison industry. We cannot give up hope – there are too many lives at stake.

ENDNOTES

- ¹ Katzbenbach (2006) "Confronting Confinement: A Report of the Commission on Safety and Abuse in Prison", p. 13. See www.prison.commission.org.
- ² FISA. ACLU. See www.aclu.org/safefree/spying/fisa.html.
- ³ Katzbenbach (2006) "Confronting Confinement A Report of the Commission on Safety and Abuse in Prison", p. 14. See www.prisoncommission.org.
- ⁴ E.g., Jeremiah.
- ⁵ Correctional Medical Services (CMS).
- ⁶ See *Estelle v. Gamble*, a US Supreme Court case that specifically defines deliberate indifference to a patient's pain and suffering as a violation of the 8th Amendment to the Constitution prohibiting "cruel and unusual punishments". See www.law.cornell.edu/supct/html/historics/USSC_CR_0429_0097_ZS.html.
- ⁷ The George Washington University. See colonialcentral.gwu.edu/.
- ⁸ In a study conducted by the Centers for Disease Control and Prevention to evaluate the cause of outbreaks of methicillin-resistant Staphylococcus aureus (MRSA) in correctional facilities in Georgia, California, and Texas between 2001 and 2003, co-payments were singled out as a significant contributor to the spread of these serious and aggressive skin infections because they discouraged prisoners from seeking care (CDC, 2003).
- ⁹ Many prisoners are routinely asked how much longer they have to serve before treatment or therapy proceeds.

- ¹⁰ According to “Confronting Confinement”, in 1996 there were between 98,000 and 145,000 prisoners released with HIV, along with 39,000 with AIDS. There were 1.3 million released with Hepatitis C, 566,000 with latent Tuberculosis and 12,000 with active TB. See www.prisoncommission.org.
- ¹¹ The New Hampshire State Prison in Concord, for example, recently discontinued annual physical examinations, including the standard test for tuberculosis. This includes prisoners assigned to food service.
- ¹² During the early morning hours of April 16, a gunman went on a rampage on the Virginia Tech campus. By the time he was done, more than 30 students and faculty members were dead. See <http://www.cnn.com/SPECIALS/2007/virginiatech.shootings/>. At Northern Illinois University on Feb 15, 2008, a 27-year-old gunman opened fire in a lecture hall Thursday, killing five people and wounding 15 before taking his own life. See www.npr.org/templates/story.php?storyID=19082.
- ¹³ Lewis (2007) “Sentencing Panel Changes Crack Recommendation” – May 15. See www.npr.org/templates/story/story.php?storyId=10192763.
- ¹⁴ (2001) Race, The War on Drugs and the United States Criminal Justice System Drug Policy Alliance – August. See <http://www.drugpolicy.org>.
- ¹⁵ The Department of Justice reported that by September 30, 2006, 53 percent of federal prisoners were drug offenders. In 2000, 56 percent were drug offenders in federal prisons. See www.drugwarfacts.org/prisdrug.htm.
- ¹⁶ We recommend intense program participation, including one-on-one therapy, as part of the treatment plan and employment counselling to eliminate the need for illicit activity to support one’s addiction.

REFERENCES

- Cirincione, Joseph (2008) “The Greatest Threat to Us All”, *New York Review of Books*: pp. 18-21 – March 6.
- Centers for Disease Control (CDC) (2003) “Methicillin-Resistant *Staphylococcus aureus* Infections in Correctional Facilities - Georgia, California, and Texas, 2001-2003”, *CDC Weekly* – October 17, retrieved from <http://www.cdc.gov/mmwr/preview/mmwrhtml/mm5241a4.htm>
- Crary, David (2008) “Study: More than 1 in every 100 Americans in jail”, *Concord (NH) Monitor*: A2 – February 29.
- Foucault, Michel (1977) *Discipline and Punish: The Birth of the Prison*, New York: Pantheon.
- Glionna, John M. (2008) “Rural Rehab”, *Concord (NH) Monitor*: A2 – April 4.
- Henry, Ray (2008) “States ponder releasing inmates to save money”, *Concord (NH) Monitor*: A2 – April 4.
- Johnson, Robert (2002) *Hard Time: understanding and reforming the prison*, Belmont, CA: Wadsworth.
- Katzbenbach, Nicholas (2006) “Confronting Confinement A Report of the Commission on Safety and Abuse in Prison”, last retrieved in May 2006 from www.prisoncommission.org.

- Lewis, Libby (2007) "Sentencing Panel Changes Crack Recommendation", last retrieved in June 2007 from www.npr.org/templates/story/story.php?storyId=10192763.
- Nagelsen, Susan (ed.) (2008) *Exiled Voices, Portals of Discovery*, Henniker (NH): New England College Press.
- Nagelsen, Susan and Charles Huckelbury (2006) "Introduction", *Journal of Prisoners on Prisons*, 14(2): v-x.
- Prison Legal News (2008) "Bivens Action Inapplicable to Private Prison Employees", pp. 16-17 – January.
- Reutter, David M. (2008) "Independent Monitor Issues First Report on Delaware Health Care", *Prison Legal News*, pp. 24-25 – February.

ABOUT THE AUTHORS

Susan Nagelsen is Director of the Writing Program at New England College in Henniker, New Hampshire, where she has taught for twenty-four years. She is an essayist and a fiction writer as well as the author of two writing manuals. She teaches first-year courses as well as advanced essay writing courses such as the art of the essay and content based writing. She also teaches in the Criminal Justice program where her course focuses on teaching students about prison from the point of view of prisoners. Her most recent published fiction can be found in the fall 2005 edition of the *Henniker Review*, *Tacenda*, *Bleakhouse Review* and in the *Journal of Prisoners on Prison* Volume 14(2), an issue addressing aging in prison. She is a frequent contributor to the *JPP* and is currently Associate Editor. She is the editor of an anthology of work by incarcerated writers entitled *Exiled Voices, Portals of Discovery* (2008) New England College Press. The book features 13 incarcerated writers with an introduction to each written by Nagelsen and is being used as a textbook in courses focusing on criminal justice issues.

Charles Huckelbury was sentenced to life imprisonment (thirty-five year minimum) at the age of twenty-seven and has spent the last twenty-eight years in prison. Awarded second place in *Prison Life's* fiction contest in 1995, he won the PEN first prize for fiction in 2001. A regular contributor to the *JPP* since 1997, Charles joined the Editorial Board in 2001 and is now an Associate Editor. He was one of four featured writers in Shawn Thompson's *Letters From Prison* (2001). His new book of poetry, *Tales From the Purple Penguin* (2008) has received rave reviews from students and academics.

Correctional Asylums of the 21st Century

Eugene Alexander Dey

Caged like a rabid dog, the inhumane conditions must have taken him over the edge. Out of pure desperation, unable to face another day in this man made hell, the prisoner exploded past the unknowing officer and jumped off the tier – handcuffed. This was no cry for help. Extreme isolation and harsh conditions weighing heavily on my tired psyche, I thought of torture. This was not brutality. A correctional officer had miraculously hooked an prisoner’s arm as he jumped off the second tier. Straining mightily from the weight of the game-winning catch pinning him to the railing, another officer arrived just in time to pull them back to safety. An expression of indifference painted over the jumper’s face like a mask of death – insanity.

How the mentally ill are treated throughout society is wrought with systemic failure – look no further than the homeless mentally ill on any city street. In prison, this failure creates systematic human suffering. A quarter-century of prison building has been largely fuelled by the diversion of populations previously housed in now-closed mental hospitals into the ‘correctional system’ (Fathi, 2007, p. 3). It is currently estimated that 10 to 20 percent of the prison population in the United States suffers from mental illness (ibid, p. 6). In the California Department of Corrections and Rehabilitation (CDCR), a federal suit dealing with unconstitutional mental health services covers 30,000 prisoners (Coleman v. Schwarzenegger, 2007).

The dual dynamic of mental illness and chronic addiction plaguing the incarcerated make this a difficult demographic on which to practice medicine. Despite the existence of various in- and out-patient mental health services within the CDCR, “crisis beds” in security medical facilities are desperately needed.

A prisoner suffering from psychological ailments is in extreme danger at a mainline facility. An “episode” mistaken for threatening behaviour can result in serious injury. Prison staff trained to respond to group and individual malfeasance, in addition to searching for weapons and contraband, are not suited to distinguish between insanity and criminality. Obvious signs of psychological afflictions are often misdiagnosed as malfeasance, not by clinicians, but by guards.

Prisoners who belong in therapeutic communities are instead sent to administrative segregation units (ASUs) – ultra-max units designed for the “worst of the worst”. Mind-bending isolation is the result, where an ASU prisoner is allowed out of their cell for a few hours a week. In defiance, if

not pure rage, many – including myself – refuse to allow being caged like an animal to break our spirits. But some are not as stubborn – appearing fine at first, one can easily lose it. From 2003-2006, 67 ASU suicides occurred throughout the CDCR (Thompson, 2007). This damning evidence, coupled with 60 avoidable medical deaths a year, fuels innumerable class action suits (*Plata v. Schwarzenegger*, 2008).

Under the current ideology of treatment denied, prisoners will recidivate en masse. Programs with a proven track record are desperately needed. When educational and vocational opportunities are offered in conjunction with treatment for substance abuse, anger management and mental illness, prisoners can develop the tools to change their behaviour. The current practice of warehousing the crazed with the criminal has proven to be the recipe for disaster.

Policy changes take too long. New rules implemented in early 2007 allowing for ASU prisoners to possess a television or radio, in addition to an expanded list of “allowable” personal property, are intended to elevate a morbid environment. Some institutions move quickly, while others are indifferent. Numerous prisoner appeals filed by ASU prisoners at the California Correctional Center in Susanville to expedite the property changes have been met with typical bureaucratic ineptitude. Though prison officials can point to a decrease in suicides in 2007, this is a direct result of more frequent monitoring, not conditions that deter a dark spiral deep into a tortured mind.

Exactly why the jumper tried to kill himself is hard to say. Officially no outward signs of suicidal behaviour existed, yet something beckoned him to jump. At best, in a well-provisioned mainline cell, it is often difficult to battle a legion of personal demons. Forcing a human being to live like an animal in a stripped-down concrete cell in a pair of boxer shorts, especially while one is in a fragile state of mind, has no place in modern society.

REFERENCES

- Fathi, David C. (2007) “The New Asylum: Supermax as Warehouse for the Mentally Ill”, *Prison Legal News*, 18(7): 3.
- Thompson, Don (2007) “Stepping In: State Tries to Cut Soaring Rate of Inmate Suicides”, *Record Searchlight*: A3 – May 28.

Cases Cited

- Coleman v. Schwarzenegger* (2007) Case No. CIV 2:90-CV-00520-LKK-JFM, United States District Court, Eastern District of California.

Plata v. Schwarzenegger (2008), Case No. C01-1351-TEH (Order Appointing New Receiver), United States District Court, Northern District of California – January 23.

ABOUT THE AUTHOR

Eugene Alexander Dey is a prisoner at California Correctional Center serving a life sentence for a non-violent drug offence. A freelance writer, successful jailhouse lawyer and dedicated activist, Dey has won three writing awards from PEN America Center. He also has numerous pieces in the *Journal of Prisoners on Prisons* and regularly contributes to other publications. In a college career spanning twenty years and hundreds of semester units, Dey has an application for a Bachelors degree in sociology pending at Sacramento State University. With four Associates degrees, including two from Lassen Community College and Coastline, Dey has been asked to take a lead role in writing a proposal for Feather River Community College to codify post-secondary college education across the California Department of Corrections and Rehabilitation. To see more of his work, please go to www.myspace.com/eugenedey. You can write Eugene at the following address:

Eugene Dey (P-37864)
P.O. Box 2210 (L2-116)
Susanville, CA 96127-2210
U.S.A.

Justice in Tiers: Security Certificate Detention in Canada

Mike Larsen, Sophie Harkat and Mohamed Harkat

The following is an edited conversation between Mike Larsen, and Sophie and Mohamed (Moe) Harkat, who have been living under the shadow of Canada's security certificate regime since Mohamed's arrest on December 10, 2002. Moe was held in a provincial detention centre from 2002 until April 24, 2006, when he and three other men became the first prisoners to be held in Canada's purpose-built federal prison for security certificate detainees, on the grounds of Millhaven Institution, a maximum security penitentiary. Since June 21, 2006 Moe has been released on severe bail conditions, and he and Sophie have attempted to live their lives beneath an omnipresent microscope of surveillance and control. While the government alleges that he has had ties with terrorist groups and has employed the methods of a "sleeper agent", at no point has Moe been accused of, charged with, tried for, or convicted of a crime.

In July 2008, Sophie travelled to London, UK to attend the Universal Carceral Colloquium at the 12th International Conference on Penal Abolition (ICOPA XII), where she and Mike spoke about security certificates. Sophie's talk "*A Long and Painful Road to Freedom and Justice, Or: Once Free, Now a Full-time Jailer*" provided the springboard for an ongoing conversation, which in turn formed the basis of this article. On a rainy day in September 2008, Mike, Sophie and Moe were able to sit down at the Harkat's Ottawa home to discuss security certificate detention, secret trials and the bail conditions that have transformed the Harkat's residence into a carceral space. Each section that follows opens with contextualizing comments by Mike, followed by an exchange with Sophie and Moe.

SECURITY CERTIFICATES AND TWO-TIERED JUSTICE

To begin, it is important to briefly outline what security certificates are and how they operate. At first glance, one could be forgiven for assuming that certificates fall under the auspices of the Canadian criminal justice system – after all, they involve allegations from the state, arrest, imprisonment and the courts. But the devil is in the details and upon closer examination, one finds that security certificates operate as part of a parallel legal regime, not criminal but administrative in nature. They emerge from section 77 of the Orwellian-titled *Immigration and Refugee Protection Act* (IRPA), which allows the Ministers of Public Safety and Citizenship and Immigration

to sign a certificate deeming a non-citizen to be threat to the security of Canada, and ordering that person to be detained pending deportation. If a judge of the Federal Court determines the certificate to be objectively reasonable – a standard of proof significantly lower than that used in criminal law – it becomes “conclusive proof that the person named in it is inadmissible and is a removal order that is in force without it being necessary to hold or continue an examination or admissibility hearing” (IRPA, s.80). The decision cannot be appealed. Certificates are based on intelligence collected by the Canadian Security Intelligence Service (CSIS) and this information is generally classified as sensitive and potentially injurious to national security. Accordingly, individuals subject to security certificates – and their legal counsel – are not allowed to view the full dossiers of evidence against them, but are instead given summaries. For this reason and for their generally clandestine nature, security certificate cases have come to be known as Canada’s “Secret Trials”. This term captures the essence of the mechanism, but it is important to bear in mind that with certificates, there is in fact no formal trial at all.

Certificates operate according to the same precautionary logic that has underpinned many of the disastrous policies of the so-called “war on terror” (see Ericson, 2007). One is not imprisoned pending deportation on a security certificate because of accusations about specific acts that have allegedly been committed; rather, one is imprisoned because they are deemed to represent a future threat, and because, as Razack (2008) notes, they fit a particular profile. In the post 11 September 2001 context, the potential threat in question is terrorism and the profile of interest to authorities is that of the male, Muslim, Arab, non-citizen. The five men currently subject to security certificates – known as the “Secret Trial Five” – fit this profile. By virtue of this profile and allegations about their past associations, CSIS has declared them to be the potential authors of future calamities.

While the stated purpose of a security certificate is to “remove” the individual in question from Canada, the government has not been able to deport the “Secret Trial Five”, due in large part to a series of ongoing legal challenges (and associated activist campaigns) that have exposed the unconstitutional nature of the mechanism. The efforts have resulted in numerous amendments to law and policy, including a 2006 ruling by the Supreme Court of Canada that found the process to be unconstitutional. Additionally, each of the Five has argued that deportation would put them at risk of torture in their country of origin (Algeria, Egypt, Morocco, and Syria), violating Article 3 of the *UN Convention Against Torture* (UNCAT), which prohibits “refoulement”. The net result of this complex

and exceptional situation is that the effect of the current certificates has morphed from removal to long-term, indefinite detention, administered by the Canada Border Services Agency (CBSA).

Mike: All of this is possible only because certificates operate through immigration law and in relation to non-citizens only.¹ Their targets are not recognized as members of the Canadian political community. Many have called certificates a clear example of two-tiered justice. Is this the case?

Sophie: We do have a two-tiered system in Canada. Security certificates target only non-status individuals, refugees and immigrants, and they allow for indefinite detention, in most cases for years – without access to the evidence. Hassan Almrei has been in detention since 2001 and has spent half that time in solitary confinement. In my husband’s case, he spent 43 months in detention and his first year was in solitary. What we have to remember is that the individuals in question, no matter their status, are human beings. We have a criminal justice system in place, but instead of using it, the government has chosen to adopt a system that leaves non-citizens without rights, in the dark, and at risk of deportation and torture or death.

Mike: When [then Public Safety Minister] Stockwell Day addressed Parliament during the debate over the latest amendment to certificate law, Bill C-3, he said “I would encourage all colleagues to set aside partisanship to realize that the security certificates have been proven not to threaten the individual rights and freedoms of Canadians. As a matter of fact, the security certificate cannot even be applied against a Canadian citizen. It can only be used on foreign nationals or those who are not Canadian citizens” (Day, 2008). Have you found it difficult to mobilize Canadians in opposition to certificates, given their application to non-citizens only?

Sophie: Even though certificates apply directly to non-citizens, they affect all of us – and they are applied in our names. They affect the wives, kids, families and friends of the men, many of whom are Canadians. At first, I found it hard to convince Canadians that this law was unfair, because of the taboos around September 11 and terrorism. Not many wanted to associate themselves with us or support a cause like this. Many had the mentality that, although the evidence was secret and they knew this was wrong – in their hearts, minds and according to the Charter of Rights and Freedoms – it was still necessary. Many kept saying “well, there must be something to it if they arrested them”. I have always turned that question

back at such individuals and asked them if they would approve of a law that might put them in a similar situation of legal limbo – would they accept such a process if it affected Canadians? Everyone says “no”. So I argue that all human beings deserve a chance to defend themselves openly and fairly in a court of law. Since the beginning, we have had supporters who know that this law is wrong and who have been demanding justice. More and more, people agree that there is no security without human rights and vice versa.

Moe: Remember, I was arrested in the period right after September 11. At that time, governments felt that they could arrest anyone who they thought was suspicious. The Canadian government felt pressure and wanted to show that they were “doing something” about terrorism. I think that I made an easy target. In a way, I think they made the case to fit the story: with me, they had a high-profile case about a Muslim refugee who had come to the country on a false passport. Maybe they thought it would be an open and shut case.

They were not expecting us to resist. They wanted me to just accept it and go, and they definitely did not want me to question the case and to keep digging. When you dig, you find out, for example, that they cannot guarantee that evidence in my case did not come from torture.

Sophie: You know what I am afraid of? Twenty years from now, after the truth has come out and Moe is exonerated, we will bump into somebody on the street and he will say “hey, I recognize you. Aren’t you the terrorist guy?” I worry that Moe will always remain suspicious to some. We see this with the cases of Arar, Almalki, Abou-Elmaati and Nurredin.² This lingering suspicion has ruined and destroyed lives.

Moe: These cases really frustrate me. They show how governments will never wilfully admit to their mistakes. If you look at the Arar case, the RCMP clearly acted inappropriately. They knew it all along, but they only owned up to it after a full public inquiry. The government ignores the psychological damage that this does to the people who are labelled “suspicious”. Just like Arar, I will have to live with these allegations for my whole life and I cannot fight them in court. I have never been formally charged with anything, but there is no presumption of innocence. The secrecy makes it hard for people to follow the case too and this is no accident. It is a tactic. The government makes some vague allegations, mentions a few details and people judge based on that. And people always weigh these cases against the backdrop of September 11, thinking “we

don't want that to happen again". It is this fear, I think, that makes some people willing to overlook the injustice [of security certificates].

PROVINCIAL DETENTION

Until spring 2006, security certificate detention took place in Canada's provincial jails, under an agreement between the Canada Border Services Agency (CBSA) and the provinces similar to the one that governs "high security immigration detention" more generally. Certificate detainees were held for periods of two to six years in facilities intended for remand custody or short-term sentences. Resistance to the conditions of detention and to the security certificate regime more generally, led to protracted hunger strikes by the detainees, along with an expanded public campaign to stop secret trials in Canada.

Mike: Moe, your detention has gone through several phases, each with its own uncertainties. At first, you were held at a provincial jail, the Ottawa-Carleton Detention Centre (OCDC). Describe this experience.

Moe: I was arrested on Human Rights Day and I spent about a year in solitary confinement. For a while, I was treated as though I did not have any rights at all. I was in shackles, cuffs, feet and waist, and I was not allowed to shave for 45 days. I was made to feel like an animal. It was three months before I had Halal food and only after I refused to eat other food. They did not permit me to have a Qur'an for several months. Later, I was transferred to supermax, which was in lockdown, but I was still able to have some contact with other prisoners. When I left solitary, when I could hear other people through the doors, I felt as though I was coming to life again. But I still could not sleep. At this time, I knew nothing about my case. It was all uncertain and I did not speak English very well. They kept telling me "we are holding you until we can send you back to Algeria. We are going to deport you" and this was terrifying. It was like waiting to be walked to my own execution – which is what would happen if I was to be deported with these allegations hanging over my head.

Over time, it became clear that they [the prison authorities] were almost as uncertain about my situation as I was. I was in provincial detention for a long time and they had no policy for that. It was supposed to be a short period, but it dragged on for years, because I refused to quietly leave the country. The other guys, the other prisoners, they knew how long they were there. They knew their cases, for the most part and they knew their rights. I was surprised at first at how much they sympathized with me,

but, looking back, it makes sense that other prisoners would understand what it is like to have someone throw you in jail and then throw away the key. They could understand that we were all human beings and that we all deserve justice.

Sophie: For myself, I was very nervous when I first went to see Moe. I remember my heart beating so fast that I was vibrating on my chair. I did not see Moe for the first few days and did not know if he was going to be deported in the meantime. I had never expected to visit someone I love in jail – especially someone so close to me. I was hoping to never end up there and unfortunately I did. I had a different opinion back then of the prison system than I do now. Moe was in segregation the first year I visited him. He was in a small glass box at the end of the general population. He was wearing a bright orange suit just like in Guantanamo. Now, he refuses to wear orange! My family was devastated having to visit him there and not being able to hug him, and my niece who was three at the time did not understand why so many “police officers” would watch uncle Moe. I was kept away from Moe for days at a time [sometimes weeks] without having any news from him. Just like Moe, I was unable to sleep, for the first two years.

The conditions were awful. Most of the phones would not work and it felt like 100 degrees in there all the time. There was no fresh air to breathe. I could see Moe through a glass only twice a week for twenty minutes. I would often wait for four hours to see him in a waiting room that was really freezing in the winter and boiling hot in the summer. I remember having to ask permission in front of all the visitors to use the washroom that was behind the security guard and the sound of those big heavy metal doors closing behind each person who visited. It was the loudest vibrating noise ever. I heard those doors so many times – too many times. I will remember that sound always.

I feared for Moe’s life every day, especially when he was later moved to the maximum security section with the toughest criminals, those who made the news! They ended up protecting him, though. The other prisoners supported my husband and were good to him. They understood that someone without any charge did not belong in jail and that he deserved a fair trial. I always knew that after a bad decision in court, they would be there for him. I now have a profound respect for prisoners. Some end up waiting years for a trial or even a court date or end up getting a sentence which turns out being shorter than the time they were held in remand. Often, I would overhear discussions between prisoners and their families, and the sadness and inhumanity of their circumstances brought me to tears

on numerous occasions. I was shocked to hear prisoners complaining about being hungry or about being cramped in a double-bunked cell or sleeping on dirty floor infested with bugs.

Moe was cut off from the outside world. He did not see the sky for the first six months and he had no access to newspapers, TV or radio, so he could not appreciate how important his case was becoming on the outside. The length of time he spent in provincial detention was extraordinary. Most prisoners would spend two years less a day in provincial detention, if they were serving a sentence, or they would be held awaiting a sentence or a transfer.

It has been more than two years since Moe was released under house arrest and I became a jailer to my own husband. Talking about this reminds me of how horrible those 43 long months were. It is like I blocked that time out of my memory and I never want to relive it. I do not wish that sort of experience on anyone.

GUANTANAMO NORTH

Controversy over the use of provincial facilities for long-term security certificate detention grew throughout 2005 and early 2006. On April 19, 2006 a Memorandum of Understanding was signed between the Canada Border Services Agency (CBSA) and the Correctional Service of Canada (CSC) concerning the management and operation of a brand new facility called the Kingston Immigration Holding Centre (KIHC).³ Located on the grounds of Millhaven Institution in Bath, Ontario, the six-cell KIHC exists exclusively for the detention of individuals subject to security certificates – or, in government acronym-speak, ISSCs.⁴ This is a prison within a prison, with its own perimeter and security gate, its own specially cross-trained workforce of “multi-function detention officers”, and its own set of rules, guidelines, President’s Directives and Standing Orders. More than this, though, it is a deeply-problematic hybrid, where CSC has been contracted as a detention “service provider” by the CBSA, the “detention authority”. This contractual arrangement allows CSC to effectively set aside the entire “correctional” component of their mandate and to circumvent the basic principles of the Corrections and Conditional Release Act (CCRA) (see Larsen and Piché, 2007).

The exceptional nature of security certificate detention is at odds with everything that CSC claims to stand for. Normally mandated with the supervision of prisoners serving federal sentences longer than two years and with the development and administration of “correctional” programs – deeply flawed processes in their own right – CSC’s role at

KIHC is reduced to that of long-term jailer. The prisoners held at KIHC are detained without charge or trial, much less a fixed sentence, and the technically transitory but effectively indefinite nature of their detention – which is officially “pending removal” – means that they have no access to the programs or meager educational opportunities available to federal prisoners serving sentences. KIHC is the concrete manifestation of the make-it-up-as-you-go nature of the entire security certificate process – a permanent space of legal exception (see Agamben, 2005; Nyers, 2006), simultaneously outside the criminal justice system and embedded in its institutional structure.

In the grand scheme of things, KIHC is a small facility. For a short time, it held four security certificate detainees, but since late 2006 its sole occupant has been Hassan Almrei, who has been in *de facto* solitary confinement by virtue of his being the only detainee unable to secure bail. But small and exceptional as it is, the emergence of KIHC is a major development in Canadian federal imprisonment (Larsen and Piché, 2007). It represents the unrestrained sovereign power of the state and reveals the underlying essence of the prison, which stripped of the trappings of “correctional” rhetoric, is about the coercive deprivation of liberty. It should come as no surprise that KIHC is known to many of its opponents as “Guantanamo North”.

Mike: The opening of KIHC came as a surprise to many of us following the cases. While there were rumblings about a shift from provincial to federal detention arrangements, there had been no public discussions, much less a detailed plan. How did the transfer unfold?

Moe: They came one day and told me that I had a visitor. They took me to the visitors’ area with my shoes and a coverall. The RCMP took me to the airport, put me on a plane and flew me to Kingston.

Sophie: I call it your kidnapping. It was a “visit” at a time that normal visits didn’t occur. I only found out about the transfer when one of the other prisoners at the provincial jail panicked and called collect to tell me that Moe had been taken away. Luckily, I was home to receive the call, so I was able to alert the media and the other families. I remember thinking “what if they just deport him instead?” At the time, the guys [the security certificate detainees] were hunger striking. The conditions at the jails were attracting a lot of attention, which prompted the government to do the transfer quietly and in secret. There was no announcement and no media on hand to film them leaving or arriving.

Mike: How did KIHC compare to provincial detention?

Moe: Before the transfer, when they told us about the new prison, and when we discussed it with our lawyers, the government said “it will be much better. You will be able to read, study, work out, exercise”. They said “this is what you are going to get”. But it was all just ink on paper. We could not study, could not work and had no trailer visits. I would say they gave us 10 percent of what we expected. And the staff – the guards and managers – they were from different agencies. It was confusing, and often the CBSA and federal prison (CSC) people did not know how the law was applied. We had no interactions, no contact at all, with other prisoners. Sometimes, when we were outside, on the concrete, we could look out, past the two barbed wire fences and see other prisoners in the distance, working – mowing the grass or cleaning the yard. But we were different, and we knew it.⁵

Sophie: I think all Canadians should be appalled that Canada has its own “Guantanamo North” in the Kingston area. It tends to shock many when they find out about it. Right now, although there is only one “presumed terrorist” being held there, it is costing the taxpayers millions of dollars per year.⁶ KIHC is located on a large field outside one of the largest penitentiaries in the country and is surrounded by three sets of barbed wire. It is difficult to get to. There is no public transit and a cab to the prison costs a fortune. The KIHC facility is a simple portable unit like you see in many school yards. When it was first built, it was freezing cold in the winter and boiling hot in the summer. The building shook when the men walked around inside. They had a fenced-in yard with a concrete floor.

Kingston is halfway between Toronto and Ottawa, but still hours away from both. This made visits difficult and expensive for family, and even for the counsel representing the men. It was also very difficult to arrange a visit and all visitors had to go through a pre-screening process, including a lengthy criminal background check, on top of the metal detectors and drug scanners at the prison. On my first visit, I tested positive for cocaine, and a very loud siren and the alarm system started. I have never used drugs in my life. The water bottle I was carrying had traces of it, apparently. This was just another humiliation for me, but by now I was used to the degrading experience of being a spouse visiting her husband in prison.

We quickly discovered that none of the provincial detention centre rules applied at KIHC, which is an immigration facility, and there was a difficult period of adjustment. At first, there were many problems around access to

medical care. Mohammad Mahjoub, for example, barely got any care for the Hepatitis he contracted in Toronto jail. I was lucky that my husband's time there was cut short when he was later released under another form of incarceration – full house arrest. Every day, I think of Hassan Almrei, the last remaining detainee and how lonely he must be. There is no contact with the outside world unless you are pre-approved by CBSA and the visit is pre-approved weeks in advance, and there is no contact with other prisoners whatsoever. The men were kept away from it all and in the dark – a reflection of the security certificate process in general.

Mike: Many people have argued that KIHC, despite its faults, is preferable to the provincial system. Despite this, you have both consistently called for the abolition of KIHC, as have I. How do you respond to the argument that KIHC, exceptional and problematic as it is, represents a 'lesser evil'. Where should security certificate detainees be held?

Sophie: Where do you put them? That is easy. You put them where people with no charge or conviction belong: at home, with their families. This has been our position from the start. Either charge them or release them. One thing I have learned is that you cannot tinker with injustice. You cannot change one detail here, one detail there and hope to fix a fundamentally flawed system. If it is unjust, you need to attack it head-on and to abolish it.

PRISONERS AT HOME

Four of the "Secret Trial Five" have now been released on bail, placed under house arrest with incredibly strict conditions. The decisions to release the detainees were subject to extensive contestation from the government, which argues that the men continue to represent a threat to the security of Canada. Despite this, the Federal Court – which has historically been thoroughly complicit in the perpetuation of the security certificate regime – determined that continuing to hold some of the men in custody was unreasonable. But, as the released detainees – Charkaoui, Harkat, Jaballah and Mahjoub – have convincingly argued, the fact that they are no longer in prison does not mean that they are no longer prisoners, much less that they are free. Rather, the disciplinary apparatus of the prison, including its guards, cameras, and rules, have been extended to the homes and communities of the detainees.

Mike: Sophie, you mentioned previously that the men should be at home,

rather than in detention. But there is a difference between being at home under conditions and being free. Do the two of you consider your current circumstances to be another form of imprisonment?

Moe: Yes, absolutely. In some ways, being at home is much more strict and controlled. It is certainly more stressful, which surprised me. In jail, I did not have to tell the guard when I had to use the bathroom. Now, because the bail conditions require Sophie to be with me at all times, if I need to use a men's room while on a scheduled outing, we need to call CBSA for approval. I believe that the government wants to make things as intolerable as possible, so that we become desperate and give up. Their approach seems to be "If you don't like it, just go".⁷

Sophie: Security certificate bail is definitely another form of imprisonment. Moe and I are prisoners in our own home and when we leave on approved outings it is only under a bubble of surveillance. These bail conditions are unprecedented in Canadian history and they have forced me to take on the role of full-time jailer to my own husband. Everyone in our family is paying the price.

Just to give you an idea of how the bail conditions act to imprison and control us: they include the requirement that Moe wear a GPS tracking bracelet 24/7 and a heavy monitor on his belt during outings. He requires constant supervision by myself, my mother or another surety who has been approved by the Federal Court, and he can never be left alone outside or inside our home. The sureties had to collectively put up approximately \$100,000 as a guarantee.

There are surveillance cameras at the entrance to our house and inside. Our telephone is tapped and our mail is intercepted. Moe is not allowed to go anywhere near my computer, which must be kept under lock in my office. This extends to all electronics, including cell phones, laptops and anything with an Internet connection.

We are allowed three weekly outings of four hours in length and we must be back before the deadline. Moe is not allowed to have any travel documents and he has strict boundaries within the City of Ottawa. He is unable to enter certain government buildings or to attend certain events, like the Lebanese Festival – though he could attend the Greek Festival. He is not allowed to ride boats, nor can he go near a bus station, train station, rental company or airport.

All locations we visit are pre-approved by CBSA, as are all meetings and all visitors. He has to call CBSA before and after each outing, and we are followed by CBSA officers with bulletproof vests and guns. These

officers have the right to enter our home at any time. Every visitor must go through security clearance, just as though they were visiting Moe at KIHIC. Many have not been cleared because of previous criminal records or because of their involvement in activism. Even my grandmother and six year old niece had to be pre-approved. Also, Moe is not allowed to speak Arabic in public – only on the telephone with his family.

Additionally, Moe can only speak to pre-approved media. This has caused lots problems with the press about freedom of speech and has made our work with the media very difficult, and at times impossible. Because of this, the campaign has taken a major hit because I am stuck at home with Moe and cannot just leave our home to do interviews in studio like before.

These are just some of the conditions. I could talk about the others, but the point I want to emphasize is that these conditions have come to define and control every aspect of our lives. We live in fear of accidentally breaching a bail condition, which would result in Moe being arrested and detained again. This has happened in the past. This level of surveillance and control is humiliating and degrading, and there is no escaping it. For example, because he cannot be left alone, Moe has attended my physicals and other “women” appointments, where he sits in the corner. We have no privacy, no potential for spontaneity.

Moe: This is the worst part. You [Sophie] are suffering because of me. It is a huge sacrifice. When I was in jail, I did not have this stress. I felt as though I was waiting to be walked to my own execution, but it was just me. Now, I worry about everything. If I breach my conditions, I will go back to prison; my family will lose the surety money; the government will use it as an opportunity to further the security certificate system; and we will lose the trust of the Canadian people. Since I have been out [of KIHIC], I have been preoccupied, always thinking “will you make it back home in time for your curfew? What if the car breaks down?” The conditions affect my family and disrupt their lives. In many ways, it has cut them off from the world.

Sophie: It is terrible to hear him say “I’m going to voluntarily go back to jail”, which he does sometimes, out of frustration.⁸

CONCLUSION

Mike: What I take from our conversation is that there are degrees of imprisonment that apply to security certificate detention. Despite the

frustration and stress, it seems that house arrest is still preferable to full incarceration. But the distinction between the two is blurry and some elements are common as every form of imprisonment we have talked about – provincial, federal and through intensive bail – is characterized by constant uncertainty. From the initial fear that Moe would be deported directly to Algeria, to the ambiguity of the rules governing KIHIC, to the everyday experience of unease associated with 24-hour surveillance. The physical location of the carceral changes, but many of the elements – techniques of control and technologies of surveillance, guards, rules, boundaries and restrictions – remain constant. This, I think, is a perfect illustration of the dangers of the universalization of the carceral, in that it shows how systems of confinement with roots in the prison can, over time, and through contortions of law and policy, extend beyond the walls of the institution, into the community and throughout society. Where do we go from here?

Moe: I have learned that you never quit when you are right. If you are innocent, you fight for it. Some people would take a deal in this situation and compromise even though they knew they were innocent. But this only allows the injustice to continue. Never lose hope. One day, I will have the opportunity to clear my name. The truth will come out. It is a matter of time.

Sophie: Security certificates are inherently unjust. As a Canadian, I feel appalled at the way we are operating a two-tiered system of laws, where these men can be imprisoned on the basis of suspicion alone. But pity and fear will not get us anywhere, so it is important to take action, and to take a stand against injustice. We often talk about the importance of striking a balance between security and liberties. Well, when you have indefinite detention without trial and when you have a system that makes it possible to deport someone to face torture you have failed to strike the right balance. Every individual in this country, citizen or not, should have an equal right to justice. We need to abolish security certificates and to do away with secret trials.

ENDNOTES

- ¹ For a more in-depth discussion of Canada's immigration detention system, of which security certificate detention is an exceptional example, see Anna Pratt's (2005) book *Securing Borders*.
- ² Maher Arar, Abdullah Almalki, Ahmad Abou-Elmaati and Muayyed Nureddin are all Canadian citizens who became victims of the US-led program of "extraordinary rendition" in the years following September 11, 2001. They were abducted and sent to Syrian dungeons, where they were detained and tortured at the behest of western officials. After considerable hesitation, the Canadian government launched a Royal Commission of Inquiry (the O'Connor Commission) into the treatment of Maher Arar and an Internal Inquiry (the Iacobucci Inquiry) into the treatment of the other men. Both Inquires examined the complicity of Canadian officials in the mistreatment of the men and pointed out serious deficiencies in official conduct. None of the men were ever charged with a crime. Maher Arar was given a public apology and a compensatory settlement. Despite this and because of the pervasiveness of the "no smoke without fire" mentality that Sophie alludes to in her remarks, some still regard Arar and the others with suspicion, and assume that they must be guilty of something.
- ³ A copy of the CBSA-CSC Detention MOU was obtained through an *Access to Information Act* request (no. A-2007-00267) filed with the Correctional Service Canada. The document is a fascinating example of how legal loopholes are created and exploited. It takes only 14 pages to set out the details of a contractual arrangement that completely blurs the boundaries between corrections and immigration detention.
- ⁴ It has been possible to obtain, through requests made under the *Access to Information Act*, (including request A-2007-01287, made to CBSA) many internal government documents relating to security certificates and the administration of the Kingston Immigration Holding Centre. In some documents, certificate detainees are referred to simply as "detainees", while in others, the acronym ISSC, for Individuals Subject To Security Certificates, is adopted. The acronym is part of the internal institutional lexicon and is not seen in remarks made to the public.
- ⁵ The KIHIC operating guidelines that have been obtained through *Access to Information Act* requests are very clear on this point. Security certificate detainees are to be separated from other prisoners at all times. For example, General Principle 9 of the CBSA-CSC Detention MOU states that "[t]o the greatest extent possible, there shall be no contact or communication between any detainee and any prisoner of the Millhaven Institution or any other CSC institution or facility". This policy stems in part from article 10 of the *International Covenant on Civil and Political Rights* (ICCPR) and was discussed long before the creation of KIHIC, including in a November 2001 draft document entitled *Detention of Individuals Not Serving a Sentence Nor Awaiting Trial: Position of the Correctional Service of Canada*, obtained through the *Access to Information Act* (Request no. PS-SP A-2008-0023).
- ⁶ For more on security certificate detention costs, see the May 13, 2008 CBC story "Lone detainee Almrei costs taxpayers \$2M annually at Kingston facility", available

at <http://www.cbc.ca/canada/ottawa/story/2008/05/13/ot-kingston-holding-080513.html>.

- ⁷ Canadian officials have notoriously referred to security certificate detention as taking place in a “prison with three walls”, implying that the detainees are free to go at any time, provided they voluntarily return to their countries of origin, where they fear torture or worse.
- ⁸ The thought of voluntarily returning to prison, rather than living with such restrictive bail conditions, has been echoed by other security certificate detainees. In March 2008, Mohammad Zeki Mahjoub requested that he be returned to prison, saying that he could no longer handle the 24-hour surveillance. The request was denied on the grounds that he had not breached his conditions. In a November 24, 2008 *Globe and Mail* article, reporter Colin Freeze quoted Mr. Mahjoub’s wife, Ms. El Fouli, as saying ““He’s feeling his children are getting punished,” [...] adding that when her husband tried to go back to prison, he told her that as long as he lived on the outside, “they are not putting me only in jail, they are putting all of you in jail.”” The article is available at <http://www.justiceforharkat.com/news.php?extend.3047>.

REFERENCES

- Agamben, Giorgio (2005) *State of Exception*, Chicago: University of Chicago Press.
- Day, Stockwell (2008) *House of Commons Debates, Canada – 041* – January 31.
- Ericson, Richard (2007) *Crime in an Insecure World*, Cambridge: Polity.
- Larsen, Mike and Justin Piché (2007) “Incarcerating the Inadmissible: KIHC as an Exceptional Moment in Canadian Federal Imprisonment”, *YCISS Working Paper* 45, Toronto: York Centre for International and Security Studies.
- Nyers, Peter (2006) *Rethinking Refugees: Beyond States of Emergency*, New York: Routledge.
- Pratt, Anna (2005) *Securing Borders: Detention and Deportation in Canada*, Vancouver: UBC Press.
- Razack, Sherene H. (2008) *Casting Out: The Eviction of Muslims from Western Law & Politics*, Toronto: University of Toronto Press.

Legislation and Conventions

- Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment*, GA Res. 39/6 (1984) – December 10 (entered into force June 26, 1987).
- Corrections and Conditional Release Act* (CCRA), S.C. 1992, c-20.
- Immigration and Refugee Protection Act* (IRPA), S.C. 2001, c-27.

ABOUT THE AUTHORS

Mike Larsen is a PhD candidate in Sociology at York University and a Researcher at the York Centre for International and Security Studies (YCISS). He has recently become a Managing Editor of the *Journal of Prisoners on Prisons*. His work deals with contemporary policies of indefinite and preventive detention, with a specific focus on Canada's security certificate regime which combines a critical sociology of law with investigative work using Access to Information law. Mike was one of the organizers of the Universal Carceral Colloquium at ICOPA XII. His chapter "Governing Non-Citizens as Security Threats: Canada's Security Certificate Regime" is forthcoming in the YCISS edited volume *Violent Interventions*.

Sophie Harkat, from Ottawa, Canada, became an activist overnight after her husband Mohamed Harkat was arrested under a security certificate on December 10, 2002 (International Human Rights Day). Since Moe's release on bail in June 2006, Sophie has had to juggle the roles of activist and full-time jailer to her own husband. Moe has become her hero, and biggest source of inspiration and motivation. Her simple life has become a nightmare, but along the way she has gained support, love, and respect from many and is now dedicated to standing up to the injustices of her own government, including abolishing security certificates. You can visit the *Justice for Mohamed Harkat* website at <http://www.justiceforharkat.com/news.php>.

Mohamed Harkat was born in Algeria and left at an early age in light of the tense political situation and his involvement with the Front Islamique du Salut. He sought employment at a refugee camp in Pakistan and eventually moved to Canada in 1995, and was granted refugee status in 1997. He built a life in Ottawa, working three jobs and married Sophie in early 2001. His peaceful life was shattered when he was arrested on a security certificate. Since then he has spent 43 months in detention, followed by 2.5 years of house arrest. He has maintained his innocence from the start and looks forward to clearing his name, settling down to raise a family, and being able to live without fear. In the meantime, he draws strength from his family, and he is surrounded by dedicated supporters and a wonderful legal team.

“Welcome to the camp”, he says, turning around and facing me, “My name is Bush”. “Bush as in George W?”, I ask. “No” he answers, “Bush as in Kingston street kid with a bushy afro”.

He stands in front of me, legs akimbo, arms slightly spread out, sleeves of his T-shirt pulled up, showing his bulging biceps, his chest of a body builder, his broad and worked out shoulders. Here he is, eyes locked on mine, gaze focused, the whole man ready to hit at any sign of a false move from his counterpart. “So you’re the new one? Is it true what they say, that you’re a professor – a university professor?” “Yeah”, I reply after a while, “Guess it’s true”. He looks at me for a long time, then turns around and waves me over to the bunk beds. His eyes still firmly on me, he pulls out a book from under his mattress and tosses it into my hands. “Chomsky”, it reads on the cover, “Noam Chomsky on *Hegemony or Survival*”. “Got it from a guy who left the other day. Had a look at it and understand he’s a kind of linguistics professor, but is now talking about civil rights and foreign policy and stuff. Seems to be an okay guy, this one”. Seeing my unbelieving eyes, he queries “Anything wrong with that? You got any problems with that?” “No no”, I say, “It’s just that I used to teach Chomsky myself, you know? I am a linguistics professor too.” “No way”, Bush’s voice is coming to me, “No way. So you pull off the same kind of stuff as this guy?”, he asks. “Well, not precisely, but in a way, yes”. Now I have his full attention. “That’s cool, man, that’s really cool. Let’s walk, man, and let’s talk”.

And that is what we have been doing ever since. Walking and talking. At times we are strolling lazily, but mostly we power walk. Bare chests, shirts in hand, displaying strength, showing off determination. As much implied determination as you can muster, walking in circles – and narrow circles they are. Past the bunk beds, the showers, the toilets, all of them visible and open to view on the periphery of our circles – the tables and benches in the center. Again passing bunk beds, showers, toilets. Bunk beds, showers, toilets. Taking under a minute for each full circle, a bit less when one of us approaches one of the occupied toilets yelling “water, water!” at one of the men on the shitholes. Now the eyes of the other 50 men turn on this one guy whose intestines, having been ready to empty themselves of the stinking half-digested remains of the camp food, cramp, and the guy, flushing the toilet, hastens to get away. Better duck away, relaxation is not on offer in this food-and-lodging free summer camp. Steal away to your bunk and the crowd may or may not turn its vicious attention to another peon.

“What?”, I am shouting, “What’s that you’re saying, Bush?” Bush is walking and talking next to me, shouting at the top of his voice, hoping to be heard over the blaring camp TV – fixed overhead, so that you can see and hear it from everywhere in the hall. Loud enough to drown out the talking, horseplay, shouting and fighting of 50 harsh voices. The TV symbolizes the political and ethnic division of the prisoners. Whereas the Hispanics go for soccer and the unbearably subliminal pseudo-eroticism of Mexican soap operas, the English-speaking guys opt for American football and news on the Bush administration. Most of this is lost on me, as the TV’s volume is always turned up louder than the speakers can handle and is powerless against the cacophony of the facility. Hence, I always end up yelling “What? What did you say, Bush?” And Bush, Bush of Kingston, Jamaica, an illegal immigrant to the US for the better part of his life, explains, comments, advises and instructs. And I, myself an adviser in my former life outside the camp, subscribe to his wisdom, borne of a ten-year stint in a New York State Prison.

So, he advises: “You ever wonder why I am one of the few guys wearing an extra T-shirt? There are not many who know how to pull it off. But man, it’s the fucking Texas desert out there, and the temp is in the 120s, but inside it’s a fucking fridge, that’s what it is, a fucking fridge. So let me tell you how to get an extra shirt yourself”. So he advises me on just what and what not to say. What to display, what to hide. What to bear, what to resist, what to refuse, what to fight. From him, my man, I learn the ropes and learn to play along.

You learn to play along, though at times your attitude threatens to crack. Threatens to crack under the strain when you come back from the cafeteria or the canteen to find your bed searched, mattress turned over, toiletries, underwear, books and papers littered all over the place, and your additional white T-shirt gone. If you are lucky, the document entitling you to a white T-shirt is still around. In this case, you only have to bring it to a guard to let you apply for an appointment at the laundry. Some days later you may get to go there and they may even have a T-shirt for you. If you are less lucky, the document has gone missing. In this case, you need an appointment with the camp doctor. You apply for the shirt in writing and submit it to the one post box in the camp reserved for this kind of business and finally you may even see the Doc. So you tell your story again and you add something new to it so that he cannot send you away with the usual painkillers. “So this worked out okay”, you tell yourself. But there are other times when you come back from the cafeteria, and your mattress is torn up and the few belongings you are allowed to have are turned over again and the T-shirt, the white T-shirt which you are only allowed to wear at night is gone. Sometimes when that happens you wonder whether it is worth trying to get hold of another one. You wonder and doubt, but then

you finally realize – this is not about a T-shirt, this is about agency. A desperate and futile attempt to feel like a man rather than a bug.

Bush has now taken over the role of my personal trainer. We are entitled by law to one hour a day outside. ‘Outside’ meaning a 30 square foot concrete slab enclosed by a 12 foot razor wire fence, offering a view of a barren desert and some bleak brown hills on the horizon. Being outside means pumping iron. No warming up or stretching, just lifting. The exception is Bush. He shows me how to train one group of muscles a day, how to put the strain on the flesh, rather than on the bones. His hands on my back, on my chest, he pushes me into the right position. And he is not afraid to do the same thing with the others, the big guys. They mock him, tell him to get lost, to go back to his NY State Pen where he came from. They would not dare touch *him* though. Nor me, for that matter, as Bush is always around.

Almost always, save for this very moment when I turn around, having finished one set of reps, and face the big guy in front me. ‘Big’, as everybody calls him, and his Sudanese friend. ‘Fear no Man but God’ the runic tattoo reads on his chest. The two of them are now closing in on me and the other men smelling blood in the water join in. “Me telling you something”, Big says, his eyes boring into mine. “Tell you, you are smelling. Got me? Me talking straight and telling you are smelling, man. Hear that? Now you telling me what you doing about it cause I can’t put up with that. You now telling what you doing about it or we taking some action.”

His eyes are still on me.

Silence.

“You still with me, man?”

More silence.

Then I hear my own voice coming to me from far away, from somewhere which is both within and outside of myself. “If you think that I smell, than you better keep out of my way”. No man moves. I’m trembling inside, anticipating. Suddenly Bush breaks the silence. His face blushed and angry, he is all physical presence. But his voice is soft and calm – he is in control. “You know Big, the Professor’s from Europe. Over there, they do things differently”. He is joking now. “You know man, over there, things are not the way they are here. Give him a break, won’t you, Big? You had to adapt to things too when you first came over here, right?” So he goes on, all muscles and smiles. Finally, the men turn around and back away. At this moment, I love him as I have never loved him before. “Thank you, Bush. You saved my ass”, I think to myself, never actually saying it. “Never mind”, he silently thinks back, “It was nothing”. From this day on I am untouchable in Block C7 of the El Paso Service Processing Center.

A pre-deportation Service Processing Center is not a jail, it is even worse. It is worse for the detainees because nothing in this world has ever prepared

them for being there. Some of them, like Bush and Big, have done enough time to know what it is all about. They have amassed so many aggravated felonies that the judges finally grew tired of them and since neither Bush nor Big had the decency to get a residence permit or green card, they have now been sent to the camp for custody prior to deportation. However, these two are the exception. Most of the others have been living in the country for years, even decades working and paying taxes, getting married and putting their kids through school. In the old days prior to 11 September 2001, this was a piece of cake, I am told. You arrived with a tourist visa and then you stayed. This was the crime they committed, without ever being genuinely criminal. Not faithful to the law, no, but not criminals. Many of them are simple, hard working people who were dreaming of a life a bit less desperate than one in a Mexican pueblo. They came here against the law, yes, but they were never prepared for what they would have to face in here.

Since being here, I have seen men break, some of them on their first night, others later – some much, much later. The door of the hall opens and the guards bring in one or two new arrivals. They have been either picked up at the border or maybe straight out of their ordinary life. They have been questioned, detained and finally brought to the camp. They are given prison clothing and are led over to the blocks. They enter the block hall, wait at the guards' desk and look cautiously around. They try to look cool, but in their eyes the fear is clearly visible. Then more and more of the men notice them. One of them begins with the ceremonial newcomers' greeting, more join in and soon 50 men are shouting, yelling at the top of their voices, "Vaselina! Vaselina!", while the rookies walk across the hall and to their bunks, trying hard to fight down the raw horror welling up in them. Some of them break in this first night. Lying in their bunks, waiting for the blaring TV to be shut down and for the men to cease their shouting, they stare at the ceiling and feel the loss gripping their chest. The horrible loss of everything they ever had. They will lose their job first, then their house, then their wife and kids. They will lose what used to mean their whole life and will be sent back to the pueblos.

The next morning their eyes are empty, their shoulders sagging. Some of them never recover, while others accept and adapt. Accept that the processing center is not something out there and far away, but is now in their faces, has become part of them – the newest chapter of their life. "This is your new life buddy, so you better make something of it", they tell themselves. Bush and me, for example, we walk and talk. Talk and laugh. Join the other guys and joke with them. Trying hard to have a good time, just as you would try in any other place, at any other time, in any other life. "What are your plans for today?", we sometimes would ask each other in the morning or "What are you looking for today?" "Trying to get my fucking name on the library list", one of us would say then, or "Doing this

upper-back work-out I screwed up yesterday”, says the other. So we make plans, for ourselves and for the other. Bush looking after my growing shoulders and me developing a diet to help Bush lose some extra pounds which, to his great displeasure, he has put on over the last few months. “In the last place I was, they starved us to death”, he calls out, “and here they are fattening us”. So I tell him what to eat and what to leave behind. Advise to ignore the vending machine in our block, which the other men regularly raid for sodas and sweets.

We make plans, advise and teach each other. From Bush I learn about Rasta culture and working out, while I teach him chess and existentialism. Having finally managed to reach some friends who have sent money and books, and having been allowed to keep three of these books, Bush and I are reading Sartre and Camus. Bush asks and I explain. And then I ask, and he explains, about life in NYC and ‘going shopping’ and living in the scene. “You know, we were quite good in going shopping and always had money. We paid for all the drugs and sex was free. We wore the best clothes, the most expensive perfume, and life was a blast”. And later “But this has to be over now. I have done ten years time and that is more than enough. I want to have a real life. I want to do something. Real things, like the things you are doing. Something good”. “Doing something good”, it resonates in my head, “has never sounded more credible to me”.

“I told you of my fourteen year old daughter, remember?”, I ask. “Today, after so many futile attempts, I finally managed to get through to her on the phone. I told her that I was okay, and that although she hadn’t heard from me for a while she shouldn’t worry. That I couldn’t tell her where I was and that she shouldn’t ask, but that she could trust me that I would see her again. She was all calm and serious, and finally before hanging up, she said ‘I love you’. And that, Bush, was the first time ever she said such a thing”. “Yeah”, Bush replies, “Yeah. You see, man, this shithouse of a place can even be good for something”.

But despite how hard we are trying to hold onto some sort of life and human dignity, suddenly, and necessarily all the sharing and talking and joking comes to an abrupt end, collapsing like a house of cards under the brutality of the place. For days now, Bush has been in the highest spirits, as he finally got an appointment to see the judge. Long before my arrival he had plead for political asylum. He has a strong case. For one, being gay and coming from one of the more homophobic countries in this world, and for another, suffering from a disease which requires treatment too sophisticated to be granted in his country of origin. A strong case, if there were not his repeated aggravated felonies. So he has been turned down and has put in an appeal in return. Now, months later, he has been granted permission to see a judge. For days on end, he has not talked of anything else. He has discussed his case with me, has asked my opinion, has laid

out, considered and weighted each and every single pro and con, and balanced one argument against the other. He has despaired at the futility of his venture and then again with cautious but renewed hope, been positive and affirmative – smiling at me, beaming, anxiously awaiting the day of the decision, apprehensively cheerful.

Then, finally, after endless months in the camp, after having compiled file after file in his defence, after having handed it in for appeal, he finally meets the judge. “You know what he said?” Bush recounts, coming back from court, “I haven’t read your files, and I don’t think that I’m going to, as I will decide against you anyway. But first go back to the barracks for some more months”. “You see, Joe, that’s what the judge told me”. “Bush”, I cry out, trying to keep down pain and despair, “I have read all your files and I know that you have a very strong case. I am sure that finally you will succeed. Just do not give up, do not surrender”. “You think so, Joe?”, he asks me. “Yes, I do think so”, I lie. The brutality will not stop, as it is not incidental, but systematic. It will not stop until he is deported back to Jamaica or until he signs his voluntary departure at his own expense. That is, after all, what this whole process is designed to accomplish.

Soon after, my passport arrives to me in the mail. Now that they have my passport, Bush and I know that any moment can be our last. So we swap phone numbers of a mother and a brother. And then, one night at three o’clock the time has come. I am awake before the guard has even reached my bunk. “You’ve got three minutes to get ready”, he tells me. So I get up, grab my few things and when I turn around, Bush is standing in front of me. In the semi-darkness of the dimmed lights we look at each other, speechless, motionless. Standing. Looking. Looking at him for the last time. Looking at him and seeing the tears run down his cheeks as the guards take me away.

Away to what they call my country.

ABOUT THE AUTHOR

Joe Lekarowicz (pseudonym) has taught Applied Linguistics at universities in The Netherlands, Germany, Cameroon, Turkey and prior to his deportation, the United States of America. At the time he was arrested and detained at the El Paso Service Processing Center – “a temporary detention center for approximately 800 detainees who are waiting for their immigration status to be determined or who are awaiting repatriation” (cf. <http://www.ice.gov/pi/dro/facilities/elpaso.htm>) – he was employed by Portland State University, USA and held a valid working visa. He is now working at King’s College London, UK and can be reached at toumaii@gmx.net. Joe is in contact with his friend Bush, who has been deported to Jamaica.

Political Prisoners in Australia?

Craig W.J. Minogue

The Australian prison system is situated someplace between the punitive turn of the incarceration binge of the United States and its ‘decivilizing processes’ that have been identified by Pratt (2002) and Vaughan (2000), and the best of the Canadian system. What is different in Australia is the size and fragmentary nature of the failure. This is in part attributable to the country’s small population, which is dispersed over eight states and territories, which are formed into a Federation. Prisons are wholly a matter for the states – there are no Federal Prisons. Victoria, the state I am imprisoned in, has an incarceration rate of 191.4 per 100,000, which means that about 4,000 adult prisoners are confined in 13 prisons across the state. The incarceration rate in Victoria is significantly lower than the national Australian average of 307.9 adult prisoners per 100,000 (Department of Justice Victoria, 2007a, p. 12). The conditions in Victoria are modern and prisoners are relatively well treated when viewed against the punitive cauldrons of the American system that is being exported to the rest of the world. Conditions and treatment are generally good, but that does not mean that prisoners here do not live with the omnipresent reality of life-threatening levels of force (Minogue, 2005). Through a combination of silencing and limiting provisions, the Federal State has excluded prisoners from human rights jurisprudence in Australia (Minogue, 2002; *Minogue v HREOC*, 1998). Individual states have a hotchpotch of prison and human rights law, all of which are much more about form than content. As an issue of public or even academic and NGO concern, incarceration is hardly on the radar in Australia as a social or political issue. The low numbers of prisoners dispersed over many small prison sites in each state, a compliant, unquestioning media and an apathetic – or vengeful, when roused by the tabloid media – public all provide a shield that dissuades critical analysis of the practices and outcomes of the prison system.

The standard definition of ‘political prisoner’ is someone imprisoned as a direct result of their political activities or their views, which are counter to the dominant political power. In this narrow reading, there are few, if any, political prisoners in Australia. Even politically motivated protesters opposing governmental policies who battle police in the streets, conscientious objectors of the past or old-style political activists trying to subvert what they see as restrictive electoral laws – all are imprisoned through the framework of the criminal and other laws they allegedly break. But being imprisoned for an offence against the law does not mean that a person cannot be a political prisoner. Even on the standard narrow

definition, to make a judgement as to the ‘political’ nature of a person’s imprisonment, the facts and motivations of the individual case need to be examined.

We can see that the standard narrow definition of ‘political prisoner’ breaks down under its own unthought assumptions. This fact, however, does not seem to be understood by the left in Australia. In the USA and Australia, the Native American leader Leonard Peltier, who is imprisoned for the murder of two FBI agents, is widely understood to be a political prisoner, as is Mumia Abu-Jamal, who has also been convicted of a crime. And when Angela Y. Davis visits Australia, people from the left flock to hear her speak, her political prisoner status coming from a few months on remand for a criminal conspiracy of which she was acquitted. Furthermore, what is recognized in the United States of America but not in Australia is that the way in which a person conducts themselves in prison and on release from prison that contributes to a broader idea of what it is to be a political prisoner, rather than the a narrow focus on the crime that a person was imprisoned for in the first instance. It is this broader conception of ‘political prisoner’ that I am suggesting the left in Australia needs to come to terms with. Both Australians and members of the broader transnational abolitionist movement need to begin asking questions about political prisoners in Australia.

The UCLA academic and founding member of Critical Resistance, Dylan Rodríguez, quoting from an interview with imprisoned Black Panther Marshall Eddie Conway, suggests a conception of ‘political prisoner’ that I will adopt and argue for here, and that is a prisoner who:

...stands up to injustices, a person who for whatever reason takes the position that this or that is wrong, whether they do it based on ideology or they do it based on what they think is morally right [...] people become political prisoners, become conscious and become aware and act and behave based on that awareness after they have been incarcerated for criminal activity... (Rodríguez, 2006, p. 6).

But who are the prisoners in Australia? More than 50 percent of the 4,000 prisoners in Victoria are serving less than two years for non-violent property offences; 14 percent are imprisoned for “offences against good order and Gov’t / security / justice procedures offences” (Department of Justice Victoria, 2007a, pp. 26-27). This last category of prisoner is the fastest growing group, increasing by 4 percent since 2002 (*ibid*). More than 90 percent of prisoners in Victoria have not completed primary or secondary schooling and have no technical, trade, tertiary or other post-

secondary qualifications, and more than 60 percent were unemployed when imprisoned (Department of Justice Victoria, 2007a, pp. 37-38). The statistics tell a story of social disadvantage; stealing to support oneself and family, or the illegality of self-medicating, or acting out due to a mental health crisis in a society with inadequate health services. These are very much political situations. Despite the political milieu that drives the crime and punishment industry, it is not widely understood as a political issue in Australia, as the blame is laid at the feet of the individual, as opposed to the society or politics that create the underlying conditions.

I could argue that a lot of common crime can be read as a political act, even if the actors do not understand it that way, but rather than make that argument here, I will say that despite their origins in what is understood as apolitical criminal activity, there are some men and women in Australia's prisons, mostly those serving long sentences, who conduct themselves in a political way, politicize their imprisonment and following Rodríguez's definition, become political prisoners. The government knows this and they respond in turn by overseeing the management of those on the 'political list'. But few people in mainstream Australian society know anything about this.

A special unit called the Major Offenders Unit ("MOU") has been established by Corrections Victoria to respond to the concerns of the political branches of the government. The MOU manages all aspects of the imprisonment, parole and community corrections for "prisoners who represent a danger to the State", down to the minutia of issues like their "access to: programs, educational courses, cell property, computers, employment, including community work sites and interactive activities", and also provides "Ministerial Briefings and possible Parliamentary Questions pertaining to these offenders" (Department of Justice Victoria, 2007b, s.3.4, pp. 10, 11, 13). In response to any discussion of their political prisoners, the MOU highlights individual crimes and depicts all prisoners as craven selfish actors. Any attempt to ask why crimes are committed, beyond acknowledging individual circumstances, is framed as an insult to the victims and an attempt to circumvent personal responsibility. The statistics and their story of social disadvantage are not even considered once the rhetorical device of the 'offender' "trying to escape responsibility" is thrown into the debate.

Prisoners live in the face of totalizing conditions and unequal power relations that can scarce be imagined by a person who is not confronted with "life threatening levels of force" every moment of their existence (Minogue, 2005, p. 172). To the political prisoner, this imposition of power calls by its very nature for a judgement about its rightness or wrongness to

be made and then for action to resist what is wrong. And these judgements are made by some long-term political prisoners in Australia who resist by working directly with their fellows, by advocating for those who cannot do it for themselves, while also educating and helping others to develop the tools to help themselves deal with the unjust social and legal system that is stacked against them (Minogue, 2008). I say 'long-term' prisoners, as short-term prisoners do not have the time or stability of prison placement to establish themselves to do the work. Political prisoners, like myself, work on the inside as well as on the outside, by participating (remotely) in community education projects and by producing insider information that is used by activists on the outside.

The small size and fragmented nature of the situation in Australia allows a more sophisticated and managed response to issues of crime and imprisonment. Australia is a model for how the political branches of government can make the issue of crime and punishment diffuse. Individual cases come and go, and discussion of the larger issues subsides. Criminal 'offenders' or prisoners are just that – individual criminals. They are not part of the political milieu. So, after being alienated by educational and economic disadvantage, prisoners are further abandoned when so few in the progressive left in Australia are doing anything about addressing the disadvantages they have suffered or improving their conditions of confinement or supporting their work as political prisoners – let alone even acknowledging the existence of Australian political prisoners.

The transnational abolitionist movement needs to appreciate that the Australian model for policing political prisoners through denial and the emphasis on crimes and victims, as opposed to wider issues, can be exported. For this reason, there is a need for the international penal abolitionist community to press those in Australia by problematizing the lack of discussion about political imprisonment and by actively working to support those prisoners whose political actions are contributing, in their own way, to the broader abolitionist cause.

REFERENCES

- Department of Justice Victoria (2007a) *Statistical Profile of the Victorian Prison System*, retrieved from http://www.justice.vic.gov.au/wps/wcm/connect/DOJ+Internet/resources/file/ebc9494ce595f2a/Statistical_Profile_Victorian_Prison_System_2002-03_to_2006-07.pdf
- Department of Justice Victoria (2007b) *Sentence Management Manual*, <http://www.justice.vic.gov.au/wps/wcm/connect/DOJ+Internet/Home/Prisons/Prisoners/Managing+Prison+Sentences/>

- Minogue, Craig (2008) “What’s it got to do with you? A defence of the jail-house lawyer”, extracts read by Com McNaughton on “Inside China’s prisons: Swinging open China’s cell doors to hear who’s inside and why”, syndicated through the *Radio New Internationalist*, <http://www.newint.org/radio> – July 20.
- Minogue, Craig (2005) “The use of a military level of force on civilian prisoners: Strip searching, urine testing, cell extractions and DNA sampling in Victoria”, *Alternative Law Journal*, 30(4): 170-173.
- Minogue, Craig (2002) “An insider’s view: Human rights and excursions from the flat lands”, in D. Brown and M. Wilkie (eds.), *Prisoners as Citizens: Human Rights in Australian Prisons*, Annandale (NSW): The Federation Press, pp. 196-212.
- Minogue v. Human Rights and Equal Opportunity Commission* [1998] Vol. 54 Administrative Law Decisions, p. 389; and at (1998) Vol. 84 *Federal Court Reports*, p. 438
- Pratt, John (2002) “Emotive and ostentatious punishment: Its decline and resurgence in modern society”, *Punishment and Society*, 2(4): 417-439.
- Rodríguez, Dylan (2006) *Forced Passages: Imprisoned Radical Intellectuals and the US Prison Regime*, Minneapolis: University of Minnesota Press.
- Vaughan, Barry (2000) “The civilizing process and the Janus-face of modern punishment”, *Theoretical Criminology*, 4(1): 71-91.

ABOUT THE AUTHOR

Craig W.J. Minogue has survived in prison since 1986. His release date is in 2016. Having completed a BA (Hons.) in 2005, he is now working on a PhD in Applied Ethics via an off-campus program. Craig is a social justice advocate who assists fellow prisoners with equitable access to the Courts, educational programs and health services. He is an unofficial volunteer crisis and acute mental health worker. Craig is a regular contributor to community legal education projects and has published in the fields of philosophy, literature, criminal law, human rights and prison issues. He also creates art and has a number of works displayed in public spaces. Craig can be contacted at craig2016@bigpond.com or at PO Box 273 Corio Victoria Australia 3214.

RESPONSE

The Abolitionist Stance

Thomas Mathiesen

I agree with the criminologist Heinz Steinert in a communication to a recent issue of *Kriminologisches Journal*¹ that some very important abolitionist gains were made in the 1960s and 1970s. This was indeed a period, as he puts it, of “major historical success”. Partial abolitions of systems were carried out. For instance, in Norway, both the youth prison and forced labour systems were eradicated, causing a major drop in incarceration. In several countries, the number of prisoners fell and remained lower than earlier for quite some time.

Secondly, I agree with Heinz Steinert that we do not need to feel desperate or ashamed that we could not stop the strong wave towards increased punitive populism, media panics and rising prison figures, and their societal and political underpinnings, which were increasingly characteristic of the 1980s, 1990s and later. As he says, those of us who belong to the (admittedly vaguely defined) “abolitionist movement” have at least not provided justifications for “the new exclusionary regime” which recently has been on the rise.

But there is also more to be said. What does it mean to be an ‘abolitionist’? Concepts such as ‘abolitionism’ and ‘abolitionists’ swirl around. Admittedly, I have made them swirl around myself. Why do I call myself an ‘abolitionist’? The classical sociologist Max Weber gave us, if we are willing to accept a parallel, one way of looking at it, in his now famous use of so-called ideal types in historical studies. It seems that he conceptualized ideal types by making it clear what an ideal type is *not*. It is not an average, it is not a hypothesis and so on. So with ‘abolitionism’. An abolitionist, whether a scientist, a teacher or a person practising his or her trade, is not a person who is preoccupied with what I would call system justification. He or she is not a person who is preoccupied with refining the existing.

But it is possible also to define abolitionism in positive terms; not only in terms of what it is not, but also in terms of what it is. I submit to you: Abolitionism is a stance. It is the attitude of saying “no”. This does not mean that the “no” will be answered affirmatively in practice. A “no” to prisons will not occur in our time. But as a *stance* it is viable and important. When I wrote *The Politics of Abolition* in 1974, and again when I published the latest edition of *Prison on Trial* in 2006, I was certainly

preoccupied with strategies of achieving concrete abolitions. But I was also preoccupied with fostering and developing an abolitionist stance, a constant and deeply critical attitude towards prisons and penal systems as human (and inhumane) solutions.

It is possible to get closer to the core of the abolitionist stance. It is a stance which goes beyond the parameters or conditions of existing systems. Systems such as the prison or the penal system are complex functionally interrelated systems. Therefore, if you criticize one aspect of, say, the prison system, you are immediately confronted with the ‘necessity’ of that aspect. For example, if you criticize the security regime, you are immediately confronted by the necessity of maintaining the regime in view of, say, public opinion. When something is said to be ‘necessary’, you should beware. Functionally interrelated systems are not inherently conservative, but grow conservative by our succumbing to the parameters of the system. The succumbing to all of the parameters is close to the non-abolitionist stance. The abolitionist stance goes beyond (some of) the parameters. For example, it is possible to say “sorry, but public opinion is not my concern”, or perhaps better, “public opinion can be changed, or contains other and quite different components” (more about this below).

It is easy to succumb to all of the parameters. Many forces work in this direction. I have outlined some of them in *Silently Silenced* (2004). Social pressures in the workplace – you have to cooperate with people, share secrets with them, strike very informal, almost unnoticeable bargains with them, all of which compromise you. Hierarchical disciplinary pressures in the workplace – staying in line – operate in the same direction. Simply fatigue from everyday chores also does so. Imperceptibly your stance is altered into something more or less different from saying “no” to given arrangements. To be sure, we cannot and perhaps should not have an abolitionist stance to everything in the world. But we should have an abolitionist stance to things highly negative and vital politically speaking in our professional lives, and perhaps in our lives as human beings.

Is abolitionism a stance or a movement? There are probably variations nationally and internationally. In my country, Norway, I see at least some rudiments of such a movement, indeed despite the dark 1990s and early 2000s. To be sure, prison figures are increasing by leaps and bounds in a whole range of countries. We all know that. Judging from the media and from superficial opinion polls, there is wide support for the increase. We all know that, also. But there is wide concern and worry, in the professions and among segments of the population about “the new exclusionary regime”, to use Heinz Steinert’s apt term once again (Feest and Paul, 2008). There

is also, more specifically, concern and worry about the use of prisons, perhaps especially against younger delinquents. The concern and worry, and the abolitionist stance, is not so apparent on the surface. The surface is covered by frightening media stories about terrifying murders and rapes, and about people being terrified by the stories. But under the surface layer there are more nuances. We have recent and solid empirical grounds for saying that it is a matter of distance and closeness. The closer you come to those who have committed unwanted acts, the more nuanced you become. A large scale Danish study, headed by the Danish criminologist Flemming Balvig, recently documented this in detail.² Answering a general question about punishment, a representative sample of the Danish population massively wanted stricter punishment, longer sentences – as in all such public opinion studies. When more detailed information was given, however, the sample became much more nuanced. In cases when video tapes of staged court trials were followed by discussion groups, people turned relatively non-punitive.

Though very important, this can probably not be taken as a full scale proof of the existence of an abolitionist stance and certainly not of an abolitionist movement in a broad sense. More important is the concern you sense at large meetings with a critical focus outside the realm of television, especially those which forge networks where people support each other. When I waver, I get support from you and vice versa. Supportive networks are crucial. Through the years and up until the very present, I have attended and participated in organizing a very large number of open meetings on criminal and social policy. The organization KROM (The Norwegian Association for Penal Reform) still exists. We celebrated our 40th anniversary earlier this year, though the parallel Swedish organization vanished many years ago. The continued long life of the Norwegian organisation from turbulent 1968 till today, along with the early downfall of the Swedish organization represents an extremely interesting sociological question, which also contains very useful lessons for the future, but time prevents me from going into that.³ At any rate, during its 40 years of existence the Norwegian KROM has organized 38 large three-day conferences on penal policy. They are held in a particular mountain resort, giving historical continuity and a sense of belonging. Many generations of professionals and others have been covered by these conferences – altogether thousands of people – prisoners, ex-prisoners, social workers, lawyers, teachers, medical personnel, prison officers, people from the ministries and what have you. As opposed to most meetings of this kind, the conferences are cross-sectional, covering a wide variety of professions and trades. I want to emphasise in particular

the mix of academics and (ex-)prisoners. This gives us two advantages. First, when academics are defined out as coming from the ‘ivory tower’, the prisoners are there to alleviate this with their practical experience. Second, when the prisoners are defined out as biased or prejudiced, the academics are there to alleviate this with analyses. Those who disagree with us are also present. Whereas in the 1960s and 1970s, the Prison Department avoided us, now they feel forced to come.

Debates are very heated. A main point is the struggle over definition of reality. Traditionally, the authorities have a monopoly on how to define what goes on in the relevant life world. This definition is challenged at the conferences. Cracks in the taken-for-granted definition of the situation, or even full fledged alternative and competing understandings of what life is like in our prisons and within the penal system, are fostered. Networks are created and maintained.

Other kinds of conferences have for a long time now drawn much larger crowds than first expected. This gives ground for optimism. A one-day public meeting in Stockholm a few years ago on prisons is an example. The organizers expected an audience of one hundred. Four hundred came and the meeting was a success and the crowd in fact said “no!” to some important elements in the development of Swedish prisons. An abolitionist stance surfaced.

We do not know what kinds of people come to the latter type of meetings. Perhaps they are not especially interested. If so, that is all right. Some will perhaps say that meetings of this sort are only dramatized and executed by fossils from the 1960s. I definitely think not – there are many young people about. An important sense of community, a ‘moral community’, sometimes appears. Some people have said to me, “I thought I was alone with my thoughts. But here are many others who view it in the same light!” Is this not a sign of a movement?

I do not want to idealize this. There are certainly obstacles. One obstacle, again, is television, instigating and ‘sucking up’ popular meetings, staging their own ‘debates’ as entertainment events. But we should not think of television and other media as constituting the only public space. Public space is a much more complex phenomenon – there are many alternative public spaces outside the realm of the mass media. The mass media, incidentally, have their ‘mass’ character as their Achilles’ heel, unorganized and individualized as they are. Another obstacle is the everyday grind – you grow up, you get married, you get children, you get divorced, you have to go to work to earn a living and you dump down exhausted in front of the TV at the end of the day. But these events, at least some of them, also create vigour and life, and

also at least some surplus of energy. A third obstacle is the neo-liberalism and market orientation of our time. But is that not in part what we are struggling against?

In others word, it is not impossible to nurture an abolitionist stance, a stance of saying “no!” and in the long run it makes a difference. It may contribute to what I would call *turning points*. The turning points of the past – the abolition of slavery, the abolition of the death penalty at least in some places, the abolition of the youth prisons in Massachusetts, the abolition of forced labour or what have you – should be scrutinized as examples for the future. What fostered them, what caused some of them to return under a different mantle? Turning points probably surface for structural, economic and political reasons. They become “ripe fruits”, to use a Norwegian expression. But people *act and channel them* as they surface. An abolitionist stance of saying “no!” was certainly a part of past abolitions. It may be so again.

The vital importance of nurturing an abolitionist stance has been my main message today. It has also been my message to say that nurturing this stance is not impossible, but certainly possible. We are on the way. The International Conference on Penal Abolition, as well as The European Group for the Study of Deviance and Social Control and the Howard League are important participating venues. There are also others. Linking these together, which indeed takes place today, at this very moment, as the Howard League hosts the 12th Conference on Penal Abolition with many participants from the European Group is crucial.

But do not let us fool ourselves. It is not done with one stroke. It takes time and requires hard work. Again as Max Weber put it, this time towards the end of his famous lecture on *Politics as a Calling* in 1919,⁴ admittedly in a context which may make many of us ambivalent today – he went on to talk about leaders and heroes and so on – but with a statement relevant to the abolitionist stance. I will first read it in German because it sounds so demanding in that language and then translate it into English: “Die Politik bedeutet ein starkes langsames Bohren von harten Brettern mit Leidenschaft und Augenmaß zugleich. Es ist ja durchaus richtig, und alle geschichtliche Erfahrung bestätigt es, dass man das Mögliche nicht erreichte, wenn nicht immer wieder in der Welt nach dem Unmöglichen gegriffen worden wäre”. And in English: “Politics is like strong, slow drilling in hard boards. It requires passion and an accurate eye at the same time. It is throughout correct, and all historical experience confirms this, that one never reached the possible, if there was not a continuous grasp for the impossible”.

Thank you for your attention.

ENDNOTES

- ¹ Presented July 23, 2008 at *Creating a scandal – Prison abolition and the policy agenda, International Conference on Penal Abolition (ICOPA XII)* at King's College London, UK. This paper emerges in part from an email exchange between abolitionists entitled "Abolitionismus. Einige Antworten auf oft gestellte Fragen" documented by Johannes Feest and Bettina Paul (2008) in *Kriminologischen Journals*.
- ² (www.advokatsamfundet.dk, unfortunately so far only in Danish)
- ³ For a brief discussion of the history of KROM, see "Hva er KROM / About KROM - Past - Present - Future" (2000) at http://www.krom.no/hva_er_krom_more.php?id=89_0_26_0_C.
- ⁴ Published in 1919, printed in 1921 in *Gesammelte Politische Schriften*, subsequently in many other languages, including English and Norwegian.

REFERENCES

- Feest, Johannes and Bettina Paul (eds.) (2008) "Does Abolitionism Have a Future? Documentation of an Email Exchange among Abolitionists", *Kriminologischen Journals*, retrieved from <http://www.sozialwiss.uni-hamburg.de/publish/IKS/KrimInstituteVereinigungenZs/Zusatzmaterial.html>.
- Mathiesen, Thomas (2004) *Silently Silenced: Essays on the Creation of Acquiescence in Modern Society*, Winchester: Waterside Press.
- Mathiesen, Thomas (1990) *Prison on Trial: A Critical Assessment*, London: Sage.
- Mathiesen, Thomas (1974) *The Politics of Abolition*, London: Martin Robertson.

ABOUT THE AUTHOR

Thomas Mathiesen, born 1933, is professor of sociology of law, University of Oslo, Norway. Mathiesen has done extensive research in prisons, and is also engaged in media sociology and the sociology of power. Six of his books are out in English, among them *The Politics of Abolition* (1974), *Silently Silenced* (2004) and *Prison on Trial*, third edition (2006). He is a co-founder of KROM – The Norwegian Association for Penal Reform, where he is still active.

BOOK REVIEWS

Prison Sex: Practice & Policy

by Christopher Hensley (ed.)

Boulder (CO): Lynne Reinner Publishers (2002), 189 pp.

Reviewed by Anne-Marie Grondin

Consistent with attitudes about sex writ broadly, prison sex remains a rather private aspect of life within this *total institution*. Few sexual acts have been deemed worthwhile of study – research in this area has focused mostly on sexual behaviours considered deviant, dangerous and criminal. Highlighting an absence of literature on prisoners' healthy sexualities, *Prison Sex: Practice & Policy* pieces together the available literature on a diverse range of sexual activities occurring within American prisons and problematizes institutional policies seeking to prohibit prisoners from cultivating normative sexual desires. Recommendations are made towards future avenues for research, as well as concrete ways of addressing sexual violence and coercion, sexually transmitted infections, HIV and AIDS, which, the authors argue, arise at least in part from prohibitive policies towards sex. The book is mainly directed towards criminal justice professionals, and aims both to inform and to create awareness.

Divided into ten chapters, *Prison Sex* introduces, in each section, a new form of sexual act or one same act from several different perspectives. Each chapter begins with a review of the literature on a particular topic and points to issues which remain unaddressed. Almost all chapters speak to gender differences in the prison experience as it relates, amongst other things, to sex, and compare experiences in male and female prisons. The first chapter contextualizes prohibitive trends towards sexual behaviours in carceral settings through a discussion of retributive attitudes, fiscal cutbacks and the proliferation of the prison industry, which has led, in turn, to a qualitative shift in the prison experience – now characterized by enhanced levels of sexual violence as well as a heightened threat of sexually transmitted infection. In discussing prisoner subculture, the author of the second chapter provides additional context, this time at the micro-level, to describe how prison hierarchy governs much of the sexual behaviour occurring inside.

Chapters three to six address coercive sexual acts in prison, how staff sometimes contribute to the problem and how to respond. Significantly, this section goes beyond the simple 'community/victim – prisoner/offender' dichotomy to include prisoners as *victims* of sexual violence. While chapter

seven deals with the weighty problem of HIV/AIDS transmission, chapters eight to ten look at pro-social, normative forms of sexual behaviour which occur in prison that the authors conclude should be legitimated so as to decrease the incidence of sexually coercive acts perpetrated.

Evidently, any poorly excavated area can be difficult to tackle. As such, the authors of *Prison Sex* can be commended for their work. While we cannot fault them for having to draw from a limited selection of sources, the paucity of the literature does bear burden on the overview of the problematic provided. Specifically, a minority of studies are cited repeatedly throughout the book, almost as though the same three or four major studies informed every article produced, with little by way of new research evidenced.

With regards to policy recommendations, the authors make a number of suggestions as to how institutional policies could better match the (sexual) needs of prisoners, but seem to propose contradictory, sometimes thorny solutions. While, in chapter three, “increased surveillance” (p. 46) is advocated to address the problem of non-consensual sex, the totalizing aspects of the institution are denounced in the second chapter for their role in delineating rigid behavioural proscriptions that create a hierarchy of power (pp. 13-14). While the authors of chapter 13 argue masturbation can provide prisoners with “an alternative outlet to release pent-up frustrations and stresses” and thus prevent the perpetration of coercive sex (p. 141), the subsequent chapter negates support for this contention. Despite these lacunas, the authors are successful in drawing attention to several important areas for research on a topic in critical need of attention.

ABOUT THE REVIEWER

Anne-Marie Grondin is currently enrolled in her second year of a doctoral program at Queen’s University in Kingston, Ontario. Both her academic background in Criminology and Sociology, as well as her work experience as a former sexual assault clinician frame her research interests around sexual assault policy and preventive efforts in Canada.

***The Lucifer Effect:
Understanding How Good People Turn Evil***
by Philip Zimbardo
Toronto: Random House (2008) 576 pp.
Reviewed by Charles Huckelbury and Susan Nagelsen

Philip Zimbardo is no stranger to students of criminal justice and professionals working in the field. His Stanford Prison Experiment (SPE), following Stanley Milgram's influential work on obedience to authority, remains the dirge that signalled the demise of the dispositional hypothesis of human behaviour. One might think that another book on the same subject would not be necessary, however, given the well publicized – and expediently explained – horrors at the Abu Ghraib prison in Iraq, it is clear that the human capacity for evil requires more extensive treatment, in an accessible form, if we are to recognize and interrupt its progress, both within and outside the prison environment. Thus Zimbardo's new work, *The Lucifer Effect*, extends the conclusions of the SPE to describe the "banality of evil", in Arendt's memorable phrase, and to warn of its insidious potential, this time with even more graphic examples of otherwise decent men and women committing physical and sexual abuse with no more thought than they would give to swatting a fly.

Zimbardo opens with a three-part analysis of human behaviour, describing and explaining the "situated character transformations" that convert "ordinary, normal people into indifferent or even wanton perpetrators of evil" (p. xii). After a litany of horror (e.g., the Holocaust, Jonestown, Rwanda and Darfur) he demolishes the classic explanation for human depravity: a few bad apples giving everyone else a bad name. Authorities continue to invoke this fundamental attribution error to deflect criticism of institutionalized violence, whether on the battlefield or inside prisons. Indeed, as Zimbardo points out, the dispositional hypothesis continues to form the basis for modern psychology, thus facilitating the shifting of blame and the absolution of everyone above the operational level.

Zimbardo, however, will have none of it. He does not ignore the personalities that actors bring to a specific environment, but his primary criticism focuses on the situational and systemic forces that often prove irresistible, producing the dehumanization of a perceived enemy. This is a process that "clouds one's thinking and fosters the perception that other people are less than human [and] deserving of torment, torture, and annihilation (p. xii)". This sort of image manipulation produces a

“mindless conformity” that encourages men and women to abandon their humanity “for a mindless ideology, to follow and then exceed the orders of ... authority to destroy anyone they label as The Enemy” (p. 15).

This is not the place to rework the arguments against the Iraq War. Following the attacks of September 11, 2001 however, specific actions of the government and its agents, all of which led to the incarceration, torture and murder of innocent people, are relevant for this discussion, if for no other reason than those, and similar actions find support and encouragement in domestic policies as well. For example, the government justified its push for domestic spying, indefinite incarceration and coercive interrogation techniques as necessary to destroy a perceived threat. As subsequent revelations have proved, those “explanations [were] intended for the official record but not for critical analysis of the damage to be or being done” (p. 11). In other words, in Zimbardo’s dialectic, the system (government) creates situations (battlefields/prisons) in which individuals (soldiers/guards) commit acts of human depravity in response to top-down pressure exerted in the name of a greater good. Thus, identical forces were at work in Rwanda, Darfur and Abu Ghraib. More to the point, they are at work inside Western prisons built and operated on the American model.

From this stage setting, *The Lucifer Effect* then moves to a protracted discussion of the Stanford Prison Experiment. For those unfamiliar with the published work, Zimbardo, a professor at Stanford in 1971, designed an exercise in which he recruited students and other volunteers for what was intended to be a two-week experiment. He randomly assigned participants to one of two groups, prisoners or guards. “Arrests” resulted in the prisoners being transported to the basement of the building housing the psychology department, where the “prison” had been constructed.

The guards quickly became so abusive that Zimbardo was forced to terminate the experiment after only six days. “Good guards”, as self-assessed and judged by their peers, were the most sadistic, while “bad guards” demonstrated the most compassion. The paradox at work in Zimbardo’s prison was, of course, identical to the one operating at Abu Ghraib and in Western prisons more generally. The depravity demonstrated by the guards, sanctioned by the system and society, is identical to – and often surpasses – the criminal acts committed by those on the other side of the bars.

One of the most disturbing aspects of Zimbardo’s experiment was that the young men who were seduced by the prospect of unlimited power and wielded it so brutally were well-educated with scores falling within

normal range of personality inventories completed prior to their selection for participation. They were individuals most people would expect to be immune to the pernicious influences created by the experimenters. And yet, even Zimbardo himself experienced the same type of transformation in his role as prison “superintendent”, going so far as to talk of “recapturing” one of the students released early because of an emotional collapse. The role-playing overpowered both rationality and ethics. As Zimbardo put it, “[T]he SPE does not tell us anything about prisons that sociology, criminology, and the narratives of prisoners have not already revealed about the evils of prison life. Prisons can be brutalizing places that invoke what is worst in human nature” (p. 206).

A detailed discussion of ethics and social dynamics, complete with data sets, helps place the book on secure scientific footing, followed by a comprehensive look at Abu Ghraib and one of the primary participants, “Chip” Frederick. Zimbardo then places the “system” on trial before closing with a celebration of the “hero” who resists cooptation by the system and the situation.

Even with the uplifting later sections, this remains a frightening and disturbing book, primarily because Zimbardo is so adept at demonstrating how both guard and prisoner mentalities can be imposed on subjects irrespective of their backgrounds or education, especially when they are unprepared for the assault. Indeed, the SPE’s findings and implications have been subsequently replicated in the laboratory and actually in prisons, both foreign and domestic, confirming Zimbardo’s assertion that the situation in which men and women find themselves plays a more profound role than character in determining their subsequent behaviour.

The inescapable conclusion is that the system, as Zimbardo tells us, is defective and pathogenic. By creating a toxic environment and then placing men and women inside it, corruption and brutality become the norm – we should not be surprised by this. Thus, the obvious solution is to eliminate the kind of evil condoned and perpetuated in modern prisons. It is unreasonable to expect a sea change in the power structure that conceives and implements the constructions of prisons, but political pressure can and should be exerted to reduce the number of situations that inspire the horrors that Zimbardo describes. With such a definitive explication of modern prison and its inherent evils, abolitionists can find hope that our better natures will eventually prevail.

Judith Cohen, the director of the Holocaust Museum’s photographic collection, recently underlined the SPE’s conclusions by using Nazi Germany as the benchmark for institutionalized evil: “One has to be in some way in sync with one’s environment to work. And if the environment

is evil the principal holds, even though the adaptation may be more difficult” (Wilkerson, 2008, p. 53). The terrifying part, of course, is that becoming “in sync” with the prison environment, both in Abu Ghraib and in America, has not been that difficult.

REFERENCES

Wilkerson, A. (2008) “Picturing Auschwitz”, *The New Yorker*: page 48 – March 17.

ABOUT THE REVIEWERS

Charles Huckelbury was sentenced to life imprisonment (thirty-five year minimum) at the age of twenty-seven and has spent the last twenty-eight years in prison. Awarded second place in *Prison Life*'s fiction contest in 1995, he won the PEN first prize for fiction in 2001. A regular contributor to the *JPP* since 1997, Charles joined the Editorial Board in 2001 and is now an Associate Editor. He was one of four featured writers in Shawn Thompson's *Letters From Prison* (2001). His new book of poetry, *Tales From the Purple Penguin* (2008) has received rave reviews from students and academics.

Susan Nagelsen is Director of the Writing Program at New England College in Henniker, New Hampshire, where she has taught for twenty-four years. She is an essayist and a fiction writer as well as the author of two writing manuals. She teaches first-year courses as well as advanced essay writing courses such as the art of the essay and content based writing. She also teaches in the Criminal Justice program where her course focuses on teaching students about prison from the point of view of prisoners. Her most recent published fiction can be found in the fall 2005 edition of the *Henniker Review*, *Tacenda*, *Bleakhouse Review* and in the *Journal of Prisoners on Prison* Volume 14(2), an issue addressing aging in prison. She is a frequent contributor to the *JPP* and is currently Associate Editor. She is the editor of an anthology of work by incarcerated writers entitled, *Exiled Voices, Portals of Discovery* (2008) New England College Press. The book features 13 incarcerated writers with an introduction to each written by Nagelsen and is being used as a textbook in courses focusing on criminal justice issues.

We Lived to Tell: Political Memoirs of Iranian Women
by Azadeh Agah, Sousan Mehr and Shadi Parsi
Toronto: McGilligan Books (2007), 239 pp.
Reviewed by Bethany J. Osborne

Although women political prisoners from Iran have written extensively about their experiences in Farsi, as Shahrzad Mojab mentions in her introduction to this volume, this is the first collection of memoirs written in English by women who were political prisoners in the Islamic Republic of Iran (p. 8). The book brings together the stories of three such women who have settled in Canada. The women chose to remain anonymous to protect the privacy and security of all of the different people who enter their stories. The writing of prison memoirs is important to these women and they encourage others to write memoirs, widely and in as many languages as possible, in order to prevent similar events from happening in the future (p. 238). The reader is invited to journey with these women through their prison experiences.

In Sousan Mehr's memoir "Years of Fire and Ash", she writes about the first hours and days of her arrest, and her story continues through the time she spent in prison. Sketches of life in prison and of the different women who were her community punctuate her memoir. Mehr writes of humour and beauty in the midst of a period of her life that was also defined by pain in its many different forms.

In a similar vein, Azadeh Agah's memoir "As Long as There are Poppies", records the experience of her initial arrest and talks about life in the public wards. She writes about the complexity of caring for a child in prison, of resisting torture and about relationships between prisoners. Her story also documents, through words and photographs, the creative ways that women took simple items, which would have been considered garbage outside of prison walls, and transformed them into pieces of art. These creations brought beauty, in a tangible way, into their lives, occupying their hands and minds during long quiet periods of waiting.

Shadi Parsi, in her memoir "The Five Seasons", speaks poignantly of the way that politics affected how she and her fellow prisoners related to each other. Like Mehr and Agah, she writes of the intrusive presence of *tavaabs* – fellow prisoners who had broken under torture and now served as informants to prison authorities. While she was in prison, Parsi vowed that one day she would write the story of her imprisonment. Her story and accompanying poem are the fulfillment of that vow, serving as an elegy for her lost years.

This collection of memoirs is dedicated to all those who have fought for justice including parents, siblings, husbands and children. Their words to their children are hopeful for the possibility that the telling of the stories may open up new possibilities for the future:

We dedicate this book to you and the next generation, so that you may understand, remember and learn from it.

The breaking of silence can be jarring; initial words can create sounds, colours and images that are difficult to hear. This is true of the stories of torture, betrayal, loss and endless waiting that are shared by Agah, Mehr and Parsi. However, even the act of articulating their experiences is life-affirming. Their narratives also powerfully demonstrate the incredible resilience of the human spirit and the sustaining power of community. Although the Islamic regime created the structure that imprisoned these women, it was not the regime that had the most profound effect on their lives. Instead, it was the presence of others to share their journey that caused a transformation. Stories like this open up the possibility of hope for each of us as we face the different challenges that are inherent on our own journeys.

ABOUT THE REVIEWER

Bethany J. Osborne has recently completed her MA in the Department of Adult Education and Counselling Psychology at the Ontario Institute for Studies in Education (OISE/UT). Her thesis, *The Learning of Embattled Bodies: Women Political Prisoners of Iran*, looks at using narrative and visual art as tools to enable learning and mitigate the effects of trauma in women who have experienced violence.

COVER ART

Serving a life sentence in prison, **Peter Collins** knew he had to come to terms with the consequences of his actions and so dedicated himself to working for positive social change. Since the late 1980s, when the official position of the Correctional Service of Canada was that intravenous drug use, tattooing, and sex were illegal – therefore not happening – until today when prisoners continue to be denied access to clean needles and syringes, Peter’s tireless efforts to defend the health and human rights of prisoners have often led to strained relationships with prison officials, undermining his efforts to get paroled. While in prison, Peter earned an honours diploma in Graphic and Commercial Fine Arts, as well as a certification as a Frontier College ESL tutor. He is an Alternatives to Violence Project facilitator and Peer Education Counsellor. Peter was instrumental in setting up a Peer Education Office in his prison and has advocated on behalf of fellow prisoners on issues ranging from health access to employment. Regularly donating his time, expertise, and artwork to numerous charities and social justice initiatives, Peter’s dedication has contributed to improved health and safety in the prison system, and by extension, in the community at large.

Front Cover: In the Dark (2004)
Peter Collins
Acrylic on Canvas

This is one painting in a series that attempts to illuminate life in prison.

REFERENCING GUIDELINES FOR CONTRIBUTORS

J*PP* articles often draw on a wide range of reference material, including academic texts, journal articles, newspaper and magazine articles, online publications, legislation, case law, and works of fiction. We strive to publish detailed bibliographical information using a standardized format, in order to facilitate cross-referencing. Contributors are encouraged to use the following referencing format for their article submissions. We recognize that it is sometimes difficult or impossible for our contributors to provide full reference information, and we will always take the time to complete partial references.

FORMAT GUIDELINES AND EXAMPLES

In-text Citation – Single Reference

(Author Last Name, date, p. x)

Example:

In prison, as in other ‘social’ institutions, the focus of education is often the promotion of “social utility and conformity” (Hassine, 1997, p. 37).

In-text Citation – Multiple References

(Author(s) 1 Last Name(s), date; Author(s) 2 Last Name(s), date)

Example:

It also proposes new and less costly strategies that are more humane and effective (Richards and Ross, 2001; Ross and Richards 2002, 2003; Jones 2003; Newbold, 2003; Terry, 2003a, 2003b).

Book

Author Last Name, Author First Name (date) *Title of Book*, City of Publication: Publisher.

Example:

Christie, Nils (1999) *Crime Control As Industry*, London: Routledge.

Edited Volume (Reference to the Volume)

Editor Last Name, Editor First Name (ed.) (date) *Title of Book*, City of Publication: Publisher.

Example, single editor:

Gaucher, Bob (ed.) (2002) *Writing As Resistance: The Journal of Prisoners on Prisons Anthology (1988-2002)*, Toronto: Canadian Scholars Press Inc.

Example, multiple editors (note that only the first editor is listed with last name first):

Mauer, Marc and Meda Chesney-Lind (eds.) (2002) *Invisible Punishment: The Collateral Consequences of Mass Imprisonment*, New York: The New Press.

Chapter in an Edited Volume

Chapter Author Last Name, Chapter Author First Name (date) "Chapter Title", in Editor First Name Initial, Editor Last Name(ed.), *Edited Volume Title*, City of Publication: Publisher, pp. x-y.

Example (with multiple editors):

Richie, Beth E. (2004) "Challenges Incarcerated Women Face as they Return to their Communities: Findings from Life Histories Interviews", in M. Chesney-Lind & L. Pasko (eds.), *Girls, Women and Crime: Selected Readings*, Thousand Oakes: Sage Publications, pp. 231-245.

Article in an Academic Periodical

Author Last Name, Author First Name (date) "Article Title", *Journal Title*, Volume (Number): x-y.

Example:

Huckelbury, Charles (2006) "Made in the U.S.A.: A Postmodern Critique", *Journal of Prisoners on Prisons*, 15(1): 4-16.

Newspaper or Magazine Article (Print)

Author Last Name, Author First Name (date) "Article Title", *Periodical Title*, p. x-y – Month day.

Example:

Beplate, Justin (2005) "Express or Exploit", *Times Literary Supplement*, pp. 13-14 – December 23.

Newspaper or Magazine Article (Online)

Author Last Name, Author First Name (date) “Article Title”, *Publication Title* – Month day, retrieved from URL.

Example:

Evans, Jon (2008) “Big Brother is Watching Them. OK?”, *The Walrus* – December 8, retrieved from <http://www.walrusmagazine.com/blogs/2008/12/08/big-brother-is-watching-them/>.

Online Article (General)

Author Last Name, Author First Name [or, if author details unavailable, Website Proprietor] (date) “Article Title”, *Website Name* – Month day, retrieved from URL.

Example:

CBC News (2008) “Prison Ombudsman May Release Report into Ashley Smith’s Death”, *CBC.ca* – October 27, retrieved from <http://www.cbc.ca/canada/new-brunswick/story/2008/10/27/nb-smith-ombudsman.html>.

Legal Jurisprudence

Standards of legal citation vary according to jurisdiction and legal system. Given the international scope of the JPP, it would be impractical for us to insist on a single referencing format for jurisprudence. We encourage authors to adopt a style that is consistent and appropriate to their location. For Canadian references, and as a general guideline, we recommend the *Canadian Guide to Uniform Legal Citation*, a.k.a. the “McGill Guide,” which uses the following format:

Style of cause, [date] [if not indicated by a neutral citation], neutral citation [if available], law report volume number, law report series, page number, court [if applicable].

Examples:

Hopp v. Lepp, [1980] 2S.C.R. 192.

Suresh v. Canada (Minister of Citizenship and Immigration), [2002] 1 S.C.R. 3.

Legislation

Legislative Assembly Name (date) *Act Name, Bill Name*.

Example:

Parliament of Canada (2001) *Immigration and Refugee Protection Act, S.C. 2001, c-27*.

Report

Author Last Name, Author First Name [or, if author details unavailable, Agency Name]
(date) “Sub-chapter Title”, [and / or] *Report Title* – Month day, City of Publication:
Publisher.

Example:

Office of the Auditor General of Canada (2008) “Chapter 7: Detention and Removal
of Individuals - Canada Border Services Agency”, *Report of the Auditor General
of Canada to the House of Commons* – May, Ottawa: Minister of Public Works and
Government Services Canada.

Institutional Policy Document or Communication

Institution Name (date) *Document Title* – Month day.

Example:

Canada Border Services Agency (2006) *KIHC President's Directive PD 566-4:
Detainee Counts* – March.