Prison Samizdat of British Conscientious Objectors in the First World War

Peter Brock

Prison samizdat has been described, I think correctly, as "the real prison press" in contrast to the prison press sponsored by, or at least approved by, the jail administration. This samizdat constitutes an underground activity carried on by prisoners "without the sanction of prison officials," and often in conditions of "considerable adversity."1 The discovery of a samizdat journal is likely to lead to the punishment of those responsible for its production and distribution and the destruction of all copies that the authorities have been able to discover. The unfettered expression of opinion in its pages represents a challenge to the prison establishment that cannot easily be tolerated.

The successful pursuit of prison samizdat journalism requires secrecy above all – the concealment of successive issues of the journal so as to prevent confiscation by the jail authorities. To guarantee this secrecy there is need for the presence within the prison population of a closed and reasonably compact group – political prisoners perhaps, or religious or working-class dissidents – among whom the samizdat journal can circulate without the likelihood of a reader, purposely or through negligence, bringing it to the attention of the authorities. Free circulation of the journal among prisoners would almost certainly expose it sooner or later – indeed, probably sooner rather than later – to this danger and thus put an end to the journal's existence. Editor, contributors, and readers of such samizdat are inevitably drawn from one prisoner group, and the contents of the journal will be oriented towards the interests and concerns of this group. The existence in a given prison of a group of this kind presumably explains why samizdat makes an appearance there, since it provides a potential readership for the journal.

Perhaps the most extensive prison samizdat network before mid-twentieth century emerged in World War I Britain among conscientious objectors (COs), incarcerated on account of their resistance to the military conscription introduced there in January 1916. This chapter in the history of "jailhouse journalism" is not, I think, widely known on this continent and it may, therefore, be of interest to readers if I outline the story.

In World War I the community of British COs numbered some 16,000 men. It embraced religious pacifists, including active Quaker absolutists who refused all offers of alternative service, as well as humanitarian and socialist war resisters. Those who failed to gain the exemption they wished for from the tribunals, which were set up by the government as part of the administration of conscription and could grant alternative service to COs either in the army's Non-Combatant Corps or in a civilian occupation, were invariably sent to prison. Some of these men served repeated sentences virtually for the same offence. The COs possessed a vigorous organization in the No-Conscription Fellowship. Among the Fellowship's leaders were devout Christian pacifists, like the Quaker Edward Grubb, exempt from call-up because of his age, and socialist pacifists, like Clifford Allen and Fenner Brockway, who both spent prolonged periods in jail for their refusal of military service. Eventually the government released those imprisoned objectors who were ready to accept work in semi-penal conditions under what was known as the Home Office Scheme. Those men who rejected the Scheme remained in jail even after the war ended in November 1918. Only in April 1919 did the release of these imprisoned objectors begin in earnest; it was completed in the following November. By that date a whole year had elapsed since the conclusion of an armistice between the belligerent powers.

The regimen in British prisons at that date still retained much of the harshness of the penitentiary system introduced by penal reformers in Britain and North America a century or so earlier. A new wave of prison reform originating around the turn of the century had, by 1914, done away with some of the worst horrors of the previous system: the treadmill and crank, the convicts' After the war the two men were eventually raised to the British peerage for political services, in 1932 and 1964 respectively; Lord Allen of Hurtwood died in 1939 and Lord Brockway in 1988. While remaining active in the promotion of peace, by this time both had rejected unconditional pacifism.

See Constance Braithwaite, Conscientious Objection to Various Compulsions under British Law (York, UK: William Sessions Limited, 1995), pp. 128–69, for an informative survey of conscientious objection to military service in World War I Britain. To July 31, 1919, “5,739 objectors were sentenced by court martial. 1,548 objectors were sentenced more than once and of these 893 were sentenced more than twice .... . At least 843 objectors were in prison for twenty months or more; some were in prison for more than three years” (Ibid., p. 153).

cropped hair, the lock-step movement of prisoners, and some of the more barbarous punishments. But the silence rule, dietary punishment, and the penalty of solitary confinement, as well as the hated broad-arrow prison uniform, remained. And so, of course, did Britain’s antique jails constructed in the previous century. COs did not suffer worse treatment in prison than common criminals, but they did endure the same, though some amelioration took place near the end of the war. This, then, was the environment in which the CO samizdat took root and flourished for several years. It ended with the release of the COs.

CO samizdat appeared in at least eight prisons in which COs were confined. Methods of production were similar because the conditions of production did not vary much from jail to jail. No writing materials were then allowed in British prisons, apart that is from a slate with chalk and pen, ink, and form letter issued specifically for the periodic letter home and collected afterwards by one of the warders. Thus these journals had usually to be “written with such fragments of pencil as were obtainable, and in most cases toilet paper was the only paper to be had.” They usually appeared “in the form of illustrated magazines.” Contents included verse and prose. Humour, a commodity in short supply in jails, occupied a prominent place in both these styles of writing. There were also articles on socialism and pacifism, literature and philosophy, as well as short stories and pencilled sketches.5

An anonymous author, writing in 1919, who surveyed this ephemeral press without claiming to have seen all the journals he discussed, let alone all issues of a given journal, calls the Joyland Journal, produced by COs in Mountjoy Prison, Dublin, “undoubtedly ... the most artistic publication” from among the COs’ nine known samizdat organs. He describes “its sketches, cartoons, headlines, and cover designs,” creations of Arthur Wragg, as “first-class work.” (Wragg’s antiwar drawings and illustrations became popular in the 1930s in pacifist circles.) “The Joyland Journal was bound in cloth, so that in its journey

5 The C.O. Clink Chronicle (London: National Labour Press, Ltd, [1919]), p. 1. This sixteen-page pamphlet contains extracts from the CO samizdat, mainly verse. While sometimes quite clever or entertaining, they are never of a strikingly high literary calibre. But of course that was not the objective of the writers, who aimed simply at keeping up the spirits of their fellow “conchies” in trying circumstances.

6 Ibid., p. 2. I have only been able to trace a single original issue of one of these journals. (Though more may be extant, toilet paper does not provide the most durable material for purposes of publication!)
from cell to cell it might be properly preserved." Here, as in the case of the other journals, only one copy was made; this copy then circulated among the prison's CO population. Eventually it would, hopefully, be smuggled out of the prison, probably by the so-called "foot post," by which means letters and pencils were brought by COs into and out of jails.

John Graham, a Quaker prison chaplain who became the first historian of conscientious objection in World War I Britain, tells us that in the course of his duties as chaplain he came into possession of just one issue of a samizdat journal. "The edges of its leaves," he writes, "are tattered, in spite of its cover of sacking decorated with an inscription."

Because of his wartime prison chaplainship and the trust jailed COs placed in him, Graham became well acquainted with the working of their samizdat. We learn from him that its surreptitious circulation from cell to cell "became much more easy under the later [government] regulations, when conversation was allowed [for COs] in the exercise yard, and men could walk two or three together." Sometimes a journal might somehow be passed from one cell window to another. For the brown toilet paper, Graham goes on, "prison pen and ink were appropriated as opportunity arose. Leads for writing were imported. Pencils and the precious manuscripts were concealed inside waistbands and the hems of waistcoats. An innocent-looking ball of wax used in the daily work might be discovered to have a movable top, revealing a bottle of ink underneath."

Returning now to our survey of CO samizdat, the Literary Outlet was the product of one W. Dixon's initiative while he was incarcerated in Birmingham and Hull prisons. "It was neatly produced, with artistic coverings, and a number of illustrations were scattered through it." It featured a special series of articles on socialism. Another one-man effort was the Court-Martial, produced in Winchester Prison by a prominent member of the No-Conscription Fellowship.
The front cover of the Christmas 1918 issue of the Winchester Whisperer. It is made from ‘sacking,’ i.e., prison mailbag canvas, and twine.
Pages from the Christmas 1918 issue of the *Winchester Whisperer*. Note the "tattered edges of its leaves" and the humorous attribution of publication to the prison governor.
W.J. Chamberlain. But it ceased publication after only four issues due to Chamberlain’s breakdown under the strain of prison. It was an exclusively humorous magazine, its editor claiming his paper to be “the organ of the Absolutely Its.” The pages “were neatly written in imitation print, with a get-up similar to that of a smart modern newspaper.” Of a size little bigger than a bus ticket, it was perhaps conceived more as a joke than a serious contribution to the prison press. The Lincoln Leader was largely a newsheet, but it included cartoons after the artist, Arthur Wragg, was transferred from Mountjoy Prison in Dublin. The CO samizdat journal produced in Dorchester Prison was unique in that it was written entirely in Esperanto. Entitled Instigilo (Stimulus), “it was well bound in cloth” with excellent illustrations. In fact, “the entire make-up was exceptionally attractive” and up to the standard of the “best monthly magazines,” according to one testimony. I wonder, though, how many of the COs then in Dorchester Prison were able to read Esperanto?

The fortnightly Canterbury Clinker was edited by Alfred Barratt Brown, an absolutist Quaker CO who, after the war, became prominent in the adult education movement and was eventually appointed principal of Ruskin College, Oxford, a centre for extra-mural students at that university. Brown composed most of the verses published in the columns of the journal, often parodies of familiar pieces adapted to the conditions of prison life. “The Canterbury Clinker,” writes the anonymous author quoted above (who may have been Barratt Brown himself), “was apparently written on the fly-leaves of the editor’s books, and since it was done with pen and ink, one concludes that the publication day coincided with his letter-writing day.”

About the three remaining CO samizdat journals, the Winchester Whisperer, Old Lags Hansard in Wandsworth Prison, and the Walton Leader in Liverpool, we know rather more than about the other six from the reminiscences of men who participated in their publication and/or circulation.

Let us begin with Winchester Prison’s samizdat journal to which its editors gave the title, the Whisperer. Young Harold Bing, serving a lengthy sentence in that jail, reported the following in an interview he gave many years later to the Imperial War Museum Sound Archives, London:

The only writing facility in a cell was a slate and the slate pencil and therefore if you filled your slate you had to rub it all out again. There

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9 C.O. Clink Chronicle, pp. 1, 2; Boulton, Objection Overruled, pp. 228, 229.
was no writing material except periodically when you were allowed
to have the notepaper in your cell and a pen and ink to write your
monthly or fortnightly letter. But here again a little ingenuity was used
and some prisoners managed to make little ink wells by taking a block
of cobblers wax – which was used for waxing the thread for making
mailbags and so on – making a hole in it, sinking a thimble into the
wax and then covering it up with another piece of wax. So that what
appeared to be a block of wax was in fact a block of wax with a lid
and when you lifted the lid there was a thimble sunk into the wax.
And that thimble you filled with ink when you had your fortnightly or
monthly ink for writing your letter. With inkpots of that kind there
was produced in Winchester Prison a periodical called the Winchester
Whisperer. It was written on the small brown sheets of toilet paper
with which we were supplied – different people writing little essays
or poems or humorous remarks, sometimes little cartoons or sketches.
And all these bits of paper were passed surreptitiously from hand to
hand and reached the editor who bound them together with a bit of
mailbag canvas, used for repairing, for a cover, and this issue of the
Winchester Whisperer was then passed round secretly hidden under
people’s waistcoats or up their sleeves. And as it happened, despite
many searches, no copy of the Winchester Whisperer was ever
captured by the warders, though I think some of them suspected its
existence. And all the copies were finally smuggled out and placed in
some depository in London, in some library.

I used as a pen a needle, writing with the hollow end – dipping
the hollow end into the ink. This meant of course one had to be
always dipping the needle into the ink for almost every word. But it
did produce thin writing so that you could get a good deal on one
small sheet of toilet paper.10

The Whisperer was produced in a size easy to conceal from the vigilant eyes of
a prison warder: approximately five inches square, it “was bound with mailbag
hessian with the title embroidered on the front.” Though the writing was small,

10 Quoted in Felicity Goodall, A Question of Conscience: Conscientious Objection in the
active in the War Resisters’ International, especially during the interwar years. What a
pity, though, he was not more specific here as to the depository where he says all copies
of the CO samizdat smuggled out of the various prisons were to be found!
young eyes could read it without difficulty. The *Whisperer*’s editor-in-chief was a talented poet and translator, Alan McDougall, who spent over two years in prison as a libertarian CO until finally, through a prolonged hunger strike, he forced the authorities to release him, by then just “a walking number in misfitting broad-arrows and shuffling shoes.” In his memoirs the same friend, who thus described McDougall during their shared sojourn in Winchester Prison, wrote of his paper: “The *Winchester Whisperer* was, with the exception of Alan McDougall’s contributions, great tripe. It was also good fun.” His own verse contributions to the paper he modestly categorized as “poor stuff all of it.” He also noted that McDougall allowed him to publish an “unbowdlerized” poem using four-letter words – to the dismay “of that considerable section of Winchester pacifists who were Christians.”

For information about the samizdat journal of the “conchies” in Wandsworth Prison, where many COs were then incarcerated, I am indebted to a fragment from the hitherto unpublished memoirs of Harold Blake, which has been reproduced by Felicity Goodall in her book on conscientious objectors in the two world wars. Beginning with the paper’s editor, whose name unfortunately is not supplied, Blake writes:

He was, in build and feature, almost the double of Mr. Lloyd George. This man undertook the publishing of a newsheet which he designated the *Old Lags Hansard*. This periodical was written by hand in block characters on sheets of toilet paper, and sewn together with thread; and on account of the labour involved, only one copy of each issue was published. However, it went the rounds passing from hand to hand, and finally when it had fulfilled its intended purpose, it was

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11 George Baker, *The Soul of a Skunk: The Autobiography of a Conscientious Objector* (London: Eric Partridge Ltd. at The Scholars Press, 1930), pp. 199, 200, 253, 254. While McDougall printed classical Greek in his jail samizdat, the imprisoned Quaker pacifist, Stephen Hobhouse, found solace in reading the Greek New Testament in his cell. I had considered this proof of the superior classical culture of an important section of the CO community in World War I Britain over that of a later generation, as well as over that of COs in North America generally – until I read this: Within recent years George Edwards of Louisville, Kentucky, retired seminary New Testament professor, “taught Greek to some prisoners at La Grange Prison who had requested the instruction so that they could read the New Testament in its original language. Ray [Cullen, one of the inmates] took the course and did so well that he began teaching Greek to still other prisoners.” From *Fellowship* (Nyack, NY), vol. 66, no. 11–12 (November-December, 2000), p. 25.
contrived that it should fall into the hands of Mr. Walker, the Chief Warder. The vastly amusing part about the whole business was that the last page always contained the announcement, “Look out for the next number, to be published on ... [date]” and in spite of all the efforts of the authorities to trace its origin, we were not disappointed. Once indeed it was a day late, as they made the declared date a search day; but the editor presented his apologies in his editorial to the effect that he was a day late in publishing “owing to an official raid on our offices.”

The final CO samizdat journal we have to consider is the Walton Leader. Since its editor was Fenner Brockway, who served his major sentence as a CO in this Liverpool jail, we are well informed about how this paper functioned, for Brockway included a detailed account of this episode of his variegated political life in both versions of his autobiography that appeared in print during the latter part of his career.

After doing time in Pentonville and Wandsworth and at Wormwood Scrubs, all located in London, Brockway entered Liverpool’s Walton Prison in a defiant mood. “I had gone through my period of initiation,” he tells us, “and no longer had the spiritual exultation of a novice .... I would pit my wits against those of the authorities and defeat them whenever I could.” He considered he had learnt a lot from his prison experience.

There were at that time around sixty COs in Walton Prison located in the basement of one of the cellblocks. This concentration of the group made circulation of a samizdat journal easier than if the COs had been scattered in cells throughout the prison. Brockway soon decided it should be his first prison “task” to produce such a paper. The No-Conscription Fellowship had already begun to smuggle leads into prisons concealed in a packet “beneath the arch of the foot” of a CO entering jail. The leads were useful for passing written messages. “The supreme disability which we had to overcome,” writes Brockway, “was the rule forbidding communication between prisoners.” Under these conditions “to speak was not always easy.” Possession of such leads

12 Goodall, A Question of Conscience, 37.
14 Brockway, Inside the Left, p. 95.
greatly facilitated the production of an underground journal, too.\textsuperscript{15} Soon the project got under way. This is how Brockway tells the story:

With a pencil in my hand I immediately began to plan a prison newspaper. The \textit{Walton Leader} was produced twice a week and was quite a creditable journal. It consisted of about forty toilet paper pages, and included news items, cartoons, serious articles, humorous stories and correspondence. Our cartoonist was Arthur Wragg, whose work is now often to be seen in the press; the news items were sent in by prisoners who had received letters and visits or who had newly come in, whilst articles, stories and letters were contributed in abundance . . . . We were rapidly becoming experts in breaking the prison rules, and some of the warders, who became increasingly friendly, made this easier by winking their eyes at offences so long as their chiefs did not get to know.\textsuperscript{16}

One item in the \textit{Walton Leader} might have brought us charges under the Official Secrets Act. An incoming objector brought us a detailed account of the slaughter at Passchendaele written by a deserter who was in the guard room at the same time. The story moved us all deeply. Should we complain of our safe conditions whilst others were facing almost inevitable death? One of our boys even withdrew and joined the army because he could not accept the comparison. It was ironical that whilst the Press outside was not allowed to publish the story a prison paper was able to do so.\textsuperscript{17}

A copy of the \textit{Walton Leader} was discovered and I was tried by the Visiting Magistrates. They had no doubt that I produced it and I did not deny it, but they had no evidence. In a normal Court I could not have been found guilty, but they sentenced me to six days on bread and water in the punishment cells. I was taken to a dark basement cell where the furniture consisted of a stool, a chamber pot and a Bible. The second day I became weak and lay on the floor, using the Bible as a pillow, but I found that by the third day I had

\textsuperscript{15} Ibid., pp. 95, 96.
\textsuperscript{16} Ibid., pp. 98–101.
\textsuperscript{17} Boulton, \textit{Objection Overruled}, p. 230, describes this as a “scoop.” “At a time when such reports were prohibited in the national newspapers, a tiny prison journal told in graphic terms of the wave upon wave of ‘cannon fodder’ sent ‘over the top’ by the generals, suffering decimation for the sake of a few feet of land – or a cow-shed.”
become adjusted. At night I was permitted to lie on a bed board, which was at least warmer than the stone floor.\textsuperscript{18}

The \textit{Walton Leader} was a more ambitious effort than any other CO prison samizdat of that period. Indeed over a hundred issues were produced. In its commentary on political events, whether at home or abroad, the journal naturally reflected its editor's socialism. But Brockway, while greeting with enthusiasm the fall of the Romanov dynasty in February 1917, was extremely critical of the Provisional Government's continued prosecution of the war.

The paper, until its discovery by the authorities, bore clearly the imprint of its editor's personality. "I used to spend hours in the production of the prison paper," Brockway tells us in his autobiography, "re-writing in small, neat capital letters every contribution, leaving only the cartoons in the original form."\textsuperscript{19}

The reader's subscription, one piece of toilet paper for each issue,\textsuperscript{20} was collected by the cleaner on the landing where the COs were located (a young Welsh CO nicknamed "Raj") when prisoners were at work. "And," writes Brockway, "each evening I found my supply made up plentifully." But, he goes on:

\begin{quote}
... with the distribution side of the paper I was dissatisfied; to pass a copy from prisoner to prisoner took a week and news and articles became stale. The solution of this difficulty came to me suddenly. We all used the lavatory and in privacy: why not make it the reading room for the paper? I hid it there and tapped out a telephone pipe "Call to all Cells" announcing that it would be there every Tuesday and Thursday morning. I ought to have anticipated the result. On Tuesday and Thursday mornings there were queues; if a prisoner were unlucky enough to get the wrong cubicle, he was back again before long. The prison authorities were puzzled. Why Tuesdays and Thursdays? The Medical Officer was ordered to report on the diet on Mondays and
\end{quote}

\textsuperscript{18} Brockway, \textit{Towards Tomorrow}, pp. 51, 52.
\textsuperscript{19} Brockway, \textit{Inside the Left}, p. 99.
\textsuperscript{20} Described by Brockway as "a primitive but very useful form of payment." From his introduction (p. 4) to \textit{The Flowery 1942-4: The Scrubs "Conchie" Review} (London: Central Board for Conscientious Objectors, 1945). This pamphlet contains excerpts from the samizdat journal produced by COs incarcerated in Wormwood Scrubs Prison during World War II.
Wednesdays ... but, alas, before his report was prepared the Walton Leader was discovered by an unusually inquisitive or officious warder.  

Thus one of the most interesting ventures in prison samizdat came to a sudden end.

In the First World War COs in Britain during the period from mid-1916 to mid-1919 had produced at least nine samizdat journals. There may well have been more such papers, now lost, for toilet paper is fragile and the network readership was volatile. There were indeed a number of other prisons in which COs were incarcerated in varying numbers. What, then, of Wormwood Scrubs, Reading, Exeter, Bristol, Norwich, Cardiff, Strangeways (Manchester), Armley (Leeds), Durham, and a number of other jails? And what of the Scottish prisons? But if samizdat was produced by COs in any of these institutions, it has seemingly vanished without a trace. A key factor in producing these journals appears to have been the presence in a given prison of at least one individual with journalistic talent, ready first to take the initiative and then to oversee the journal’s production and distribution. Without such a person, presumably a samizdat journal would not emerge, even if other favourable factors such as a sizeable group of COs within the given institution might be present.

One last point is worth noting: the elitist character of this CO samizdat. It did not circulate among the general prison population, but only among a small group with special concerns of its own, to which the contributors addressed themselves in what they wrote for these journals. I have explained the reasons for this restricted circulation and appeal. I believe they were valid ones; at the same time the elitism of this samizdat should not be slurred over. So far as I know, CO samizdat did not circulate either among the Irish nationalists incarcerated in British jails during World War I, even though Fenner Brockway at any rate was in contact with them. But, then, of course, they possessed a tightly organized communications network of their own.

The CO underground press described in this essay, hopefully, may prove to be helpful in illuminating prison samizdat as it has developed in Britain and North America since 1950.

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Peter Brock is a previous contributor to the JPP (Volume 11) and a Professor Emeritus at the University of Toronto. He served a six-month sentence in Wandsworth and Wormwood Scrubs Prisons in Britain in 1941–1942 as a conscientious objector during World War II. Peter can be contacted at the Department of History, University of Toronto, 100 St. George Street, Toronto, Ontario, Canada M5S 3G3.
I t had been exactly one week since my promotion, when the phone on my desk rang. In my top floor office, with a view of the bronze capitol dome shining above my IBM-486 computer, the voice told me to return to the cell house and pack my property. I was being shipped to Crossroads Correctional Center in the far northwest corner of the state – the newest nirvana in the ever-expanding Missouri Department of Corrections (DOC). My butt was literally to be on the last bus from Tombstone to Boot Hill, completing the human consignment to the 1,500-man maximum security, death fence-enclosed prison.

To say I was shocked, though not thoroughly surprised, is a mournful understatement. Two weeks earlier, my caseworker advised me that I was not on any transfer list he had seen. For three of the eighteen years of incarceration I had survived the 160-year-old Missouri State Penitentiary – recently, if not magically, rechristened the Jefferson City Correctional Center – I had only a single minor rule violation blotting my record. Though no saint walking the main line in one of the nation’s most notorious prisons, I was self-assured and able to carry myself with maturity, as a convict should. With the sponsorship of family and friends, I had been lucky enough as well to complete half of a baccalaureate program via correspondence from Washington State University.

Moreover, I was an active board member of the Charitable Campaign Committee, which responsibly collected the institution’s aluminium soda cans for recycling, raising over $10,000 for donation to local charities. I was also the co-director of the prison’s first annual Food for Families Campaign, collecting over 2,300 canned goods for Christmas donation to area food banks and a media liaison for the Substance Abuse Advisory Committee. In all endeavors we had successfully publicized our efforts in the media, facets of prison life in the “Show-Me” state that were rarely presented to the outside world.

My greatest achievement, however, had been advancing in two years from narrator to narration supervisor to resident director of the Center for Braille and Narration Production (CBNP). The CBNP is the oldest and most prolific prison-based program of its type in the country. Employing over twenty specially screened and highly trained prisoners, the CBNP in 1996 narrated over 65,000 pages of mostly college-level text, transcribed over 70,000 pages of Braille production, and formatted nearly 80,000 pages of large print documents for
the state’s visually impaired citizens. The indirectly supervised resident director holds the most responsible prisoner position in the entire DOC, managing the utilization of over $50,000 in computer, printing, recording, and duplicating equipment with annual billings exceeding $70,000. Even more importantly, the services provided by the center save the state’s Rehabilitation Services for the Blind more than $1.5 million a year in reduced production costs. For the last three years, the CBNP was an appropriation in the state’s budget, for additional equipment and service upgrades. Not bad for a prisoner-run operation.

All this and yet I was to be shipped out the next morning ahead of over 700 eligible prisoners. But I knew why. The next time I answered the phone, my suspicions were confirmed.

The high-ranking prison administrator on the other end of the line commiserated with me that there was nothing to be done to stop my transfer. The order originated from the central office. “Your editorial and legislative activism,” he said, “has disturbed the status quo of the powers that be and they want you as far away from the capital as possible.” Some bureaucrats actually talk like this. “And Crossroads,” he drawled, “is about as far as you can get from the capital!”

My transfer was the result of my persistent challenging of the state’s criminal justice policies. For years now, I have been a writer researching, analyzing, and exposing successes and (mostly) failures of the correctional-industrial complex. I had earlier lobbied against the Congressional expulsion of prisoners from the Pell Grant program. During the debate, Senator Paul Simon read one of my articles into The U.S. Congressional Record. And citing me by name in a national magazine editorial, Congressman Bart Gordon attempted ineffectively to rebut my arguments. Sadly, prisoners lost that fight, but our efforts delayed the myopia of political expediency by four years.

Later, in a published Business Week letter, I had the audacity to challenge a Nobel Laureate’s assumptions regarding the expansive, punitive use of incarceration. The combination of those writings generated extensive reader response, including Presidential attention.

In Missouri, I once chronicled in newspapers across the state the needless expansion of the prison system, and how the associated costs not only have dollar amounts but how they have doubled the tuition rates at the state university system in six short years. The now widely published editorial analyzing how incarceration policies drive the cost of university tuition was disseminated by the Washington-based Campaign for an Effective Crime Policy. This exposure
coupled with illumination of the evident hypocrisy of many politicians' "crime fighting" pronouncements - has not inured me to many of the movers and shakers in the land of the Missouri Mule.

Dr. Stephen J. Steuer, Executive Director of the international Correctional Education Association, has remarked, "it amazes me how much of a positive impact [Jon Marc] has had on corrections nationally while sitting, pen in hand, in a prison cell." Of course, whether or not my impact is "positive" depends on one's perspective.

My greatest transgression, however, was the publication and subsequent lobbying around a position paper titled "Calling for Sheepskins." The article outlined how the redirected investment of the rebate (a.k.a. kickback) from the MCI-Inmate Collect Call Phone System could refinance post-secondary education programs in Missouri prisons, which had been discontinued after the loss of Pell Grants. The original paper noted how the $3 million in annual rebates went directly to the state's general fund, as opposed to the inmates' welfare fund as was done in all but two other states. Employing the experience gained from the national Pell Grant fight, grassroots lobbying resulted in 21 co-sponsors introducing enabling legislation in the Missouri House (H.B. 481) and bipartisan introduction in the State Senate (S.B. 336) during the first days of 1997.

Efforts to generate broad-based support for the legislation included contacting over 60 college and university presidents in the state, explaining the proposal's expansive societal benefits, and requesting that they contact their representatives urging support. Many responded - including the biggest dog on the block, University of Missouri System interim president Melvin D. George, who wrote, "we will do what we can to encourage passage so as to provide educational opportunities for prison inmates." Others were even more responsive. Donald J. Beckon, president of Park College, wrote to his senator in support of the legislation offering to "happily testify at any hearing as an expert witness, or do whatever else I can do."

Additional lobbying was conducted by writing to all representatives of the Catholic faith (nearly one third of the assembly), enclosing a 1996 article from U.S. Catholic magazine reporting that parishioners overwhelmingly supported tax-supported prisoner higher education. My proposed legislation, I explained, achieved the goal without requiring taxpayers' dollars. A few days after the sealed (privileged correspondence) mailing, the prison's investigator, in an
apparent coincidental passing, commented that he “noticed” my large number of letters to the Legislature. One respondent, Representative Norman Sheldon, stated that he agreed “with the concept of [my] letter and that Post-Secondary Correctional Education is the best rehabilitative tool that can be offered as of today.”

During the early hectic days of the session, the primary lobbyist for this measure was an inexhaustible, diminutive Catholic nun. After a committee hearing one morning, Sister Ruth Heaney walked the four blocks from the capitol to the prison, arranged a special visit with me (no small administrative accomplishment), and sought my immediate advice on various aspects of the issue. I was then able to return to my job, access my files, produce rebuttal fact sheets, mass-produce them, and mail them out the next morning.

Support for the legislation also came from groups both within and without the state. The Missouri Catholic Conference endorsed the measure. Julie Stewart, president of the Washington-based foundation Families Against Mandatory Minimums, offered to do whatever they could to support its passage, commenting that the proposal was a “brilliant” idea and that it was a concept her organization would “like to pursue with other states and maybe federally.” The Judicial Process Commission, in their newsletter Justicia, reprinted the paper under the title of “Dialing for Diplomas,” further spreading the concept across the country. International exposure for the idea was provided in a Christian Science Monitor interview concerning prisoner higher education.

While passing the Senate Committee, the legislation failed to pass the House Committee. Not only had the DOC curiously failed to support the bills, an illuminating incident occurred in a capitol stairwell minutes after the committee’s vote. Initially assuming the confidence of one of the legislators, a high-ranking DOC official cryptically observed, “It’s too much money.” The representative then acquired the new phone contract, learning that the annual rebate had grown over 333 percent to a guaranteed annual minimum of $10 million. With perpetual population growth, the projected rebate to the state general fund over the five-year life of the contract approaches $60 million.

If passed, the state would not only be denied tens of millions of dollars in non-taxed revenue, but prisoners would have the opportunity to earn fully subsidized college education. To some politicians, this would be an unpalatable circumstance. The rationale— that in effect the prisoners’ friends and families accepting their collect telephone calls would be financing the prisoners’
educations – be damned. The comment of "too much money" now made sense. As one of my astute road dogs commented on my impending transfer, "Son, you've just been shanghaied."

Exactly one week after my exile, in what was quickly understood to be the "CrossOUT" Correctional Center, my cell door was thrown open at 11:30 p.m. A sergeant stormed in, told my slumbering cell partner and myself to stand, and ordered me to submit to a strip-search. The act of removing all of one's clothing, opening one's mouth like chattel on the auction block, hefting one's scrotum to demonstrate the lack of concealment of "whatever," followed by the turning of one's naked body to the particular master of one's immediate fate, lifting the feet to expose their soles, and the final humiliation of bending over and spreading your buttocks so the offending officer can observe that you have not shoved contraband up your ass is - after nearly two decades of endurance - methodical in its redundancy. Behind bars it is a simple, brutal fact of life. I had grown used to it, if not complacent. Dignity, I have learned, resides within the spirit of the individual and not in the control of agent provocateurs, no matter how calloused or corrupt.

Not comprehending the reason for the explosive harassment, I stripped, yawned, hefted, turned my naked form to the irate officer, and lifted my feet - only to find my face pressed into the concrete wall. Yelling, "And what's this?" into my ear, the sergeant flashed a small cellophane package in my face. Screaming that I had tried to kick him in the head as, breaking procedure, he bent down behind me to allegedly scoop up the package, he allowed me to put on only my robe before cuffing my hands behind my back. At midnight I was marched across the prison and thrown into the hole.

An hour later, I was charged with DOC violations of #2 assault on staff (#1 is murder!) and #11 possession of contraband. The officer claimed the package of contraband was 0.18 grams of marijuana, the amount found in a disposable packet of pepper. The situation was ridiculous. I nearly laughed out loud. Back at Jefferson City Correctional Center, the shift captain would have dismissed the incident for being too contrived. Facing the inconvenience of a few days in the hole, I believed the whole matter would blow over the following week.

A week later, the lone reviewing female administrator found me guilty of assault on staff, but not of possession. At the time, I had done the stand-up thing any convict would, and copped to the "evidence" to save my cellie from being tossed into segregation as well. It is the practice in such situations to lock up both residents of a cell when contraband is found if neither immediately
claims the possession, with both being found guilty later and suffering sanctions if neither confesses. The requested Psychological Stress Evaluation (voice lie detector) had not been administered, even though DOC policy dictates its use “in extremely serious situations as deemed appropriate by the approving official.” (If 30 possible additional years of prison time is not deemed “serious,” I would like to know, what are the criteria?) For the next 220 days I would lose twenty pounds and nearly my sanity in the hole of “Crossout” Correctional Center.

Everyone, staff and prisoners alike, agreed the situation was a travesty. Ironically, I became a segregation trustee, while every one of my administrative appeals was summarily denied. Truly adding insult to injury, on December 23, 1997, my Christmas present from the “Show-Me” state was the indictment for Class B felony assault and Class C felony possession. If convicted, the county’s infamous hanging judge could sentence me to an additional thirty consecutive years. Even without the criminal charges, the associate superintendent told a delegation of my family that the staff assault violation would set my parole eligibility back a minimum of two to four years.

A month after my almost total isolation in the hole, State Representative Vicky Riback Wilson, indicating she had heard that I had been transferred, wrote advising me of her intent to re-file the education funding legislation in the upcoming session. The representative observed there was a strong coalition of supporters, but they needed to be organized and mobilized. “Thank you again for everything you are doing,” she concluded her epistle; “I look forward to working with you.” On January 15, 1998, House Bill No. 1372 was submitted for consideration. Separated from all my resources, I was powerless to offer my support. I had been silenced.

The measure eventually failed, though advancing further in the committee process than in the previous attempt.

On January 13, 1998, I was arraigned in DeKalb County Criminal Court. The sergeant testified under oath that I had complied with all orders, was not belligerent, offered no resistance, and did not even touch him. The only evidence to be presented of my “intent” to assault him was his perception that I “might be angry” for being searched. I was scheduled for trial on June 26th.

Five minutes. Five minutes – that is all. That was the entire amount of time I spent with the assigned Public Defender in February preparing for trial. A dozen multi-page letters providing information, strategic outlines, and tactical suggestions were sent to the lawyer. For instance, I learned the officer involved was notorious, described as a “cowboy” by other staff. He was already being
sued by another prisoner in federal court for falsifying reports of a different incident. In January, he had been arrested for felony fraud. That month the DOC suspended him during an investigation of the sexual harassment and assault of at least one female officer. In April, the sergeant had his stripes taken away, and was demoted to the officer rank. And in May (for reasons I would love to hear), he resigned from the DOC. Yet I could not get my attorney to request a copy of the man’s personnel file.

Never did I elicit any substantive response from the Public Defender, and only when I filed seven pro se motions ten days before the trial (one being to dismiss counsel) did I speak with her for the second time. Trial day came and went. The only reason the trial continued was that there was another case ready for presentation that day as well. If not for that substitute drama, without having deposed a single prosecution or defence witness, the Public Pretender would have had to represent me before a jury.

The state’s assigned counsel would have served as the conductor on the railroad roundhouse from prison back to prison. Do not pass GO and collect your $200 in this rigged “Monopoly” game, but go straight to jail. It was all just a ceremony of jeers, serving as a sort of social recycling in the age of the prison-industrial complex. “Keep the bunks filled and the dissenters quiet” is the unofficial motto of the insidious modern golden triangle of prisoners, prisons, and profits.

The judge reassigned another Public Defender from the same office to represent me. The trial was rescheduled for September 17, 1998. Observing the blatant efforts (or lack thereof) of the state to rubber stamp the rest of my life behind bars, my father retained private counsel. To help fund his representation, Richard “Mad Dog” (no kidding, that is his nom de guerre) McFadin established the Jon M. Taylor Defense Fund at the First National Bank (121 W. Jackson St., Gallatin, MO 64640). My father also set up an e-mail address at taylor@sulphurcanyon.com to get the word out and provide updates.

Leading up to the June trial date, a brief but furious “Call for Outrage” campaign was patched together to spread the story seeking help. Dozens of letters from across the nation were sent to the governor’s office. One writer looking into the story learned that after a year of essentially ignored departmental appeals, the #2 assault on staff was to be expunged from my records, but I was to be now found guilty of the #11 contraband violation. Still I am scheduled
for felony assault and possession prosecution in county court. It just keeps getting better and better.

What scares me the most is how doing time has opened my eyes to the base nature of the system. Disillusionment is disheartening. As my new counsel so emphatically told me, “It is not about justice; it is about power and who has that power.”

I have spoken truth to power, and for that effrontery I am on the precipice of perpetual purgatory in a state correctional facility. Some days it just does not pay to put pen to paper.

**Jon Marc Taylor** received the Nation Institute/I.F. Stone and Robert F. Kennedy student journalism awards for his reporting on “Pell Grants for Prisoners.” He is a member of the editorial board of the *JPP* and can be contacted at: Crossroads Correctional Center, 1115 East Pence Road, Cameron, MO 64429, U.S.A.
Strip-Searching: Stop the State's Sexual Assault of Women in Prison

Debbie Kilroy

**Women Prisoners and Sexual Abuse**

**Case 1**

When Mary was eight years old her stepfather Donald began sexually abusing her. She became withdrawn, secretive, and uncooperative. Her performance at school declined. Eventually, when she was twelve years old, the abuse was revealed and Mary was removed from her family and placed in the care and control of a church-run orphanage. The priest in charge of the orphanage raped her and threatened her with punishment if she disclosed his crime.

Thirty years later the priest was tried and convicted of Mary's rape.

The community was rightly outraged that any child should be subjected to such abuse. Everybody from the prosecuting lawyers to the sentencing judge to the newspaper editorials and letters to the editor said the enormity of the priest's crime was not only that he used his position of authority to abuse a child, but that the child was particularly vulnerable. This child needed special care and attention to help deal with her stepfather's abuse, but instead was subjected to cruel, inhuman, and degrading treatment. She was raped again when she should have been made safe.

**Case 2**

Jane does not remember her natural father. She was nine months old when he left her mother. When Jane was two years old her mother's *de facto* husband Wayne moved in to live with them. Almost immediately Wayne began sexually abusing Jane. It started as fondling, and Wayne inserting his finger in Jane's vagina. As Jane approached puberty, she was required to parade naked for Wayne and perform oral sex on him. By the time Jane was eleven years old Wayne was regularly raping her.

Jane's behaviour was sullen, uncooperative, and abusive. She repeatedly failed school assessments. When Jane went to high school she made friends with two girls who could get drugs from their brothers. She began to medicate herself to obliterate the knowledge of Wayne's abuse. She would use anything - alcohol, speed, cannabis, heroin.
Jane began stealing handbags from shopping trolleys, shoplifting, and selling speed to fund her own drug habit. On three occasions Jane was arrested and charged with multiple dishonesty offences. On the first occasion she was placed on probation for eighteen months, but received no drug counselling. On the second occasion, which was within the period of probation, she was sentenced to two years imprisonment wholly suspended. Again, she received no drug counselling. On the third occasion, which constituted a breach of the suspended sentence, she was given a custodial sentence.

Her mother came to visit her soon after she was jailed. After the visit, Desley, a correctional officer, told Jane to take her clothes off piece by piece and hand them over. Desley told Jane to turn around slowly in front of her with her arms spread out and then to face her and lift her breasts with her hands. Jane was then told to turn round, stand with her legs apart, bend over and spread her buttocks apart with her hands. When Desley told Jane to squat, she noticed the cord from Jane’s tampon and told her to remove the tampon while she watched. Then Jane was told to cough.

Jane’s heart was pounding. Her throat was dry. She felt she could not swallow, but there was a large lump in her throat which was choking her. She felt cold, but her hands were sweaty. It seemed like she could not see properly. The world closed in. All she could see was Wayne demanding she “do her strip show” before he raped her. She wanted to throw up. She desperately needed a fix.

Desley told Jane that she will be strip-searched after every visit, even visits by her lawyer.

Case 3

Amanda is in prison for embezzlement. She is smart and stands up for herself. She is enrolled as an external student in a university course. Gary is a middle-aged male correctional officer. He did not complete high school. Gary resents the fact that Amanda is articulate, rational, and better educated than him. Brian is another male correctional officer. He is in his twenties and “has tickets on himself.” He also resents Amanda because she jeered at him when he suggested he could do her favours in return for oral sex.

Gary and Brian escort Amanda to attend her mother’s funeral. On the way back to the prison, they both rape her “to teach her a lesson.”
WHAT IS SEXUAL ASSAULT?

No one has any difficulty in recognizing the actions of Donald, the priest, Wayne, Gary, and Brian as criminal sexual assaults. No one has any difficulty in recognizing their actions as an abuse of power, a betrayal of positions of trust and authority, and a gross breach of a duty of care.

Yet who perceives Desley's actions as sexual assault, abuse of power, betrayal of trust, and gross negligence, all approved and encouraged by the state? Who understands Jane's experience as revictimization? Who recognizes that Jane is sexually assaulted by the state?

Arguments against Strip-Searching

Strip-searches rarely uncover contraband being smuggled into prison. But by the very fact of their degrading and humiliating impact on women prisoners, strip-searches are a very powerful weapon of social control used by the state.

The state tries to deny that strip-searches are criminal assaults by justifying them for a variety of purposes, by labelling the victims as a class deserving of the treatment, and by completely ignoring the experiences of the victims. The state goes to great lengths to justify its powers over women prisoners precisely because it knows that these actions are criminal.

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1 This argument was also made in Canada by feminist and prisoners' rights organizations in the aftermath of the actions of the Institutional Emergency Response Team in the segregation unit of the federal Prison for Women in Kingston, Ontario, in April 1994. As per policy, officers videotaped the event, which included footage of male officers ordering and participating in the strip-searching of women prisoners in segregation, waking some of them from sleep in order to do so. The Canadian Broadcasting Corporation later managed to access this tape through a court challenge and broadcasted it on the national television newsmagazine show “The Fifth Estate” the following year. The government then established a Commission of Inquiry into Certain Events at the Prison for Women in Kingston, and appointed the Honourable Louise Arbour as its Commissioner. Arbour was later named the Chief Prosecutor for the International Criminal Tribunal for war crimes in the former Yugoslavia and Rwanda, and is currently a Justice of the Supreme Court of Canada. The report of the Commission (1996) was published by Public Works and Government Services Canada and can be obtained at Canada Communications Group – Publishing, Ottawa, Canada K1A 0S9.

Strip-searches of prisoners are justified on the basis of keeping the prison drug free. It is interesting to note that the records, obtained by Sisters Inside through Freedom of Information (FOI), state that for the twelve months beginning August 1999, 12,136 searches were conducted on women in Brisbane Women’s Correctional Centre. Of these searches 5,346 were full body strip-searches, one of which was conducted on a baby. The latest FOI records state that there have been 17,191 searches with 8,408 full-body strip-searches conducted in the 24 months from August 1999 to August 2001.

According to the Department, visitors pass illicit drugs to prisoners. Since strip-searches have been conducted as a matter of mandatory practice under the Corrective Services Act (2000) after all visits (including legal visits when the prison first opened) in the new women’s prison at Wacol, the contraband recorded were two cigarettes, earrings, sanitary pad (no blood), and a “scratch from the window to the door and a foul odour.”

It is difficult to understand how the pad, the scratch, and the foul odour can be considered contraband, but Corrective Service records have identified them as such. In spite of the comprehensive practice of strip-searching, drugs still get into the prison. Furthermore, it was noticed that in the last twelve months of the strip-searching records, the number of searches has decreased by half. This is due to women asking that their children and families not visit them because they cannot face being sexually assaulted via the mandatory strip-search after family visits.

In a recent survey of women in prison, 51 percent state that they are still using drugs within the prison and 84 percent say they are receiving no counselling or support to assist them with their drug abuse.

The Department of Corrective Services is not keen to investigate a major route of drugs into jail: corrupt correctional officers. Until July of last year there was legislation in place that allowed searching of cars, bags, and clothing of correctional officers as well as their person; however, in the new Corrective Services Act, enacted in July 2001, this power has been removed.

Prisoners are strip-searched because it is a highly effective way to control women, not because it keeps the drugs out of prison. It is obvious from evidence about drug use in the wider community and within prisons that

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repressive regimes simply do not work. The mainstream debate in the wider community is about addressing the demand for drugs, not the supply. The emphasis should be focused on the reasons why women use drugs rather than physically trying to prevent the use of drugs. Strip-searching as a mechanism for ridding drugs from prison is a demonstrated failure. The wider society moves on, but the philosophy of corrections is returning to the nineteenth century.

Strip-Searching as a Form of Assault

The criminal character of strip-searching that is conducted randomly (that is, searches conducted without specific reasonable suspicion about the person about to be searched) or as a matter of routine is appreciated in the context of the law of assault. Assault is the application of force to a person without their consent and includes the person's reasonable fear that force will be applied to them. An act that might otherwise be regarded as an assault is no longer unlawful if there are circumstances that the law recognizes as justifying the use of "reasonable force."

If my neighbour sues me for assault because I grabbed her arm and marched her along, I will have a defence if the circumstances of the case are that she burst into my flat full of drugs and bad manners and refused to leave when I asked her. The law recognizes my right to use reasonable force to remove someone from my property. I would have no defence if I smashed her over the head with a bottle when this was all she had done. That degree of force would not be reasonable.

If the police charge me with assault occasioning bodily harm because I punched my boss in the face, splitting his lip and knocking out a tooth, I will have a defence if I can prove that he was attempting to rape me and I punched him to stun him and make my escape. I will not have a defence if I punched him because he sacked me. What the law regards as reasonable force, which justifies what would otherwise be an assault, is always decided on a case-by-case basis. It depends on the specific circumstances.

How can strip-searching, which is nothing other than an assault, be justified as "reasonable force" unless it is justified on the basis of specific and reasonable suspicion that the particular person about to be searched has contraband secreted on her person? To go on strip-searching women again and again without finding contraband cannot be justified. To strip-search women when
there is no reason to suspect they are carrying contraband cannot be justified. The prisoner having received a visit is not “a reason.”

**Strip-Searching as Abuse**

Strip-searching women is particularly abusive in the light of the pre-imprisonment experience of women prisoners. Research shows that 89 percent of women prisoners have been sexually abused.¹ A survey conducted in 1989 by Women’s House in Brisbane found that 70–80 percent of women in prison were survivors of incest. A 1992 Australia-wide survey² showed that of the 2,762 rapes³ reported by women to the researchers, 43 percent of survivors were aged 16 or under at the time of the rape; 15.7 percent of survivors were aged 0–10 at the time of the rape and of this group, 47.8 percent of the perpetrators were family members and 14.3 percent were acquaintances; 27.2 percent of the survivors were aged 11–16 at the time of the rape and for this group, 16.7 percent of rapists were family members while only 22 percent were strangers.

The picture painted by these statistics is that survivors of sexual abuse are overrepresented in the prison population and that the overwhelming majority of women prisoners are survivors of sexual abuse. Significant numbers of women prisoners were abused as children by people in positions of authority or trust. It is cruel and inhuman treatment to revictimize these women by subjecting them to routine, random, or mandatory strip-searches by people who exert considerable authority and control over them and their lives.

But the state’s deliberate demoralization of women prisoners is not merely found in the indignity and humiliation of the strip-search. On the one hand, women prisoners have access to sexual abuse counselling, psychiatric assistance for depression and other mental illness, and programs to improve their self-esteem and develop cognitive and assertiveness skills. On the other hand, a strip-search is the price the prisoner must pay to get a visit from her children,

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¹ *Supra 2.*
³ For the purpose of survey, rape was defined as penetration of the vagina, anus, or mouth by any body part of the attacker or object used by the attacker without the consent of the victim.
her lover, her mother. The deliberate cruelty is in the stripping away of any fragile self-esteem that might be developed by the various welfare programs conducted in prison. The total powerlessness and humiliation experienced by strip-searching can only exacerbate depression, thoughts of suicide, and incidents of self-mutilation and, ironically, return women to the need for drugs to avoid the mental anguish inflicted by abusive treatment.7

Another aspect of the impact of mandatory strip-searches reported to Sisters Inside is that some prisoners are now reluctant to receive visits – because the powerlessness and degradation experienced in the strip-search and the inevitable reminders of previous sexual abuse they invoke make these searches too much to take. Demanding a strip-search as the price of a family visit sounds like torture. Demanding a strip-search as the price for receiving a legal visit sounds like a concerted attempt to deny a prisoner’s access to justice.

INTERNATIONAL LAW, HUMAN RIGHTS, AND PRINCIPLES OF IMPRISONMENT

In Queensland, women prisoners are held in conditions and subjected to treatment that breaches United Nations standards and Australia’s obligations under international law. Some of these standards and principles are binding on Australian governments, including the Queensland government, because they are found in treaties ratified by Australia and enacted in domestic law. Others may not have the binding force of law, but they are highly persuasive in their moral force because they have been declared by the United Nations General Assembly or formulated by official United Nations bodies.

International Covenant on Civil and Political Rights (referred to as the ICCPR) in force in Australia from November 13, 1980

Two relevant international treaties ratified by Australia and in force in Australian law are:

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7 In a study of 100 women in South East Queensland Prisons surveyed by Sisters Inside, 42 percent of the women have attempted suicide (with a total of 50 attempts spread through the group); 41 percent have self-harmed (with a total of 331 self-harm experiences); 40 percent received no support; 23 percent believed the self-harm and attempted suicides were due to the abuse they had experienced.
1. Convention on Elimination of All Forms of Discrimination against Women in force in Australia since August 27, 1983. There is no right of individual petition.

2. Convention against Torture and Other Cruel Inhuman or Degrading Punishment or Treatment (referred to as the Convention Against Torture) in force in Australia since September 7, 1988. “Communications” can be made to the UN Committee against Torture by other national governments or by individuals, and acts of torture have been made criminal offences in Australia by the Crimes (Torture) Act 1988 Cth.

Prisoners' Human Rights

“All persons deprived of their liberty shall be treated with humanity and respect for the inherent dignity of the human person.” (Article 10.1 ICCPR)

“No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment.” (Article 7 ICCPR)

Further, the Convention against Torture not only requires that Australia make torture a criminal offence (which it has done) but also requires Australia to prevent acts of cruel, inhuman, or degrading treatment or punishment done with the consent or acquiescence of any public official in the country.

“No one shall be subjected to arbitrary and unlawful interference with his privacy, family, home or correspondence …” (Article 17.1 ICCPR)

“Everyone has the right to protection of the law against such interference or attacks.” (Article 17.2 ICCPR)

The first part of this submission characterizes random or routine strip-searches of women prisoners as unlawful assaults verging on systemic sexual assault. The enormity of these assaults is exacerbated by the fact that the overwhelming majority of women prisoners are survivors of sexual abuse and incest. Strip-searches revictimize these women.
Sisters Inside submits that routine or random strip-searching of women prisoners – that is, any searches other than those conducted on the basis of specific and reasonable suspicion of the individual about to be searched – violates these provisions of the ICCPR and the Convention against Torture. Sisters Inside submits that random or routine strip-searching constitutes cruel, inhuman, or degrading treatment or punishment and as such is an arbitrary and unlawful interference with the privacy of the prisoner. Routine or random strip-searching violates the obligation to treat prisoners with humanity and respect for the inherent dignity of the human person. That violation itself makes it useful to the state as a means of social control.

The U.S. Supreme Court has considered the prohibition against cruel and unusual punishment in the Eighth Amendment of the U.S. Constitution and has held that such punishment includes more than just physically barbarous punishment. In Weems v. United States 217 U.S. 349 (1910) the Court observed that the prohibition against cruel punishment was not confined to punishment involving torture or lingering death, but acquires wider meaning as public opinion becomes enlightened by humane justice. In Estelle v. Gamble 429 U.S. 97 (1976) the Court held that the prohibition embodies broad and idealistic concepts of dignity and civilized standards of humanity and decency against which penal measures must be evaluated.

In Jordan v. Gardner 986 F.2d (9th Cir. 1993) the Court declared that “pat searches” of women prisoners by male guards amounted to cruel and unusual punishment. The judge said that intrusive probing searches by men in positions of ultimate authority constitute and reinforce gender subordination and offend our concepts of human dignity whether or not the woman prisoner had been sexually abused prior to imprisonment.

A punishment is cruel if it makes no measurable contribution to acceptable goals and hence is nothing more than the purposeless and needless imposition of pain and suffering. One indicator of cruel punishment is where the permissible aims of punishment (deterrence, isolation to protect the community and rehabilitation) can be achieved as effectively by punishing the offence less severely. 8

Sisters Inside is of the view that routine and random strip-searching is conducted in order to punish women and to control them. Even if one accepts

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the Correction Services’ assertion that its purpose is to stop the entry of drugs into the prison, it has been pointed out earlier that it does not achieve this. It is cruel treatment even if it cannot be said that it is cruel punishment.

In *Denmark et al. v. Greece* the European Commission of Human Rights (EUCM) stated that the notion of inhuman treatment covers at least such treatment that deliberately causes severe suffering, mental or physical, *which in the particular situations is unjustifiable*. In *Ireland v. United Kingdom* the Commission noted that its use of the word “unjustifiable” had given rise to misunderstanding, as it did not have in mind the possibility that there could be a justification for the infliction of inhuman treatment. In *Denmark et al. v. Greece* the EUCM defined “degrading treatment” as treatment that grossly humiliates an individual or drives him to act against his will or conscience. In Europe, treatment has been held to be degrading in a number of cases – denial of exercise to prisoners whether convicted or on remand, taking a person through the town wearing handcuffs and prison dress, close body searches, the forced administration of medicine to a mentally abnormal prisoner. In *Tyrer v. United Kingdom* ([A/26]: [1979–1980] 2 EHRR 1.) the European Court of Human Rights (EUCT) held that punishment does not lose its degrading character merely because it is believed to be, or actually is, an effective deterrent or an aid to crime control. The EUCT also held that while publicity might be a relevant factor in assessing whether a punishment is degrading, it might well suffice that the victim is humiliated in his or her own eyes.

Subjecting a woman prisoner to a strip-search other than one based on specific and reasonable suspicion of a criminal offence constitutes and reinforces her powerlessness and loss of dignity. It is inhuman and degrading treatment. Imposing strip-searches as the price a prisoner pays for visits from family, friends, and lawyers verges on torture. The Department of Corrective Services is in breach of Australia’s obligations under the ICCPR and the Convention against Torture.

It can also be argued that arbitrary, capricious, and oppressive strip-searching of women is in breach of Australia’s commitment to the rights of women. The Convention on the Elimination of All Forms of Discrimination against Women establishes the Committee on the Elimination of Discrimination against Women.

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9 Supra, pp. 170–171.
against Women. The Committee comprises 23 experts of high moral standing and competence in the fields covered by the Convention. It has said that the definition of discrimination against women that is prohibited by the Convention includes gender-based violence; that is, violence that is directed against a woman because she is a woman or that affects women disproportionately.

A strip-search or intrusive "pat search" of breasts and genitals is an act of personal violence. In Queensland women prisoners are strip-searched more frequently than male prisoners. The former general manager stated that the reason for this is that women have more orifices in which they can conceal things. This is violence directed against women because they are women. If a woman is intrusively searched through in a position of ultimate authority, the search reinforces gender subordination in the most humiliating manner. This is violence that affects women disproportionately. As most women prisoners are survivors of sexual abuse, intrusive body searching that triggers recollections of prior abuse is violence that affects women disproportionately.

**Strip-Searching as Punishment**

Two important principles emerge from the international standards on the treatment of prisoners. First, individuals are sent to prison as punishment, not for punishment and second, justice does not stop at the prison door. While the law does take [the prisoner's] liberty and imposes a duty of servitude and observance of discipline for [her] regulation and that of other prisoners, it does not deny [her] right to personal security against unlawful invasion.

The experience of women in Queensland prisons is that they are indeed sent to prison for punishment. They are regularly punished through routine and random strip-searching conducted because they are women, and because they are seen as a class of people who deserve no better treatment. Random and routine strip-searching violates the prisoner's right to personal security against unlawful invasion. The injustice perpetrated against women prisoners in the name of the state diminishes us all.

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11 *Coffin v. Reichard* 143 F. 2d. 443 (1944) at p. 445.
PRINCIPLES OF IMPRISONMENT

"The penitentiary system shall comprise treatment of prisoners, the essential aim of which shall be their reformation and social rehabilitation." (Article 10.3 ICCPR)

It is obvious that the humiliation and degradation caused by strip-searching is counterproductive to the reformation and social rehabilitation of women prisoners. Any gains achieved by running welfare programs designed to improve the mental health, self-esteem, and assertiveness and cognitive skills of women prisoners are seriously undermined by arbitrary strip-searching. Strip-searching can only be justified on the basis of specific and reasonable suspicion.

Maintenance of strong family ties during imprisonment, particularly with children, is widely recognized as an important element of rehabilitation that decreases recidivism. Because women in the new prison at Wacol face strip-searching as the price they must pay for a visit from family members, some women are now telling their families not to visit. This is not in the interests of their rehabilitation.

Almost 60 years ago in the United States, a court recognized that giving women prisoners a living environment free from the presence of males in positions of authority was necessary to foster the goal of rehabilitation, particularly in light of the fact that many of the prisoners had been physically and sexually abused by men. The prison governor’s decision to exclude men from positions of authority was held not to be discriminatory.

Australia is not only bound by Article 10.3 of the ICCPR; all Australian governments should also have strong regard to other United Nations’ standards, such as the Body of Principles for the Protection of All Persons under any Form of Detention or Imprisonment, and the Standard Minimum Rules for the Treatment of Prisoners. Rule 53(2) of the Standard Minimum Rules states that women prisoners shall be attended to and supervised only by women officers. This does not preclude male members of staff, particularly doctors and teachers, from carrying out professional duties in institutions for women.

13 Coffin v. Reichard 143 F. 2d. 443 (1944) at p. 445.
The need for female-only correctional staff, other than professional staff such as doctors and teachers, is imperative in light of the cruel and damaging impact of strip-searches on women prisoners. However, the problem is not just male correctional officers conducting or observing strip-searches. The new women’s prison at Wacol now has a system of 24-hour routine camera surveillance of prisoners. Frequent, close-up, and prolonged viewing by men of women showering, dressing, and using toilet facilities is humiliating and degrading. It violates the prohibition against cruel, inhuman, and degrading punishment or treatment. Again this runs counter to the requirement that imprisonment be rehabilitative.

It is nonsense to assert that the Anti-Discrimination Act (Queensland) prohibits the employment of female-only correctional officers. With respect to discrimination in employment, s. 24 of the Act provides that it is not unlawful to discriminate in the work area if an exemption in ss. 25–36 applies. Section 25 provides that a person may impose a genuine occupational requirement for a position. That men should not be employed as correctional officers in women’s prisons is a genuine occupational requirement on a number of grounds. These range from Australia’s obligations under international law and its commitment to international standards, the rehabilitative purpose of imprisonment, and the preponderance of survivors of male violence and abuse in the female prison population.

It cannot be further argued that excluding men from the ranks of correctional officers supervising and controlling women prisoners breaches s. 101 of the Anti-Discrimination Act, which prohibits discrimination in the administration of state laws and programmes. Under s. 103 it is not unlawful to discriminate if an exemption in ss. 104–113 applies. Section 104 provides the relevant exemption—a person may act to benefit the members of a group of people with an attribute for whose welfare the act was designed if the purpose of the action is not inconsistent with the Anti-Discrimination Act. The examples given in s. 104 demonstrate that it is not unlawful to restrict special accommodation to women who have been victims of domestic violence or to establish a high security car park exclusively for women that would reduce the likelihood of physical attack.

It might be acceptable to employ men in low-security facilities for women where there is not routine intrusive viewing and searching of women. In low-security facilities it is desirable that the difference between prison life and outside life be minimized in order to enhance rehabilitation.
CRISIS SUPPORT UNIT

This is another area where the common practice of strip-searching is used. Women are strip-searched three times a day in the Crisis Support Unit (CSU). A stated objective for the CSU is to provide for a safe and secure environment for prisoners who are actually suicidal or who have engaged in self-harming behaviour.

Women incarcerated in the new prison at Wacol are sent to the CSU at Moreton. The CSU is staffed by men and also accommodates male prisoners. Forms of restraint carried out in the CSU include forcible stripping and hogtying of prisoners by the male staff. In the first part of this submission it was pointed out that 89 percent of women prisoners are survivors of sexual abuse (probably 100 percent of those who mutilate themselves are survivors of sexual abuse), and that direct physical control of women prisoners by men in authority over them reinforces gender subordination and is humiliating and psychologically damaging to the women. Such direct physical control can constitute gender-based violence because it is violence that affects women disproportionately, particularly in the circumstances of women’s pre-imprisonment experience.

The Crisis Support Unit does not necessarily provide a safe and secure environment for women prisoners who are actually suicidal or who have engaged in self-harming behaviour. Under no circumstances should a woman prisoner be accommodated in the Crisis Support Unit.

Debbie Kilroy is Director of Sisters Inside Inc. She can be contacted at P. O. Box 3407, South Brisbane, Queensland 4104, Australia.
I have been in prison since May 1986, and since then it has been the routine practice of prison authorities in the Australian state of Victoria to display prisoners as one would display animals in a zoo. In fairness to zoos, at least they try to place their captives in an environment that mimics normality in order to reduce the humiliation and stress felt by those on display. Prisoners are on display to groups of people who are referred to by prisoners as “tourists.” The tour groups include colleges of technical and further education, universities, social workers, community groups like Lyons, Apex, and Rotary Clubs. Other tour groups are comprised of police and prison officers visiting from interstate or overseas (tax write-offs), television producers and crews (making the crime shows more realistic), and the friends and family of prison staff and sundry others.

Victoria’s main prison, Pentridge, which is now closed, was on the outskirts of the city of Melbourne. It had a high-security unit called Jika Jika, and I was held there between May 1986 and October 1987. During that time, groups of people – sometimes twenty or thirty at a time – would come into the Accommodation Units and look at the prisoners from a Control Spine area which separated the tour groups from the prisoners in the Day Room by two sets of barred windows. Prison staff would point out specific prisoners to the visitors, and due to the notoriety of my case I was subjected to this further humiliation on every occasion. The reaction of the men to these visits was never anything other than violent indignation, and they would often behave like the inhabitants of the primate cage at the zoo and call out for peanuts. I do not know if the irony of this behaviour penetrated the bullet-proof glass and impacted on those who were humiliating us.

The conditions in which we were held in Jika were so bad that the other men and I barricaded ourselves in a Unit on October 29, 1987, in a desperate protest against the psychological torture we endured there. Shortly after the barricades were erected, one of the men on the other side of the Unit from mine set fire to a barricade. At that time the Accommodation Units in Jika could best be described as concrete boxes with no ventilation. Jika was a sterile, ultra-modern prison made from preformed concrete slabs and operated by electronic devices. The prisoners referred to it as a “moon station.” Five men died in our protest, resulting in the closure of Jika as a security unit. The
then-Minister of Corrections said: “the level of deaths in this one unit has become unacceptable.” So there was a level of deaths that was acceptable?

“H” Division was the punishment unit in Pentridge. It was a bluestone construction built in the 1850s. I was held there from 1987 to 1990 and from 1991 to 1992, and during those periods I was again subjected to the tour groups. But in the “H” Division environment the humiliating practice was at its height. Prisoners in “H” Division were kept in three-by-five-metre, high-walled yards that had buckets and open drain holes for toilets. The open drains that ran along the length of the yards were always awash with urine.

Between the two sets of yards in “H” Division ran a covered walkway by which the prisoners entered the yards, and above that ran a catwalk from which the staff watched the prisoners while they were in the yards. For most of the years that I was held in “H” Division, the few proper toilets and showers were open to the yards and could be clearly seen from the tower. The catwalk or tower, as prisoners would call it, was also used as the viewing platform for visiting tourists. On many occasions I observed large groups of men and women walking the length of the tower and looking at prisoners in the yards.

The few personal possessions we were allowed in the punishment division were carried in a square plastic bucket. We would use these buckets to have “bucket baths” in the yards when we were refused access to the shower yards. On one occasion, another man and I were soaped up and about to tip buckets over us when I noticed a large group of men and women watching us from the tower. I turned to them and said: “It’s like a scene from Midnight Express isn’t it?” I said this in an attempt to convey my thoughts that the conditions were appalling, but the group said nothing in response and just moved off. No doubt we were seen as nothing more than some strange type of dehumanized creatures in urine-stinking pits in the ground, undeserving of any compassion or dignity. In addition to large groups of unidentified people visiting “H” Division, the media also visited and took photographs and video footage of us in the yards. On one occasion I looked up to see a television camera-person filming me and another man who were showering in open cubicles.

While I was held in Pentridge Prison’s “J” Division in 1990, 1991, and 1993, the numbers of people who visited were in the many hundreds. “J” Division had the best living conditions in the prison system at that time. The tenor of the visits was the same, although the visitors to “J” Division would also go into prisoners’ cells. On one occasion I found eight people in my cell;
one fellow was running his index finger along the spines of my books and another was reading the Cell Card which details my private property and carries my name. On this same visit I saw the Chief Prison Officer of the Division open a cell door to show the visitors that it had a computer in it. The door was opened from the side where it swings out and back against the wall, so the officer was the last of the group to see a man sitting on the toilet in the cell. The toilet scene was no doubt a bonus presented by the officer as a tour feature: “And this is a prisoner using the toilet.” I read the sub-text as, “Look, we’ve toilet-trained them.” There were also media intrusions into “J” Division, with camera-people surreptitiously filming. Prisoners in Victoria are not allowed to talk with media personnel without permission from the prison authorities, which is never given. In some Australian States, Queensland for instance, journalists are jailed if they interview prisoners without permission.¹

While I was in Pentridge’s “A” Division in 1994, visitors would enter one unit through a door which, because of its position and angle, afforded a clear and unavoidable view into the “A” Division showers. Male and female visitors would walk in, look at the men showering, and then walk on to the next stop on the tour. One might think that I have a preoccupation with the ablutions of prisoners. I do not. It is just that these things are more public in the older Australian prisons than you may first think.

Between 1994 and 1999 I was in Barwon Prison, a modern construction near Geelong some hundred kilometres out of Melbourne. The tour groups continued in the same intrusive vein as detailed above. In January 1997 I attempted to obtain information about the tour groups that visited Barwon

¹ Corrective Services Act 1988 (Queensland), Division 8 – Control of Persons Other Than Prisoners, Subdivision 1 – Offences by persons other than prisoners.

s. 104 Offences by persons other than prisoners

A person who

s. 10(f) without the authority of the chief executive, interviews a prisoner (within the meaning of section 10) or obtains a written or recorded statement from such a prisoner, whether within or outside of a prison; or

s. 10(g) without the authority of the chief executive, photographs or otherwise records by means of any apparatus, while within a prison with the meaning of section 10, any visual image of any prisoner (within the meaning of section 10) or any part of the prison; commits an offence against this Act.

s. 105 Penalties and procedure for offences defined in s. 104

s. 105(1) A person who commits an offence defined in section 104 shall be liable to a fine of 40 penalty units or 2 years imprisonment.
Prison under the provisions of the \textit{Freedom of Information Act} (FOI Act). Two pieces of information were made available to me. First, there are 1,500 visitors to Barwon Prison per year who are “not visiting prisoners or connected with official Department of Justice business.” The second piece of information referred to the instructions that are given to these visitors about how they are to interact with prisoners. Mr. John Griffin, the Chief Executive Officer of the government-run prison system – the Public Correctional Enterprise\textsuperscript{2}, known by its acronym CORE (prisoners precede the acronym with the words “rotten to the”) – informed me that these visitors are “advised that there should be no exchange of personal items or belongings and that over and above the passage of physical items the passing of verbal communication is also discouraged.”\textsuperscript{3}

In the five years that I was at Barwon Prison, I was subjected to a large number of tour groups. During that period, some 7,500 tourists went through the prison. Compare that to Barwon’s maximum prisoner population of 240 to reveal a five-to-one ratio of tourists to prisoners in a given year.

The fact that tourists visit prisons does not make them more open institutions. The visitors, especially those from colleges and universities, have a palpable fear in their eyes and body language whenever a prisoner happens to be in the vicinity. If a prisoner should try to talk with these visitors, they look to the ground or stare back at the prisoner blank-faced and tight-lipped, and a prison officer will tell the man to move away. Prison staff members incite fear with warnings about how dangerous prisoners are. Needless to say, prisoners are objectified and humiliated by this practice.

I have heard defenders of prison tourism suggest that prisoners could have limited access to these tourists to provide the prisoners’ side of the prison experience. Allowing prisoners verbal access to these visitors would achieve nothing, as prison management would put forward yes-men who would not be too critical. And if any prisoner were to talk with these people, and if that prisoner were too critical, then he would be punished and severely harassed after the event. Staff would redress any criticism after the prisoner had left with a personal attack on the prisoner’s credibility: “You know what he’s in for …,” they would say, and go on to make things up.

\textsuperscript{2} A corporatized government agency that administers the state’s ten state-run prisons, within the Department of Justice. See \url{www.audit.vic.gov.au/sr60/ags6002.htm}.

\textsuperscript{3} Personal correspondence from John Griffin, May 26, 1997.
It was becoming increasingly difficult to live my life as a specimen on display at Barwon Prison, as there are a finite number of tour groups that I can suffer. And when tourists outnumber the prisoners by at least five to one per year, that threshold has clearly been reached. Visits from, for example, university students cannot be viewed in isolation and cannot be justified by saying, “Oh well, they will be the lawyers and administrators of the criminal justice system in the future so they should see what it is really like.” This is a common excuse offered by the universities I have complained to, and I reject its legitimacy because blinkered tours are academically worthless. They are worthless because I have learned through Freedom of Information requests that the students visiting prisons are not allowed to take notes, the cornerstone of academic activity.

At Barwon Prison in 1999 a group of eight prison officials from China and other Asian states visited an Accommodation Unit in which I was housed. The Asian prison officials happily took photographs of the unit, meal area, and cells. Prisoners have no warning of the visits or choice if they are to be viewed. While enthusiastically photographing prisoners’ cells, an Asian prison officer joked that he could make “ten prisoners sleep in a cell that size.” They all roared with laughter, but I did not see the joke. The visit of the Chinese prison officials is of the same character as those of Australian University students – intrusive.

All the visits have the same intrusive character. It does not matter that particular groups do not take photographs or start rifling through cells as others have; the demeanour of the tour and effect are the same. A further example of the intrusive nature of these visits occurred one Christmas when the Correctional Services Commissioner (the head of the public and private prisons in Victoria) and his wife toured Barwon Prison. The Commissioner’s wife, interested to know how prisoners live, went through a prisoner’s cell, including the man’s letters, photographs, and his underwear drawer.

In a letter to the Federal Attorney-General of Australia dated June 30, 1997, I inquired about human rights in Australia and if I, as a prisoner, had the protection of the international instruments to which Australia is a signatory. Such documents include the International Covenant on Civil and Political Rights (ICCPR), the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and the Standard Minimum Rules for the Treatment of Prisoners (SMR). Dr. Rosalie Balkin, the Assistant Secretary to the Federal Attorney-General in the Public International Law Branch, responded:
The ICCPR applies to every individual subject to the jurisdiction of Australia, whether a national or non-national. Australia's jurisdiction extends to all our States and Territories and territorial seas. The fact that you are a State prisoner does not make any difference.4

This sounded encouraging, so I researched further and found that prisoners are not outside the protection of the law. Section 47(2) of the Corrections Act 1986 (Victoria) states: “A prisoner’s rights under this section are additional to, and do not affect any other rights which a prisoner has under an Act other than this Act or at Common Law.” Australian law, coming as it does from English common law, states that the International Instruments to which Australia is a signatory form part of the common law.5 Any statutory and other rights that are given to prisoners are “capable of enforcement by prerogative writ or by declaration and injunction.”6

Article 10(1) of the ICCPR states, “All persons deprived of their liberty shall be treated with humanity and with respect for the inherent dignity of the human person.” Article 45(1) of the SMR states, “When the prisoners are being removed to or from an institution, they shall be exposed to public view as little as possible, and proper safeguards shall be adopted to protect them from insult, curiosity and publicity in any form” (emphasis added).

The States in Australia acknowledge that they owe a legal duty to the international agreements to which Australia is a signatory. The State Ministers for Corrections met in 1995 and subsequently published a document entitled Standard Guidelines for Corrections in Australia (1996). In this document it was stated, inter alia:

The Minimum Standard Guidelines for Australian Prisons was based on the United Nation Standard Minimum Rules for The Treatment of Prisoners and related recommendations and the Council of Europe Standard Minimum Rules, and modified to accommodate trends in Correctional thinking in Australia during the 1970s. Their purpose was to set standards for the conduct of prisons in Australia.

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4 Personal correspondence from Rosalie Balkin, August 12, 1997.
5 The leading case is The Queen v Secretary of State for the Home Department [1976] QB 606 at 626.
The Ministers for Corrections have acknowledged that international instruments play an important role in correctional policy. Section 5.21 of the *Standard Guidelines for Corrections in Australia* mirrors Article 45(1) of the *Standard Minimum Rules for the Treatment of Prisoners* (SMR).

It is without doubt that the United Nations (UN) did not envisage that groups of people would be shown around prisons; therefore, there is no direct prohibition against such a practice. That prisoners would be exposed to the curiosity of tourists within the confines of a prison no doubt seemed so unlikely, if considered at all, that it was not drafted directly into the article. Whether stated directly in the SMR or not, the practice of showing groups of people around Victoria’s prisons and into Accommodation Units and then making prisoners’ cells available for inspection is, without doubt, prohibited by the SMR. It could be argued that it is therefore an offence against my human rights and the common law of Australia.

There are many problems associated with the visits. My main concern is that I am treated as an object of curiosity to be viewed. And as I have said, it is the stated practice of prison authorities to tell visitors not to interact with prisoners in any way, not even to acknowledge them if they say “hello.” Prisoners are devalued as human beings by groups of people who visit prisons and look into cells and Accommodation Units.

On one occasion in 1999 at Barwon Prison I was in a private conversation with a prison chaplain when a tour group intruded upon us. I was forced to halt my conversation with the chaplain, to prevent the group from hearing. I then made a number of comments to the chaplain about how inappropriate the tour group visit was. When the same group intruded upon us for a second time, I said, “Can I ask where you people are from please?” This question was at first greeted by a stunned silence, then the students (all 19 or 20 years of age) wrapped themselves in defensive postures and en masse took a half step backwards while the leader of the group stepped forward. I was surprised that he did not splay his arms and cry out “Stand behind me children!” It should be noted that I was in a yard behind a fence and the chaplain was on the other side on a walkway in front of the yard. The academic said that he was from Melbourne University and told me his name and the title of the course the students were enrolled in. I said, “Thank you” and “You will be hearing from me.” The response from the academic was, “I bet I will!”

The academic’s response was at once caustic and defensive to the extreme, and it then moved to sarcasm with his last comment. The question on my
mind was, why was he so quick to lay that bet? I wondered if he was a mad punter or did he have some inside information? Did prison staff warn him that I might say something as his group was approaching me? I wondered if comments had been made by staff to cause him to understand so quickly the implication of my simple question? I wonder what of my personal affairs were disclosed to him and his students on this occasion? Did it stop at my name or did it go on to my convictions and recent prison history? I wondered if this group, like a previous group from Monash University, was shown my prison file as part of their tour?

Despite my feelings of insult, when I have passed these visitors in Accommodation Units or outdoor areas of the prison I often say “Hello there” in a friendly manner. I hope that, in some small way I will be able to take some of the fear out of the situation. However, my experience has been that not one person in these groups ever answers. They look to the ground as a means of ignoring me or they take a defensive posture. My experiences detailed above cannot be reduced to, “He is upset because people will not say hello to him.” That would be reducing my experiences to a shallow straw-man argument and not at all worthy of reason.

As most of these visitors simply ignore me, I will deal with that behaviour as the main theme in what follows. The problem is conveyed by their silence (or defensive posturing), and that is I am not allowed the human dignity that an acknowledgment would afford me, devaluing me as a human being. The visits make me feel as if I am a prisoner in Plato’s underground cave, chained by my legs and neck so that I can only see a shadow world projected on the wall before my eyes by the means of a fire blazing from a distance behind me.7 And to continue with Plato’s simile, there is a low partition behind me along which marionette players show their puppets to deceive us chained men. And into this environment come academics and students from universities, colleges, and a dozen other righteous community organizations. On seeing me chained and deceived, they say nothing. They file past with a marionette master (prison officer) guiding them and reminding them not to speak to or acknowledge the prisoners. By their silence, and by the very nature of these visits, a case could be made that these academics and students are not worthy individuals who, in Plato’s words, are philosophers fit to become the moral guardians of society.

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And this is what universities and tertiary institutions should be about. They should be producing people who will shine moral light into dark corners. In the intellectual world there should be strength of the absolute good – not silence and downcast eyes, or defensive posturing in response to a friendly greeting or simple inquiry from a fellow human being.

The “curiosity” status of the corrections visit is confirmed when no prisoners are spoken to and prison authorities tell students they are not allowed to take notes. The only purpose seems to be to have a sticky-beak at the prisoners, that is, to systematically objectify other human beings who are in a state of distress by their imprisonment. Do they think we like it here?

What defines us as human beings, what makes us successful as a species is that we can interact socially with our fellows with a large degree of sophistication. The principal way in which we do this is by language. It is this written and verbal capacity to speak together and engage in sophisticated linguistic behaviour that sets us apart from the more exotic and alien forms of life, like the lower order of animals. As Oliver Sacks has put it “... it is only through language that we fully enter into our human estate and culture ...”8 Academics and students, who downcast their eyes, ignore greetings, and take defensive postures at simple inquiries because the other person is a “lower class of person,” are not affording the prisoner “a tangible location in time and space as a human being.”9 And this is an affront to the inherent dignity of the human person.

If academics and students accept the direction that there should be no “passing of verbal communication” between them and prisoners, then they are agreeing to behaviour that objectifies prisoners and denies them respect or acknowledgment of the inherent dignity of the human person. Academics and students should be people who are challenging and questioning the social order, not blindly going along on blinkered tours of state prisons. When I have complained to universities the defence has been that academics and students were merely following the instructions given to them by prison authorities, and that they were not responsible for how the tours were conducted. Following

orders is not an excuse, and I will not dignify that reasoning with any more of our time.

There is a rather insightful passage in Viktor E. Frankel’s *Man’s Search for Meaning* (1985) (which details his experiences in a concentration camp) that illustrates my point:

Once I was standing on a railway track in a snowstorm. In spite of the weather our party had to keep on working. I worked quite hard at mending the track with gravel, since that was the only way to keep warm. For only one moment I paused to get my breath and to lean on my shovel. Unfortunately the guard turned around just then and thought I was loafing. The pain he caused me was not from any insults or any blows. That guard did not think it worth his while to say anything, not even a swear word, to the ragged, emaciated figure standing before him, which probably reminded him only vaguely of a human form. Instead, he playfully picked up a stone and threw it at me. That, to me, seemed the way to attract the attention of a beast, to call a domestic animal back to its job, a creature with which you have so little in common ...  

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The tour groups to prisons in Victoria probably feel as if they, too, have so little in common with the prisoners they see on their tours.

I have written to the universities and the others who participate in the tours and made complaints in the terms detailed above. They have basically ignored me or threatened to have the prison authorities punish me if I continue to complain. From my experience it seems that no consideration is ever given to the impact of the prison visits, so I set out to see if there was any evidence to the contrary. I made Freedom of Information applications to universities for access to any documents relating to submissions put to ethics committees which detail the academic value and any possible impact on members of the public, incarcerated or not, of field trips into an isolated community for reasons of study. The answer came back that there were no such documents. There were no documents because prisoners are not seen as real people, so no formal consideration was given to the tours of prisons.

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It is worrying that academics and students can go into the community under the banner of a tertiary institution with no consideration given to their actions. I wondered if it is possible for psychology students and academics of universities in Victoria to conduct “obedience” experiments along the lines of those conducted by Stanley Milgram in the 1960s that did so much psychological harm to so many people. Is it because the experiment of the prison tours only involves prisoners that no consideration is given?

I suggested that the universities had an obligation to protect me from this insult, curiosity, and publicity. I did this because human rights such as those in the ICCPR and SMR are universally recognized as obligations of all people. These rights, in the context of international law, are known as common law rights and arise out of the canon of international customary law. They are also known as reflex rights. The European Court of Justice has enunciated the concept of reflex rights in *Van Gend & Loos*, case 2662, (1963) European Court Reports 1. In that matter, it was held that:

independently of the legislation of Member States, Community law ... not only imposes obligations on individuals but is also intended to confer upon them rights which become part of their legal heritage. These rights arise not only where they are expressly granted by the Treaty, but also by reason of obligations which the Treaty imposes in a clearly defined way upon ... the Member States *and upon the institutions of the Community*. (emphasis added)

I suggested that the universities of Victoria were institutions of the community and they had an obligation to act responsibly and not to violate my human rights. “We are not responsible,” was the only response I received. I wrote to the General Manager of Barwon Prison, Clive Williams, and his response was that “if you feel humiliated that is unfortunate,” and further, that “if such visits occur in the future and some undoubtedly will, you may choose to remain out of sight, or in your cell until the visitors have moved on.” ¹¹ I complained to the CEO of CORE, John Griffin, and he replied that “Whilst your comment is noted, CORE will continue to operate an open and human [sic] prison system.” ¹²

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¹¹ Personal correspondence from Clive Williams, October 21, 1997.
¹² Personal correspondence from John Griffin, May 19, 1998.
I replied, "I presume that the 'human prison system' that you operate is opposed to the prison system for animals – I think they call that a zoo." I also wrote to the various Student Associations at a number of universities, but they did not respond to my letters. My complaints to prison authorities and the other community institutions fell on deaf ears. My suggestion that they stop violating my human rights did not seem to fit into the corporate scheme of things, so the tours continue.

Since drafting the first version of this essay and making claims about human rights for prisoners, the Human Rights and Equal Opportunity Commission (HREOC) declined to hear a complaint from me because I was "a prisoner in a State prison" (in Australia all prisons are operated by the States). I took the HREOC to the Federal Court of Australia in what became a constitutional challenge to the validity of the HREOC Act 1986.\footnote{Minogue v. Human Rights and Equal Opportunity Commission 1998] 54 ALD 389. The appeal is reported at: Minogue v. Human Rights and Equal Opportunity Commission (1999) 84 FCR 438; 166 ALR 129; 57 ALD 23.} Having failed to have the HREOC hear a complaint from me, I then conducted an action in the High Court and Federal Court of Australia in an attempt to enliven a human rights jurisdiction in those courts.\footnote{Minogue v. Williams (unreported Fed Ct, Melb, November 18, 1999 Weinberg J.) 1999 FCA 1589 and Minogue v. Williams (unreported Fed Ct of Appeal Melb, February 17, 2000 Ryan, Merkel & Goldberg J.J.) 2000 FCA 125.} I lost that case and the end result was that no court in Australia asserts a human rights jurisdiction so as to uphold the basic rights which are detailed in the Schedules to the HREOC Act 1986.\footnote{Minogue v. Williams was a suit brought by me against the General Manager of Barwon Prison in the High Court (case No. M8/99), claiming human rights violations and personal injury – different circumstances from those which gave rise to Minogue v. HREOC. The matter was remitted to the Federal Court (becoming case No. VG406/99) to decide the jurisdictional question. I failed to convince the Court that I had enlivened the jurisdiction of the High Court pursuant to s. 75(i) of the Constitution. The schedules to the HREOC Act are: the Convention Concerning Discrimination in Respect of Employment and Occupation; International Covenant on Civil and Political Rights; Declaration of the Rights of the Child; Declaration on the Rights of Mentally Retarded Persons; and the Declaration on the Rights of Disabled Persons.}

In one of these court actions I filed a Notice of Motion against prison authorities asking the Federal Court to order that I be transferred out of Barwon Prison because the conditions were such that my access to the Court was being frustrated. The authorities agreed that I be transferred before the Court
had the opportunity to rule on my motion. In September of 1999 I was transferred to the privately operated Port Phillip Prison (PPP) in Laverton, just west of Melbourne. PPP is a newly constructed prison operated by Group 4 and it replaced Melbourne's Pentridge prison when it closed in October of 1997. Since being at PPP, the problems associated with the prison as tourist theme park are far less evident and injurious than they were in the government-operated prisons.

Prisoners are used as a resource for cheap labour for multinational companies and as attractions for tourists – I just wonder what is next.

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Craig Minogue has survived the Australian prison system for the past fifteen years. He is an off-campus undergraduate student who has attained high distinctions in his tertiary studies and is currently planning a postgraduate career. As a writer and anti-prison activist, Craig uses legal processes to address prison issues and provide advocacy services to his fellow prisoners. He maintains that he is innocent of the crime for which he is convicted and is currently serving a life sentence at the privately operated Port Phillip Prison. Craig can be contacted at P.O. Box 376, Laverton, Victoria, Australia 3028.
Prison Violence: How Society Can Profit From Videotaping Attacks Behind the Walls

Joe Miceli

Since rehabilitation has been completely abandoned in New York State penitentiaries, and the sole purpose for prison expansion seems to be a means to garner votes by pumping billions of dollars into the economy, I have come up with an idea. After endless nights tossing and turning in my bunk, and countless days contemplating various options, I decided to draw up this proposal for you, Commissioner Goord. Hopefully society will profit from its execution.

Although I am a prisoner and you may at first be somewhat skeptical of my intentions, I hope you will put your feelings aside for a moment and weigh the possibilities I offer. For your information – and I assume you presently do not have my folder in front of you to evaluate my credibility – I have twenty years experience behind the walls. Who is more familiar with the treacheries of life in the penitentiary? That is why I feel confident the deal I am about to share with you and your colleagues will make you reassess current policies and implement new ones. I am particularly concerned that New York State officials – you, Senator Nozzolio, Governor Pataki – receive my recommendations (and perhaps you can help me regain parole in return), but I think my plan could benefit corrections systems everywhere.

Before I begin, let me stress that I do not anticipate you having financial difficulties, especially considering Governor Pataki’s popularity among his constituents and recent program cuts in corrections. As a matter of fact, cutbacks undoubtedly make available funds necessary to make this project possible. And once it is underway, education, drug addiction counselling, job skills, or the need to worry about prisoners’ transitions back to the street will all be irrelevant. Of course, there are other areas in the Department of Corrections that can be scaled back if more money is needed. So I shall address those issues to the best of my ability. As for funds and your associates, let me say this.

If you wonder where you will find the initial cash to begin this operation, perhaps the State can appropriate a portion of the 25 million dollars a year it generates from prisoner phone calls. If so, I predict you will be able to repay the loan in the course of a year. In addition I suggest you abolish pay wages for prison jobs; convicts will be more than happy to work for free to get out of their cells for a few hours. You could also jack up the prices in the vending
machines in the visiting rooms, increase penalties for misbehaviour reports from five dollars to ten, and make prisoners pay the State for room and board.

My suggestion will ultimately accumulate more cash in one day than prison industries do in a whole year. I am not one given to bragging or making exaggerated claims. So I urge you to evaluate my recommendations carefully, and to grant them the same attention you would officers' concerns. Rest assured I make these assertions with a certain degree of confidence after conducting several studies that back them up. Primarily, I consulted with a team of financial analysts at Cornell's business school, and particularly with a friend of mine there who happens to be the chief economist - and, I might add, who advised me to sink every dollar I own into this venture.

As part of my analysis I conducted a "Monte Carlo Simulation," a study that predicts how much the endeavour is expected to earn over a given time period. The report predicted earned annual growth rates of 350 percent - quite enough to stir public interest and appeal to savvy investors. So I submit to you with all honesty, Mr. Goord; this project will unquestionably pay for itself.

As I mentioned earlier, costs do have to be considered at the outset. And after discussing this at great length with my mentor at Cornell, I was assured start up expenses would be just over 12 million dollars. I realize this might seem a bit high, but I am convinced - and the figures I have enclosed demonstrate - that projected profits for the first month of operations will be ten times greater than the outlay for the entire production. Financial gains aside, my game plan not only has numerous advantages for society, but also for its participants. Incidentally, you will probably have to contend with prison activists who will object to my scheme. Frankly, I welcome criticisms. They allow me to formulate new strategies and improve my agenda (although I have taken great pains to calculate a multitude of variables already.) Still, I am confident once you air the first telecast - that is right, I am talking about the most spectacular program in the history of television - the event will be so successful the cries of your detractors will be drowned out by the cheers of your supporters.

Before I continue, let me digress for a moment. Perhaps it is presumptuous of me to assume all your associates know precisely what goes on in our penal institutions. Allow me to enlighten them on the bitter reality of prison life.

Every day COs (corrections officers) risk their lives when they enter correctional facilities. If a riot breaks out, they are the first to be raped or
killed. They can surely attest to how dangerous jails are, and how often prisoners brutalize each other. It is this that makes a program like mine necessary.

Today the widespread availability of heroin in our penitentiaries and the increasing use of myriad drugs are not only an explosive mixture with potentially deadly consequences, but also the source of most, if not all, violent episodes. There seems to be no end to the number of men who are victimized by drug dealers they cannot afford to pay. Besides attacks related to narcotics consumption — and I remind you the unusual incident reports included here support my contentions — petty differences escalate into unbelievable acts of brutality.

One reason for this is that men are forced to house together in double bunk cells. Case in point: two prisoners at the special housing unit in Upstate Prison clashed in their cell in May. Not surprisingly the battle was over something as meaningless as a fluorescent light. The Associated Press reported that one prisoner liked to sleep late and stay up at night to read, while the other was an early riser who liked to go to sleep early. The dispute ended when the larger and stronger combatant used his hands and feet to pummel his cellmate to death. This illustration supports my position perfectly. So for your consideration, here is my proposal.

On any given day in New York State, convicts are being killed, assaulted, burned with hot cooking oil, stabbed, bludgeoned, disfigured, raped, and slashed to ribbons. Few, if any, of these battles are recorded. If hidden video cameras had been installed at Upstate, do you suppose it would have been interesting to watch this from the comfort of your living room? I do. That is why I urge you to videotape all assaults and market them worldwide.

The inspiration for this occurred to me one night after skimming through an old *Gallery* magazine. Inside was a story about Ultimate Fighting Championships (UFC) in New York. Several photos depicted wide-eyed, muscle-bound contestants, squared off hand-to-hand in blood splattered octagonal cages. The bouts were described as “The hottest pay-per-view sport on television.” According to the article, men fight in no-holds-barred matches until one either gives up or is knocked out.

I immediately saw striking similarities between UFC competitions and the combats in our facilities. Soon I realized that people all over the world are interested in seeing this type of entertainment. The popularity of shows like Jerry Springer and reality TV support this. So I thought, why not provide the public with authentic, gory, gladiatorial contests? The Romans packed stadiums
with thousands of fans eager to see Christians devoured by wild beasts and slaves hacked to pieces.

As you see by the incident at Upstate, penitentiaries breed hostility. On an average day, hundreds of prisoners are ripped with razors, and even more are victimized by one of the several unpleasant methods I described earlier. Of course since security is woefully inadequate, and video cameras are not in place, disturbances like these are neither documented nor taken advantage of. So for that purpose, and considering UFC's success, I contacted a man who could tell me how to turn the prison carnage into dollars.

Mr. John Markowitz, the president of New York-based Spartacus Entertainment, found my idea fascinating. He said: "It has the potential to be immensely profitable ..." Mr. Markowitz explained: "Tough man competitions in N.Y. and Europe have been sensational ... customers paid fifty dollars and up for tickets and they were always sold out." He emphasized that UFC subscriptions jumped from 90,000 to 350,000 in two years, and added: "There's a lot of money to be made in this business; however, there are obstacles you will have to overcome. Particularly, opponents who will seek to ban your events the same way they outlawed the UFCs."

Chief among the pointed accusations hurled at Mr. Markowitz and the UFC was that his affairs were nothing more than "Human cockfights ... savage, barbaric skirmishes that unraveled the moral fiber of humanity." The most vociferous critic was a Senator named John Goodman (R-Manhattan), who stated: "This sport has no place in civilized society and I will do everything in my power to ensure it is banned forever." Mr. Markowitz hinted the Senator was motivated by political interest because later, in response to "community leaders' concerns" (it was election year), Goodman wrote several articles for the Daily News condemning the UFC. In one dated October 28, 1985, he said: "New York cannot and will not become a haven for this type of bloodthirsty activity."

Political considerations aside, I believe Mr. Goodman is out of touch with reality. The fact is that countless acts of uncivilized cruelties occur every day in the corrections facilities of Mr. Goodman's home state that make toughman competitions look like Snow White and the Seven Dwarfs. My intention is to showcase these incidents, and use them to aid society.

Regardless of how citizens view violence, it still flourishes in our institutions. Remember Corcoran State in California? Officers there pitted black and Latino gang members against each other and wagered on the outcome. The fights
were aptly described in the _Los Angeles Times_ as “Blood Sports.” The special report said several men at the jail were allowed to knife their enemies to death and were then, themselves, shot and killed by marksmen in gun towers. Amazingly, every one of the triumphant combatants had received a single bullet wound to the head. After the FBI had received complaints from prisoners about human rights violations at Corcoran, questions surfaced and investigators demanded to know why warning shots had not been fired first. Soon after the Feds got involved several officers were arrested, and ultimately convicted in Federal Court. One, a captain suspected of being the mastermind of the brutalities, committed suicide before he was scheduled to go on trial.

The lessons of Corcoran and the UFC were not lost on me and I incorporated them into my strategy. During my research I dissected the mayhem and assessed the feasibility of capitalizing on prison attacks. I felt certain my idea’s time had come. If citizens enjoyed seeing prisoners battle each other, imagine how much more thrilled they would be watching snipers gun them down. I decided “Blood Sport” entertainments were precisely what the public wants and needs. I could think of no better way to satisfy society’s primal urge for revenge, while simultaneously performing a great service to humanity by eliminating its human waste. Here was a way, I realized, to make good use of criminals; a way to make their cruelties work for us; a way the savages could redeem themselves by titillating millions of viewers’ passions worldwide.

After consulting with several electronic specialists I determined that setting up this project would require some changes in DOCs’ current system. Video cameras with zoom lenses would have to be positioned in strategic locations everywhere, especially in Special Housing Units – not to detect and prevent barbarity, but to exploit it. Obviously if prisoners continue to kill each other in double-bunk cells, and my arrangement is approved, videotaping assaults will enable officials to charge assailants with new crimes. Toss in a bunch of gangs, lax security, incompetent personnel, lots of narcotics, plenty of weapons, and you have the whole recipe. The prisoners will take care of the rest.

Imagine the entertainment value. I am convinced the average citizen wants to see bloodshed. It is satisfying to sit at home, turn on the television, and watch real life-and-death drama unfold before your eyes. Instead of opening with a catchy tune called “Bad Boyz,” Prison Television (PTV) would begin with the sound of slamming steel gates, the squelching of walkie-talkies, the echoes of raw hateful profanities reverberating through cell blocks, and images
of hard-eyed convicts, peering through cell bars with mirrors, or hanging on
gates, glaring at officers during mandatory counts.

The appeal of PTV would stem from its ability to capture unadulterated
film footage of gang attacks, stabbings, slashings, assaults, and murders. The
public has no idea about what goes on in our prisons. This type of program
will satiate their curiosity. I am positive viewers will be gripped by a sense of
fascination as they watch the events in living colour.

For instance: a camera pans the yard and concentrates on a group of
prisoners huddled around a television. All eyes are focused on a basketball
game. The Lakers and Knicks are tied and there are five minutes left on the
clock. The crowd is mesmerized, cheering their team, unaware of what is
about to happen. Several men in hoods are paying close attention to a man at
the rear of the pack. They nod to each other and disperse. Two advance like
Ninjas; silently they creep closer to their target. The audience at home knows
that something is wrong. They can tell the thugs who have approached the
cluster are up to no good. Their body language has betrayed their intentions.
The pair slide up on the unsuspecting victim from the left, one circles to his
right. The designated hit man turns and aims a glance at an officer in his guard
booth. His chin is resting on his hand, he is staring off in the distance,
preoccupied with who knows what, oblivious to what is about to occur.

The three men nod to each other, each drawing courage from his cohorts.
Instantly, spurred on by their solidarity, they act as a single unit with ruthless,
military precision. One bumps his prey; it is a diversionary tactic. The mark
turns left and looks at the man who bumped him. Suddenly, in a flash of
blinding cold steel a hand shoots out from the right and rakes a razor across
his face. Blood pours from his wound and the crowd sways and rolls in panic.
All eyes are wide and scanning the perimeter now. Shock and terror are etched
on the expression of the man gripping his torn, flapping cheek. His assailants
have scattered in several directions. The officer in the wooden shack realizes
something is wrong now; the cluster of prisoners is not watching the game.
He eyes the mob and spots a man bleeding profusely from his face and summons
help. A swarm of cops arrive and toss several men on the wall and rush the
injured man to the hospital. Real life in the penitentiary brought to you by PTV.

Of course there are some disadvantages to consider. Even prisoners who
are dumb as nails know getting more time for killing is bad business. So sooner
or later the incessant brutalities will cease and the opportunity to increase
prisoners' existing sentences will be lost. Yes, convict populations will shrink
and become less violent, but packs of young thugs weaned on “Gangsta Rap,” eager to become TV stars, will burst through penitentiary gates to take up the slack.

First and foremost my primary concern is, and always has been, society and its victims. That is why I suggest we use a portion of the profits from PTV for both law enforcement and the crime victims association. Our police could use these funds to improve the quality of investigative techniques and put more cops on the street. The police could also offer handsome rewards to snitches for information regarding crimes. This would diminish the number of undesirables in our communities, and fill our prisons with new, prospective combatants culled from the underclass.

Eventually PTV will serve the public by ridding it of its monsters, burying those killed during incidents (at a cost to their families), and preserving the futures of those lucky enough to be scared straight. As a result, New York State will eventually become crime free and a much safer place to live.

As Mr. Markowitz said, I realize we will have to overcome massive protests, that liberal-minded bleeding hearts will say this is insane ... But I am convinced if prisoners are given the choice between dying and doing life, they will choose death every time.

Sceptics may question the logic of my premise, but the fact is that for some prisoners the sorrow, pain, loss of freedom, and separation from loved ones, is unbearable. I can attest to that having been behind bars for the better part of twenty years, and especially after having been present in the visiting room last week and observing the following scene.

A young man rose from his table after his visit ended, kissed his teary-eyed wife goodbye, and struggled to pry his tiny daughter’s pink fingers from his shirt as she cried: “Daddy, Daddy, please don’t go!”

The psychological strain of doing hard time with absolutely no chance of ever going home, as opposed to the freedom of dying, seems, if not understandable, at least preferable. No one wants to spend his life living in fear, or suffer the interminable pain and heartache associated with being incarcerated forever. So, I assure you, PTV will improve society and help prisoners as well.

Theoretically, crime must decrease considerably within the first five years of PTV’s inception. Indeed, security officials will regain control of their prisons, and bedlam should all but cease. And for most of the elderly prisoners like myself who live within the rules? We will undoubtedly live out the remainder
of our time, and die peacefully at a ripe old age of natural causes. So whether or not you help me make parole, I will still reap the rewards of this program the same way society and its good citizens will.

For all the reasons listed herein I trust you will find my proposal worthy of realization, and let the games begin.

Joe Miceli (#84A6855) is locked up in New York State. He can be contacted at Box 618, Auburn, NY 13024, U.S.A.
It is no secret to anyone that prison can be the darkest of experiences. On Easter Sunday morning in 1997, however, I was at least cautiously optimistic that even here in prison, even at a tough unit like Rynning at the Arizona State Prison Complex at Florence, it would be a good day. It was a beautiful spring morning in the Arizona desert, all the foliage in full bloom and the joy of Easter was clearly in the air. Breakfast passed uneventfully in our building, and everyone seemed in good spirits.

Easter is a day to experience, for Christians, the unbounded joy over the Resurrection of Christ. After returning from breakfast, I spent some prayer time alone in my cell. Later, I turned on the television and saw some live shots from Rome where Pope John Paul II was blessing thousands of the faithful at St. Peter’s Square. Yes, it would be a good day. How could it not be? The image of the Pope stayed in my mind for the remainder of the morning, and was still there as we left to have lunch. Our building entered the dining hall at approximately 11:20 a.m. The meal consisted of sandwiches with coldcut meats, coleslaw, and Jello. I found an empty seat among some of the inmates and sat down.

The peace and the tranquility of that Easter Sunday suddenly came to an abrupt halt at 11:30. A prisoner noisily dropped his tray and utensils on the far side of the room. While everyone looked over to see what had caused this, I heard a sharp popping sound directly behind me at an adjacent table. As I glanced up from my food, I saw small red droplets spraying through the air, hitting my clothes and food. My initial thought, actually, was that what I saw looked like Tabasco sauce. Time seemed to stand still for a moment, but as I turned toward the adjacent table I saw two prisoners, both with homemade shanks, furiously but diligently attempting to kill a third man. The assailants seemed to direct the majority of their blows to the neck of the victim and blood spurted out of him. One man yelled, “Die, die!” as he continued the attack.

I managed to move away, shocked at how close I was to the incident. At the same time I noticed the lone female staff officer frantically radioing for assistance, powerless to stop what was happening. Various prisoners dived for cover in an effort to stay out of harm’s way. Amazingly, after the two attackers finished pummelling the man with over 40 stab wounds and as backup staff arrived on the scene to restore order, both assailants calmly walked over
to the female officer. They placed their weapons on the counter and put their hands behind their backs in anticipation of being handcuffed. Their victim, clinging to life, now lay in various puddles of his own blood on the floor.

The aftermath of this tragic event was equally surreal. Medical personnel rushed in to attend to the badly injured man. Soon they gingerly placed him in a wheelchair, with towels and bandages covering his wounds, and rushed him out to the complex medical unit. Meanwhile, a team of staff officers, having just arrived, led the two handcuffed prisoners out of the building to be interrogated. The entire Florence complex, consisting of several units, was immediately placed on administrative lockdown. Those of us already in the dining area, however, would remain there until staff completed videotaping the crime scene. It is safe to say that none of the prisoners managed to finish their lunch. It would have been an understatement to say that we had collectively lost our appetite. I recall looking down at my shirt and seeing the splotches of blood on it as well as on my right forearm, a clear reminder of how close I had been to the eye of this storm.

I was back in my cell shortly after noon. Sitting on my bed after removing the bloodstained clothing, I tried to hold my hands out in front of me, but I could not do so because they were trembling too much. Later, the word came via the grapevine that the motive for the stabbing had been a series of unpaid drug debts.

The fallout from the Easter Sunday brutality was, understandably, no cause for joy either. The Pinal County Attorney’s Office charged the perpetrators with multiple counts of aggravated assault with a deadly weapon, and they eventually pled guilty. The resulting prison sentences were added consecutively to the time they were already serving. The victim slowly recovered his health after a lengthy stay in the hospital, where he had to be fed intravenously for a time. After all of the stitches were finally removed, he was sent to a remote, and hopefully more peaceful, minimum-security unit in Yuma, Arizona. The Department of Corrections, obviously hoping to avoid any further near death-experiences in the dining hall, installed a state-of-the-art metal detector at the building’s entrance. All prisoners coming to eat would now have to pass through this airport-like device that would presumably weed out anyone carrying a weapon.

On a day when the worldwide Christian community celebrated death to life through the Resurrection of Christ, a group of Arizona prisoners came perilously close to experiencing life to death in a few short moments. The blessedness of
Easter was suddenly snuffed out by two men venting their anger and hate in a profound way. I am certain that I will never forget what I witnessed that day. One fellow prisoner later remarked, “They could at least have waited until Monday.” Sitting alone in my cell, my head in my hands, I firmly resolved not to let the horror of the moment overshadow the dazzling splendour of the day.

**James Gates** (#88434) is incarcerated at Arizona State Prison Tucson, Box 24406 Santa Rita 3 B 18, Tucson, Arizona 85734, U.S.A.
On a quiet day almost twenty years ago I watched two fellow prisoners at Florida State Prison enter Dana DeWitt’s cell and stab him so viciously that his blood painted the walls and ceiling like a Jackson Pollock abstract. Neither the first nor last murder I would witness, I nevertheless marked it as one of life’s broadening experiences, for it was the first time I personally saw a man confess to a crime he did not commit, and personally saw an innocent man sentenced to death. James “Pop” Agan, with a documented history of mental illness and driven by indiscernible imperatives, soon stepped forward. Pop not only confessed to Dana’s murder, he insisted on pleading guilty, a strategy his court-appointed attorney, who conducted no independent investigation, fully embraced. At sentencing Pop vociferously demanded a death sentence, and Judge Green obliged. Many years later the federal appellate court took Pop off the row, not because of his innocence, but based upon his trial attorney’s blatant incompetence.

Seventeen years ago, Earl Washington, black, poor, and bearing a borderline IQ, allegedly signed a confession helpfully typed up for him by police. In it, Earl, unable to read, “admitted” to the brutal rape and murder of a young woman in bucolic Culpeper, Virginia. No other corroborating evidence existed. Earl protested his innocence. But who would listen? Earl was sentenced to death. On the eve of execution, then-Governor Douglas Wilder, troubled by the facts, commuted Earl’s sentence to life. Last year, faced with DNA evidence excluding Earl and implicating the true killer, Governor James Gilmore pardoned Earl.

Fourteen years ago, Frank Smith, poor, black, and with an extensive documented history of mental illness, was arrested for the rape and murder of an eight-year-old Fort Lauderdale girl. Though the only evidence was two questionable eyewitness identifications, Frank’s trial attorney helpfully pled him not guilty by reason of insanity, a de facto guilty plea because it concedes the defendant committed the crime. Relieved of its burden of proof, the state easily convicted and sentenced Frank to death. One eyewitness later recanted, testifying that police pressured her to identify Frank.

In 1972, serving life for a Miami robbery, and tutored by an ex-judge doing life for double murder, I dedicated myself to studying law. Infused with the Panglossian1 confidence of a neophyte and the fervency of a zealot convinced

1 Blindly or naively optimistic (editor).
of the inherent justness of the system, I set out on my odyssey. In 1988, my own personal tides propelled me to death row for my part in a botched attempt to free a friend from a prison transport van in downtown West Palm Beach, during which my co-defendant shot a prison guard.

I celled close to Frank Smith for ten years. Crazy as Hamlet, often behaving irrationally, Frank was easily overlooked and looked down upon by prisoners and staff alike. Frank shuffled around Florida State Prison in quiet desperation, convicted of and ostracized for a crime he said he did not commit. In his deepest moments of private pain, Frank sometimes came to me, painfully deferential, his taped-up state eyeglasses framing a face without happiness or anticipation of anything, clutching tattered legal papers as indecipherable to him as a Mandelstam poem. I would patiently explain the merits of his lawyer’s latest motion, even as I blithely assumed his guilt. I should have known better. I can still hear Frank’s gravelly voice, like a refrain in a minor key, reaching up through his psychosis, claiming his innocence with the same passionate articulation he employed to proclaim himself a messenger of God. Perhaps he was. People were, Frank assured me, plotting on him. Perhaps they were. Who would listen?

In January 2000, Frank Smith, stricken by cancer, still enduring his own solitude, quietly died on the other side of truth. Ten months later the FBI released its DNA report conclusively excluding Frank. The assistant attorney general, doubtless a dedicated public servant, expressed shock and dismay that she had so earnestly sought the execution of an innocent man for so many years. “I was certain he was guilty,” she lamented. The case has been reopened. Who will listen to the voices of those murdered by the true killers while Frank and Earl languished in prison?

Fourteen years after I stood up in a West Palm Beach courtroom to demand the then-nascent DNA testing that could conclusively establish I was not the triggerman, the bloody clothes remain untested. Though the state now belatedly concedes I was not the shooter, it vigorously occupied the opposite position at trial and I was sentenced to death by a judge and jury that believed them.

One need not study law for twenty-eight years to discern the common threads in the warp and woof of this fabric. Cases like Pop, Earl, and Frank

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2 The great, enigmatic poet of twentieth-century Russia, Osip Mandelstam (1891–1938), employed a poetics based on recollection.
are as common and close as yesterday’s Chicago Tribune, today’s Newsweek, or tomorrow’s segment of “Nightline.”

Between them all lies a continuum of consequences. People inexplicably confess to crimes they did not commit, innocent people occupy death row, and DNA tests are not done. To remain silent is to speak the lie of acquiescence. Who will listen?

William Van Poyck was transferred to Virginia’s death row in 1999, following the death row murder of his co-defendant, Frank Valdes, allegedly by a group of prison guards. The guards await trial for murder. William (#274949) can be contacted at Sussex I State Prison, 24414 Musselwhite Drive, Waverley, Virginia 23891, U.S.A.
I am guilty. There, I said it.

I know, you are surprised that someone behind Michigan’s grey walls and razor wire will admit his guilt. I have been locked up for a dozen years now and I realize that I am wrong – so, so-o-o wrong about so many things. And now that I have realized this, admitting it is not so hard.

How do I know I am guilty? Easy – the state tells me. If I were not guilty, the charges would not have my name on them. I have received over twenty-five “major misconduct tickets” during my twelve years of penance, and each one of those tickets had my name on it. I am a thief, a violator, a disobeyer, and, most recently and somewhat distressingly, a terrorist. It is true. The state told me. I am guilty of stealing my own book. I do not exactly understand it myself, but I have learned to trust the state’s judgment. After all, it would not waste the paper and hours to write, investigate, and hold court on the ticket if I was not guilty.

I have also discovered that I am a misuser of state property valued over ten dollars. Scratch that. I am an unauthorized communicator. The hearings officer, a state-paid lawyer with a keen insight into the nuances of Michigan’s laws and human nature, agreed with me that tossing a dirt clump the size of a quarter at a window to get someone’s attention was not quite misuse of state property. Imagine my relief! I was not a misuser!

I was not out of the woods yet, however, and the hearings officer was quick on the rebound. After all, my name was on the ticket, so I must be guilty of something. The officer who wrote the ticket knew it. I knew it. The hearings officer knew it. If I were not guilty of breaking some law, I would not be in the penitentiary. If I were not guilty of some violation, this major misconduct ticket would not say “James Blau #214995” across the top of it.

The hearings officer’s brows knitted. He chewed his pen. He scratched his ample jowl. Then his face brightened. “Throwing dirt is not an authorized form of communication between prisoners!” he exclaimed. I was an unauthorized communicator! It is good to know what I am guilty of, even if I must face the punishments. Somehow it does not feel right to be guilty but not know of what one is guilty. There are so many rules in Michigan prisons, I am sure to be in violation of a half dozen at any given time. Two pages of rules for the chow hall, another two for the cellblocks, another two pages for the recreation building, and, wow, a small pamphlet crammed full of rules for
visiting rooms and telephones. I know that if I could afford a consultant, I
would not be guilty all the time.

I guess I am guilty of misleading you, too, because I now remember that I
am a misuser, although I think that I have rehabilitated myself since the charge
several years ago. At a penitentiary in the northern peninsula of Michigan I
spent several months in administrative segregation, which is a profession-
sounding term for solitary confinement, which is a fancy term for the hole,
which is aptly named. Fed in our cells, I kept a small Styrofoam cup so I did
do not have to suck the water out of the grimy spigot on the sink-toilet combination.
When an officer found the offending cup, cleverly wedged under the radiator,
he wrote a ticket for “Misuse of State Property.” Of course I was guilty, but
because the disposable cup was valued under ten dollars, it was considered a
minor infraction. The cup, however, carried the significant status of being
“food-related contraband,” thus entitling me to be loafed for two weeks. Food
loaf – the breakfast, lunch, and dinner of the guilty. Food loaf consists of an
inedible blend and bake of several whole meals served, sans utensils or cup, in
wax paper and brown bag. (Guilty people can lap water from rusty spigots.)

Fortunately, I survived on the charity of my finicky neighbour, Mark, whose
unwanted squash and coleslaw were the best dishes I ate in my hungry life.
Unfortunately, an officer caught him sharing and informed us that we were
guilty of “Interference with Administrative Regulations,” a major misconduct.
I believed him. So did the hearings officer. As I mentioned, he is a lawyer at
the bar and a very astute interpreter of Michigan departmental regulations.
Mark and I both got loafed for two more weeks.

The worst guilt I have experienced occurred in the wake of the September
11 terrorist attacks in New York and Washington. On the morning of November
14, 2001, I was in the Kinross prison’s hobbycraft building, making Christmas
gifts for my family, when a squad of guards physically arrested me and escorted
me to the hole. They stripped me, then searched my naked, guilty body and
tossed me into a small isolation cell. It did not take long to inventory my new
surroundings, for there were only three things in the cell: a bunk, a toilet-sink
combination, and a video camera. I felt horrible because I knew I must be
guilty of something really terrible this time. I waited. I paced. I stared at the
ceiling. Finally, the next afternoon, a pompous official read me my rights.
Truly, I had done something terrible, for this was bigger than a prison rule
infraction. This was a felony crime! He then read me a police report stating
that I was under investigation – which, as we have discussed earlier, means
that I am guilty – for sending a letter to a prison official, a letter containing white powder and a threat of anthrax!

Although accustomed to being guilty, I was nevertheless stunned by this revelation. I knew I had nothing to do with anything of this sort. Trusting the state to determine my level of guilt, I offered my DNA, handwriting samples, and a polygraph (lie detector) examination. They returned me to my stifling dead-air cell with no warm water for washing, no writing surface, no access to mail from friends, family, or lawyers but, of course, it did have the ever-vigilant camera scrutinizing my every guilty bodily function.

For two weeks I waited under the silent observation of unseen guards and prison officials, while friends on the prison yard contacted my family and friends and gave them relevant information, letting them know who were the actual guilty parties. My family and friends poured letters and calls to Kinross's Warden Kapture (yes, his real name) and the state police who, without warning, dropped the investigation after two weeks and refused to follow up on leads to the culprit – who was known as a favourite informant of the warden and a member of a religious group to which the warden personally contributed funds.

I was exonerated. Yet I knew I was guilty of something, for the warden transferred me to Michigan's equivalent of Siberia, on the northern side of Michigan's Upper Peninsula. Newberry, my new prison, serves two main purposes: high school equivalency education, and punishment of troublemakers. Having a college education, it is doubtful that Warden Kapture sent me to Newberry for educational reasons.

I am guilty and I do not know what to do. I have thought about self-flagellation, but by current valuation standards I would be misusing state property valued over ten dollars. I would confess more often, but the officers seem to resent guilty parties like me dampening their creative initiative.

I am up for parole, but given my overwhelming guilt, release is not likely. But then, I am not sure I want to go home. Who would point out my guilt with such pinpoint precision? Who would see to it that I am punished amply and abundantly? My family assures me that there will be plenty of volunteers, but for now I think I shall just stay here and try to figure out why I am so damn wrong all the time.

If you would like to point out some further guilt, or just drop a few lines to chat, feel free to write me at: James Blau, #214995, Newberry Correctional Facility, 3001 Newberry Avenue, Newberry, Michigan 49868, U.S.A.
James Blau has written previously for the JPP (Volume 11) and can be contacted at the address above.
The more education, the more foresight.

James Bauhaus

Prior to the torching of New York’s World Trade Center, few would have believed that innocent people could be yanked up out of their seats, beaten and thrown in a cage merely because they were sitting next to a criminal. I was, and that is just the first step in an ongoing, thirty-year odyssey of tragedy, torture, harassment, and confinement based on fraud by hundreds of officials. One day soon even you might suddenly “fit the description” and be beaten and dragged away by grinning, sparkling-eyed detectives drunk on the chase and their power. By reading this, I hope you will be forewarned and able to scotch the process before it reaches its insane climax.

The skulduggery began with an uneducated, teenaged, paroled joyrider. He lived with six other teens when detectives broke in and ransacked the place at gunpoint seeking drugs. They found empty beer cans and the parolee instead. They made him choose between finishing his sentence or handing them all the dope dealers he could squeal on.

The detectives gave Joyrider marked money and drove him in their unmarked cars to all his friends and acquaintances, trying to buy dope. For this coup the detectives planned on getting the weekly bonus for their team, plus subsequent raises and promotions as they rode their snitches to fabled dope kingpins. Joyrider planned to spin fables of dope kingpins until he could engineer a chance to jackrabbit away. The unseen flaw in both plans was that no one would sell Joyrider and his beefy, furtive pals any dope. Eventually they gave up, planning to try again the next day. They gave Joyrider one of their business cards so he could call them immediately if he found any dealers.

As soon as that last promise passed his lips, Joyrider sprinted for his girlfriend with a new plan: he would rob some people for money to get out of town. He called another teenaged friend who had a car and a gun. They robbed an elderly couple whose lawn Joyrider had mowed years previously. They did not recognize him, but he handed them the detective’s snitch card in order to sucker them into opening their door. He forgot to get the card back.

The crime was reported as soon as they left, and the detectives spent the rest of the night and most of the next day one step behind Joyrider’s current
whereabouts. The six friends he lived with admitted to police that he had boasted of the robbery before leaving for his girlfriend’s home. Her mother told police they had just left and that she was due at work at a restaurant by six o’clock p.m. I worked at that restaurant and my shift had just ended. I sat at the counter waiting for another cook to prepare my supper. A few minutes later Joyrider took the empty chair next to me. Shortly after that my life turned to shit, simply because I was a white teenager sitting next to a known criminal.

Two suited men entered and grabbed Joyrider in a chokehold. One demanded of him, “Who’s this with you?” Without pause, the other barked, “Take him too!” He choked me with one arm, pressed a gun to my spine, and dragged me out with Joyrider.

Though Joyrider’s courtroom “defence” was mild retardation and illiteracy, he was again quick enough to deduce which way the detectives’ thought processes were flowing and take advantage of it. When they got him hog-tied and out into the dark, they began pinching off his air and the blood supply to his brain. Instantly he croaked agreement to their speculation that I was indeed Robber Number Two. They quickly stopped torturing him and rallied to torture me.

Innocent people do not confess easily. They choked, poked, punched, and wrenched me as they demanded that I confess. They used their wrist shackles as torture devices that threatened to slice my hands off. This is standard practice, I learned later. I could not see my shrieking hands bleed and turn blue as I sat on them while the cop in the back seat periodically strangled me, but I knew they would never again work properly even if I survived. The cops promised to kill me, and each time I awoke it was the same nightmare. They were immune to reason. Like a vampire, one squeezed his thumb and fingers on my carotid artery every time I denied their accusations. My whole head tingled with the rush of blood returning, hurtful, like a numb limb getting fresh blood. This effect became more pronounced as they choked me closer and closer to death. Their eyes and teeth glinted with feral pleasure as they recounted how many “gooks” they had turned into vegetables with this technique. When I became unresponsive, they drove me to their lair.

Still I tried to reason with them. This non-confession tactic drove them mad. One officer finally bashed my face with his leather-gloved fists. My nose dribbled blood like a spigot. Just before he beat me unconscious, I saw it spill on his pants as his knee rushed up to slam into my testicles. I awoke with my head in their wastebasket. They threatened to start again. Two thoughts entered
my head: “What good is life without hands?” and “Civics books say forced confessions are not permitted.” I slyly promised to confess just to save my hands.

They removed their torture devices and soon I was able to legibly sign their many papers, waiving all my rights and confessing to crimes unknown. I was able to do this because I possessed rock-solid knowledge from schoolbooks that this type of behaviour was not acceptable to the judiciary. I believed that our three branches of government have a system of checks and balances that prevent and correct such abuses of power.

They left me in a dim, cockroach-infested cage for two years. One lawyer actually found the room with blood splattered all over it. He tried to exit with a smear of it on paper, but the supervising cop said he would “beat his brains out.” A public defender would not believe the facts until it leaked out from the police that even some of them believed their cronies had beaten an innocent boy. He was appalled when I demanded that he sue the cops for brutality.

He refused, of course, then fell back upon the technique that most public defenders use: delay, procrastinate, excuse, dither, ignore, and hinder all progress in hopes that it will simply go away somehow. After a thorough study of the legal process, the real reason for this technique became clear: to let paying customers to the front of the line. This self-clogging function occurs because legal services to paupers are paid for at the first of the fiscal year in one huge tax-gobble. Like a lamb to slaughter, I fell for each excuse and trick in turn. “Go to the nuthouse for a few months at taxpayer expense and enjoy hospital food while we verify your sanity.” In reality, this meant: “We will be waiting for the news media to cool down.” “I have not had time to investigate yet.” “The depositions are not ready yet.” “The hearing is delayed due to backlog.” “Be smart and agree to numerous delays because the court reporter is too busy to type the hearing transcript; this is as good as gold because it is his fault they are not giving you a speedy trial.” “I’m taking a job with the prosecution; you get another public defender. Take his advice, he’s good!”

Meanwhile, the detectives were busy. They taught the elderly couple to salivate at my picture by telling them a known criminal would escape justice if they did not finger me in court. In reality, my worst crime was speeding. But elderly people do not trust their own senses and thus are easily duped by America’s finest.

The first lawyer’s testimony about my blood and their threats toward him scared the detectives badly. It came out years later that their violent ways were common knowledge in the judge and lawyer community. Their reign of
terror would eventually impinge upon several political boundaries, although a few years too late for my benefit. They sought a way to discredit me forever, which they apparently did in one last coup.

This involved steering a woman toward me. She and her husband had worked for the police, helping a famous, ambitious prosecutor grasp for the governor’s seat. His campaign of sweeping out the human garbage involved having police and local media tools publicize, with much fanfare, his conviction of many pornography dealers for obscenity. The woman and her husband were porn dealers. They pointed detectives at fellow porn merchants who had the funkiest inventory and tricked them into showing it to non-regular customers. In return, the detectives let them continue selling their own products.

After a series of arrests, the porn merchants realized it was not a good idea to let this couple vouch for strangers who wished to purchase their filthiest inventory. Police reports note that the husband began to check his car for bombs. Then the couple returned from work and found a teenager lurking inside their home. He killed the husband with one bullet as his wife watched. She began screaming. The teen threw the gun down and ran for the back exit. Bashing through the glass door, he slashed his wrist. He left a bloody palm print leaping the fence. Police followed his trail of blood five blocks to another witness. This witness, the wife, and a third witness all gave police matching descriptions separate in time and location. The police took twenty-one fingerprints belonging to the killer, as well as eight blood samples. The witnesses each helped a police artist draw the culprit they saw. All three drawings and all three descriptions agreed on four attributes: short, neat, light brown hair and no glasses.

This murder occurred October 17, 1972. The police arrested me for Joyrider’s robbery and had their media friends showcase me as their trophy for two days of a feeding frenzy just seven days later. These three witnesses could not have missed this circus, and nobody called the police to name me as the man’s killer. The killer’s fingerprints led the police nowhere. His prints were not in their database for comparison.

For seventy-eight days the police plied the victim’s wife with thousands of pictures drawn from high school yearbooks. Finally she agreed with the police that it must indeed have been me, despite the fact that the news photographs of me from October 22, 1972, prove I had very bushy, long black hair and glasses. She wanted to get the police out of her life. The detectives wanted to get me out of their lives, so they set me up for “life.”
Police keep their evidence secret. This way it can vanish, appear, or change to fit their needs with no one the wiser. The wife's part in this new deal with them required her to sign a paper naming me as the killer. The detectives immediately called their media friends for a second feeding frenzy and backslapping party. They put my picture in newspapers and broadcast media, complete with grisly, anonymous, police-source accounts of the crime. This poisoned the skepticism and logic in the juror pool, as surely as an ice cream commercial causes a run on the dairy case.

The public defender came to the cage and showed me the lies in the newspaper. I sent him and the two other public defenders to get some of this blood from the detectives for testing. Only one public defender was successful. His mission alerted the police to the fact that a conviction would be impossible unless they found a way to lose the blood. They simply lied to each public defender in turn, claiming no blood samples were collected. Police and prosecutors paid lip service to physical evidence, but knew that in fact all they really needed for conviction was two pointing fingers and a glib spiel. The factors that caused this phenomenon are too numerous and diverse to list here, but television programming spawns many of them.

One of the detectives next took a picture of me and the murder victim's wife's sworn, official receipt for testimony to the woman who reported seeing the culprit nosing about the victim's home shortly before the murder. She knew their picture of me was not of the culprit she had seen. She told him so and refused to sign the detective's receipt for testimony against me. Ninety-four days after the crime, this detective took these props to their third witness. Despite the fact that the detectives had concocted this picture of me in black and white, with short hair and no glasses, she also refused to sign. She even told the detective that she remembered seeing me in the newspaper months ago and that my hair was too long to be the killer she saw. She excluded me on this basis back in October of 1972.

Stymied, the detective cogitated over this setback for twenty-eight days before typing into his "weekly" report the obvious solution. He simply lied, claiming she had indeed named me as the killer. Amazingly, he also typed her words into the report, remembering my too-long hair in the newspaper one week after the murder. These he garbled only slightly to slant them in his favour. These clever detectives concealed from the first witness all three drawings and all three of their descriptions of the actual culprit. The five
detectives who had collected the eight blood samples all forgot how many had been collected and who had collected them, but they were certain somebody had collected some at some time. We could not find out how many of the killer's prints they had either, or to see them, and had to take their word that they were smudged and thus useless.

The murder victim's wife pointed like a champion, but one of the other witnesses balked. The prosecutor had not needed her at the hearing, which is well known to be a farcical procedure. Only one pointing finger is enough "proof" for a judge to require trial. At trial, however, the minimum is two pointing fingers. During the pre-testimony rehearsal the prosecutor was stunned to hear this witness repeat her refusal to incriminate me, as she had already told my third public defender the previous Saturday.

The trial was delayed while police and prosecutors used their lying police report written fifteen months previously to threaten her with perjury. The police document said she had named me as the killer. "Was she calling the officer a liar?" "Did she want to go to jail for lying to the police?" "A known killer is going to escape justice because of you!" "You cannot change your mind now!" She quickly saw the virtue of agreeing with the police.

The police monopoly on decisions about which evidence is concealed, revealed, or manufactured leaves accused people who are innocent with no defence beyond our screams of indignation. Even these are cut off when the judge forces us to object by whispering in the public defender's ear. The public defender early on sells us the notion that the appeal judges will correct any "mistakes." This tactic permits him to exit with dignity after the verdict before the accused realizes the whole process was a fraud.

The appeal system demonstrated to be a farce only after four long years of having reason and logic triumphed by legal gibberish. Its primary function is to provide false hope until the wrongly convicted becomes inured to captivity. This prevents most suicides, escapes, and attacks upon guards. By the time you learn it is a farce, you are deep enough into your sentence to see a glimmer of parole, which performs the same exact function of false hope.

The killer was seen twice after the murder, first by my sister in her checkout line at work. He was startled to see her distinctive nametag. She was startled to see his similarity to me. He gave his name as "John Shelton." The second time he was seen by a fellow prisoner, who teased me with reports of how someone at the trustee building looked like me and claimed to know me. He would not reveal the guy's name, but I thought I already knew it. I wrote the
police, telling them that his prints were now in their database and to please match them with the crime scene prints.

The police ignored me, but called the warden. He sent an assistant to get my whole story. He promised to help, then vanished. Less than ten days later another prisoner murdered "John Shelton." Inexplicably, John was not at the trustee building from whence my observant friend had come. He was at the maximum-security cell-house. Two years later I was shown a picture of Shelton by a sympathetic guard. This prisoner did not resemble me, and he was ten years too old. The killer had not perished, only one of his criminal mentors had.

Three years after that, I managed to escape. For eleven years I sought the killer. Instead, I found forty police records that allowed me to piece this story together. With this proof of my innocence and their corruption, I returned to prison. My plan was to expose the facts, using the escape trial as my forum. Like an idiot, I revealed this strategy to the public defender, judge, and prosecutor. They cunningly stole my trial with an illegal ruse. They had the guards drag me past the loitering juror pool while wearing prison clothes. Then the judge claimed that had prejudiced the prospective jurors against me. He refused my request for delay until the next juror docket. Then he refused to cite me for contempt as he ran away from my angry shouts, calling him a "shit-eating maggot."1

In five years of appeals and the use of legal gibberish, thirty-nine judges in eight courts all agreed that:

1. Wholesale evidence of police theft and perjury did not exist.
2. Two witnesses' in-court finger-pointing twenty-one months after the crime was more accurate than three witnesses' separate, independent, matching descriptions (and drawings) given shortly after the crime.
3. It was my fault that I could not force the detectives to reveal the blood they "forgot" they themselves collected.
4. There was nothing strange about five forensic experts making the same incompetent blunder eight times in a row by claiming to have gathered insufficient blood once they were caught with their signatures on blood reports twenty-six years too late.

1 Pittsburgh County Courthouse, McAlester, Oklahoma, Case No. F-85-121.
5. Likewise, these judges could find nothing abnormal about my growing four to five inches of wrong-colour hair in only seven days.

Innocent convicts tend to continue demanding justice. We never accept captivity. We do not show remorse. This galls the authorities no end. They have thousands of techniques for silencing our screams. Our hordes become more numerous and harder to conceal every year. A recent invention to quash us was Clinton’s accelerated Death Penalty Act. This legal technology shoves the legal system’s “mistakes” into the grave in only two years. The small print hacks off our right to appeal after only one year. It also allows judges to call our lawsuits “frivolous,” and robs us of our junk-food money if we keep demanding justice with more lawsuits seeking an honest judge. Worse, it allows judges to snatch up our little dribbles of prison pay “savings” for filing fees, so even if we do eventually leave prison, we do so penniless.

Crying to the legislators about crooked cops and judges affords us a letter explaining that they are somehow prohibited from checking and balancing any abuse of power, despite any proof we have. With their watchdog bureaucracies, the legislators deliver excuses as to why they cannot help you in particular. Then they suggest that, “You may want to contact an attorney.” No attorney answers your letters. Sometimes the politicians “help” by forwarding your proof of official corruption to the boss or successor of the official whose corruption you are decrying.

The prison bureaucrats “help” the most. They prevent or hinder your access to stamps, pens, envelopes, paper, addresses, and information. Mail theft is common. Their rights-stealing technologies surpass those of the legal profession and the police. Since no one sees what is done to you or even cares, they can get vicious, even lethal. Two of their most effective new policies currently spreading nationwide like a plague cleverly sic the captives onto each other. These policies are known as “random celling” and “level one.” The first instigates racial violence by forcing incompatible persons to live in the same toilet-size cage. The other is sensory deprivation after the encouraged violence erupts. Typically the guards shove a black prisoner into a white prisoner’s cage and scurry back to their control habitat. If the fight does not immediately ensue, it

is eventually instigated by the Hitlerist gangs, which are exempt from this policy. They tell the white to attack or get rat-packed by the Hitlerists. If that fails, the black gang leaders are asked to threaten their "brother" the same way. Fully 10 percent of Oklahoma State Penitentiary's captives are thus intimidated out of shower and yard every day.

I personally withstood seventy days of urine flinging, fires, food contamination, et cetera, while the guards feigned ignorance every two hours, stepping over the mess that did not quite make it through the bars of my cage. Decrying this on the Internet and through letters resulted in my sites being taken down and my writing essentials taken away. Thinking beings can accomplish nothing when forced to put up curtains to stop missiles, and are forced to take them down every hour when the guard threatens you for blocking his vision. After investigating these fights, guards take each victim's radio, arts, hobbies, and even books. Stamps are limited to two a week, but only if you beg with credible sincerity.

Nebraska prisoner-victims of this abuse "won" in court, only because the medical staff kept records too well, revealing the abrupt and appalling increase in stabbings, maimings, fractures, and contusions caused by these twin policies. The judge's ruling is a roadmap teaching guards and administrators how to continue these atrocious policies in a way judges will approve. The American Correctional Association and guard unions nationwide study this ruling to learn how best to conceal the paper trails through creative mislabelling of events. By cleverly inducing the prisoners to gnaw on each other, they save themselves and other bureaucrats the trouble of addressing pesky things like innocence, corruption, humane treatment, etc. The guards fire up the microwave, eat popcorn, and watch their prisoner violence channel.

The Liebman study from Columbia Law School uncovered a conviction rate of innocent people in death row cases to be a whopping 7 percent. The rate is higher in all other cases because they are tried more sloppily than are death cases. This translates into a minimum of 40,950 innocent people convicted

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3 Click on "James Bauhaus" at http://bentburrito.tripod.com/.
4 Jensen v. Clarke, 94 F. 3d 1191 (8th Cir. 1996).
in America every year.\footnote{Justice Watch, Summer 2001 issue, p. 3: “In 2000, 585,000 ... prisoners were released [in America].” Since the prison population is not diminishing, at least this number were locked up. Seven percent of 585,000 is 40,950 innocents.} Now that we are suffering undeclared martial law and our rights are being taken away wholesale, the number of innocent people convicted each year will explode to new heights. Do not be caught unaware, as I was. Educate yourself to your surroundings. Learn to read what is implied beneath the flowery, righteous, feel-good propaganda. Be alert! The sky can come crunching down on your head at any time.

\textbf{James Bauhaus} (#88367) has been waiting for justice for a long time, and can be contacted at P.O. Box 97, McAlester, Oklahoma 74502, U.S.A.
I had a visit with my father recently. It is not often that he gets a chance to come and visit by himself, but he said he wanted to see me. Everyone was busy with either work or other important previous commitments, so he decided he would make the trip by himself. I was glad to see him.

As we sat there and struggled to find things to talk about at first, our mood quickly turned to playfulness. I think the most commonly used emotions within our family are joy and anger. We’ll usually laugh about something before we’ll get mad about it.

As my dad and I talked and reminisced, I began to notice that age is slowly catching up to him. As he told me about deciding to come by himself, he said he made sure he had cellphone numbers of my brothers so he could call one of them in case he had car problems. My dad has been a mechanic as long as I can remember and I have never known a car he could not fix; not so with these new ones. His pacemaker will not even allow him to be near most of them when they are being fixed. I commented on how we used to depend on him as the one to call when we had car problems. Now he is looking to his sons.

As the visit went on, he wanted to show me his new shoes. He grimaced as he tried to lift his leg up high enough for me to see them. He used to be so agile. He finally relented and took his shoe off to sit it on the counter. Nice shoes. Soft leather. Thick and cushioned soles. Good for walking. Probably nice for sore feet. What older folk would call a “comfortable shoe.”

We talked more, but he kept being drawn back to the snack machine for Hershey’s Chocolate Bars with Almonds. Mother says he has put on a little weight lately, so I am wondering if she allows him these treats when she is around. He eats two bars and a bag of chips.

A few minutes pass and he complains of stomach problems. I say it is probably gas. Babies and older people get gas a lot, so I have been told. He sets the phone down to moan and rub his stomach. I worry but make farting sounds like the young kid on Eddie Murphy’s version of The Nutty Professor. He laughs. He groans. I make more farting noises. He laughs some more. He picks the phone back up. I make farting sounds again. He laughs some more. It is how we deal with pain. He stops complaining about his stomach.

We talk some more. The property officer brings my drawing for him to take home. He looks at it. He cannot see it too well without his glasses. He will
look at it when he gets it home. We talk some more. He asks me if I see how small his arms have gotten. They look a little wrinkled. I say, “Dad, you’re 69 now. You look okay for your age.” I ask how he feels. “I don’t see so well. Don’t hear as well as I used to, but I feel okay.” “I remember about ten years ago,” I begin to recall, “when you told me and Ronnie (my older brother) that you felt you’d be dead in six years. You’re still here, so you must be doing something right.” “Yeah, and I’m still a handsome devil, too,” he jokes with a big smile. He has a few teeth missing.

As our visit ends, I tell him to drive safely and I love him. He says, “Me too.” As he gets up to leave, I notice he struggles just a bit and frowns a little as if his body is not supposed to be acting that way. But once he’s up, he has a steady and erect stride as he leaves the building. A tall and proud man.

I am brought back to my cell and I think about my Dad and all he has been through. This is the man who was wheeled out in the corridor after being pronounced dead in a hospital in Germany. He pulled the sheet from over his face. Not once but twice. This is the man who later had three more near-fatal heart attacks and now has a pacemaker. His second one. He really should quit smoking. This is the man who saved me from burning to death when I was four years old, as I waggled helplessly in our backyard with my pants leg afire. My hero.

This is the man who, years later, had his own leg caught fire as he worked on a car down the street. He just laughed and popped the blisters as my frantic mother drove us to the hospital. I laughed. It is how we deal with pain. This is the man who, at age 43, would race me and my brothers home from the corner of our block, we on our bicycles, he on foot. He always won. I hated that.

This is the man who taught me as much as I wanted to learn about auto maintenance; how to hang Sheetrock and tape and bed; to paint and do masonry, carpentry, plumbing, and roofing; how to fish and so many other things. This is the man who, for ten years, faithfully visited and brought my mother and brothers to visit my brother and me on Death Row.

This is the man who had to bury his eldest son when the State executed him in 1995. This is the man who goes to visit his eldest son’s grave and talk to him. This is the man who has come to visit me for the past six years since my brother, his son, was executed. This is the man who came to visit when everyone else was busy because I had had my appeal denied.
My friends and supporters have been writing to me, asking me where I get my strength and courage from in the face of this adversity. Just look to my Dad and you need not ask from where my strength comes.

James V. Allridge III is on Death Row as prisoner #000870. He is a former contributor to the JPP, Volume 11 (2001), Volume 8 (1997), and Volume 6, Number 1 (1995). Readers can view some of James’s artwork on the Internet at www.lightexpressions.net. He can be contacted at: Prisoner #000870, 3872 F.M. 350 South, Livingston, Texas, 77351.
Superpower Reflections: It's Ugly Down Here

Charles Hucklebury

No more fiendish punishment could be devised, were such a thing physically possible, than that one should be turned loose in society and remain absolutely unnoticed by all the members thereof.

— William James

A Casual Death

Tom Ferris died last month, and no one knew. Worse yet, no one cared.

Three of us were walking back after breakfast at 8:20 when the hearse arrived, a black, sombre interloper that seemed out of place, even in here where death is common. Prison is odd like that; the walls constrain each death just as they constrain each life, so we are unaccustomed to such intrusions. Anything from outside is other and subject to immediate examination and analysis, as if the prison's own immune system suddenly recognizes a virus and responds accordingly. The prisoners then function as B cells and alert the rest of the body to the presence of an invader. So it was with the hearse that had come to collect Tom's body.

I could not stop to watch the hearse back toward the steps that led up to the infirmary. Movement inside prison has to be constant. No loitering or assembly is permitted for fear we might plan something nefarious, but for one of us, the rules no longer applied; all movement had ceased forever. So the three of us took one last look over our shoulders, collectively wondered whose body was making the final exit, and then went back to our cells to wait for 7:00 count to clear so we could go lift weights. The hearse and its inanimate cargo vanished as effectively as if plucked from the earth like Elijah.

The sun rose as usual that morning, first turning the eastern sky into a remarkable canvas of salmon and purple, forcing death and other unpleasantries into the remote recesses of our minds. We went to work or work out, depending on our schedules and job assignments. We speculated about lunch and the possibility of any leftovers from the previous night's meal. Someone complained about Kool-Aid being substituted for orange juice at breakfast. Nobody mentioned the hearse, and by 11:30, the mystery passenger had suffered a philosophical as well as an existential death.

Maybe it is a form of self-defence, this refusal to acknowledge death, for those who have never outgrown their adolescent immortality. Few of us, no
matter how perilous our lives in the real world or in here, admit our own appointment with the end of life. To our knowledge, we are the only species whose members are aware of their own mortality, yet we ignore it until an illness or accident forces us to stare it in the face. Until then, it is always someone else doing the dying.

The denial is problematic for two reasons. One, it removes constraints where there should be some, as verified by the disturbing tendency of today’s children to shoot each other and anyone else who happens along. The first-grade killer who shot his classmate to death in Michigan thought that homicide was an effective way to settle a disagreement. The thirteen-year-old honour student in Florida who killed his favourite teacher on the last day of class said later that he “wasn’t thinking clearly” when he aimed the pistol and pulled the trigger. The two young killers who opened fire on their classmates in Arkansas two years ago likewise had no conceptual feel for the finality of death. The blood and dying were no more real than a Saturday morning cartoon. That same night, one of the shooters cried himself to sleep in his detention cell, asking for his mother and pleading to go home. None of these killers could initially understand that shooting people is not a video game, after which you put down your weapon and simply resume your life. The victims die in earnest.

The second consequence of this refusal to acknowledge death is related to the first, but is more troubling. By refusing to grasp the significance of death, one tends to dismiss the sanctity and the precariousness of life, which naturally leads to the depersonalization of selected people. That is, without some sense of their inevitable loss, we never come to appreciate the intrinsic value of the life of the man or woman with whom we might have a relationship, no matter how casual. This was my offence against the man whose body went into the hearse. As I will describe, even before his death, he had ceased to exist for me, and I certainly recognized no kinship with what lay zipped into a rubber bag.

The day following the hearse’s visit, a clerk identified Tommy Ferris for me. Sure, I remembered Tommy: a tall guy, maybe forty, black hair running to grey and bald, and a little longer than I prefer it. He lived in C-Block 1, first division. He and I talked occasionally when the weather was nice. We were not friends, but we knew each other as well as men in prison can know each other. I do not recall much of the conversations, if he talked about his family, his plans and hopes – all the things that men in prison usually keep private if they are smart. But Tommy was not your typical hustler and did not know how to keep his personal life hidden. I vaguely remember something about a
child, possibly a boy, who Tom wanted to see again. Now I wonder if my memory would have been sharper had I known he was dying. For dying he certainly was while we talked in the warm October sun.

It shames me now that Tommy is dead to admit that I never missed him. Prison generates that kind of apathy; someone is always leaving, and no one keeps in touch, regardless of the empty promises made at the gate on the day of parole. So you learn to shrug off absences and get on with whatever demands are current. I did not know how much time Tom had done or even what his particular crime was. He was, like most prisoners, basically anonymous, a face like any other, someone to talk to while we waited for chow. So when he disappeared, I unconsciously assumed he had been paroled or transferred to another unit or maybe been tossed into the hole, now euphemistically called the Special Housing Unit. At that point, he ceased being a human being to the rest of us.

But the real shock came when I learned that Tommy had died of AIDS. I knew about the disease, of course, and I had even seen other men die of it, usually wasted, desiccated husks with hollow eyes, emptied of life long before the body finally surrendered. Tommy showed no symptoms, at least none that I noticed. No drastic weight loss. No Kaposi’s sarcoma. No thrush. Then again, maybe I was not looking because Tom was not the “type” I would have expected to contract AIDS. My three stereotypes for being HIV positive were being black or Hispanic, being gay, and being a drug user, in no particular hierarchy. Tommy was white and probably middle class. He did not look like he used drugs and did not appear to be gay. Since he did not overtly satisfy my personal litmus test, I never suspected, and he never divulged, that the disease was killing him. He simply packed his property one day and went to the infirmary to die.

Dying was not a personal choice, but the way Tommy chose to die was: privately and without the fanfare and bathos too often displayed at such times. He did not eat a last meal with the guys and then say good-bye; he left when the snow was still deep without leaving a track to show where he was going or, more significantly, where he had been.

That was when the air was chilly and the nights memorable, before everything bloomed again and transformed the valley in front of the prison into a lush green carpet. Summer is on the wane now, but the sun is still sending the temperatures into the high seventies this afternoon. Most of the guys are out playing handball or basketball or just trying to get an extra coat of tan to
fend off winter’s pallor that is on the way. None of them are thinking about Tommy Ferris and his last ride out of here. It seems callous somehow to stuff his death someplace inside and then slam the door shut, especially since Tommy was one of us for a while. To know him and then dismiss him diminishes each of us, exactly as Donne described it in his *Meditations*.

Tommy Ferris was not extraordinary. He won no prizes for academic or professional excellence. He did not make a difference in a lot of lives, and most people would consider him a loser simply because he was a convicted felon. But to someone he was a son, maybe a husband or father, and to that extent he needs to be remembered. Because somewhere out there, someone is stopping at his grave on a day much like this one, only the songbirds are a little strident and the blooming flowers a trifle discordant. There are no sounds of a rubber ball being slapped against grey concrete or curses screamed at opponents and partners alike where Tommy is now. The only obscenity is the fading memory of a man whose features continue to shrink like the curling edges of an old snapshot.

**DOWN THE RABBIT HOLE**

For thy good deeds will be thine enemy.

– Dante Alighieri

One of the fundamental mysteries about doing time is the manner in which prison operations deviate from traditional businesses, most radically in customer relations. Most companies and corporations out there in the real world do their best to make their public places the most pleasant, a practice that is designed to eliminate unnecessary animosity and encourage a more user-friendly environment. Even the most racist organizations and the most unregenerate polluters, for example, smile and offer polite conversation when addressing citizens in either the public or the private sector. And we need not touch on the hypocrisy of those in elected office to understand the lengths to which some people will go to maintain an image. Not so in the looking-glass world of prison procedures.

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I am speaking here specifically about behaviour within visiting facilities, although public intercourse between prison staff and civilians is not limited to that location. I chose the visiting room because it is where the majority of interaction occurs between prison guards and the people who pay their salaries. Logic dictates that prison employees should do their best to promote public support, the same way that legitimate businesses relate to honest citizens to facilitate their goals. After all, one of the guards' most common complaints deals with how egregiously their jobs are undervalued and underpaid.

If a group of individuals, therefore, happens to be engaged in an attempt to convince their employers that they deserve a raise and a finer appreciation for what they do, then it does not take a rocket scientist to determine that courtesy and understanding toward those employers would go a long way toward making that wish reality. That is, guards should, from a position of self-interest alone, make it their business to be unfailingly polite to members of the public they encounter in prison visiting rooms, even if those same guards lack the philosophical depth that would inform their behaviour and prompt them to treat people courteously as a matter of course. Instead, it usually appears that staff intentionally antagonize and insult the men and women coming into prison to visit loved ones, presumably because they are coming to see convicted felons and must therefore be substandard themselves.

But another possibility suggests itself. Perhaps it is the need to exercise newly discovered authority, the kind that derives from an essentially powerless existence outside the walls, compensated for by the sudden ability to issue orders to over one thousand people. To use the military analogy that prison guards habitually adopt, it is the psychological equivalent of putting a PFC in command of a battalion. More seasoned guards quickly get over this kind of head trip, but the young rookies, the ones just discovering the power of the uniform and badge, have a disturbing habit of stalking visiting rooms looking for trouble, arms akimbo in the traditional gunfighter's stance, as if they were bona fide cops walking a beat somewhere in the inner city and expecting sniper fire at any second. How else to account for such insulting behaviour as hovering over a table, glowering at a visitor, and demanding that a seventy-year-old woman sitting across the table from her grandson take her hands out of her lap and put them in plain sight?

On a personal level, I recently received a disciplinary report (DR) at the conclusion of my visit for exceeding the two-kiss limit, one at the start of the visit and one at the end. A stern-looking guard approached me as if I had just
robbed a bank and gunned down a dozen hostages and demanded my identification tag (prisoners must wear them prominently displayed). I handed it over, wondering what I had done. I usually know the reason for being written a DR. Off went the guard to fill out the usual forms. When he returned my ID, he told me he had observed me violating rule “number x,” “paragraph y,” of the pertinent policy and procedure directive, viz., I kissed my wife more times than was allowed. I objected because I always remember how many times I kiss my wife, and we are careful to comply with all the inane rules in the visiting room. But no, the guard was certain that he observed me engaged in the following flagrant behaviour: I held my wife’s hand and then raised it to my lips and kissed the back of it. I had no choice but to plead guilty on the spot, confessing to the guard that I just did not know what had come over me at the time of my offence. He never realized how trivial, how intrusive, how utterly absurd his actions were. All he wanted was to write someone a disciplinary report, and I happened to be that person on that particular day. And like the memory of his first lover, perhaps years hence, the initial thrill of writing that first DR will fondly recall our interlude in the visiting room.

It is usually the young ones, those not even born when I started this sentence twenty-seven years ago, who are the worst offenders. They come out of their training “academy” (forgive them, Plato) with the boot-camp attitude and the swagger that goes with it, which makes me wonder what the hell the instructors tell these people. The techniques must rival those of Parris Island’s introduction to the United States Marine Corps, because they indoctrinate relatively callow young men who are primarily out of shape, with minimal educational achievements and minor employment skills, transforming them in a matter of weeks into naïve young men who are still primarily out of shape with little educational achievements and minor employment skills. Upon graduation, however, they become tyrants, haunting the prison corridors and yard as if they were bulletproof, the soi disant moral and intellectual superiors of the men and women they guard. The process resembles a perverse alchemical reaction, a transmutation of gold into base metal, as it were. And of course, the first duty station before and after the academy is usually the visiting room.

Certainly I understand the necessity for moderating new guards’ exposure to the prisoner population. After all, they are still learning their jobs and need to be in the least challenging positions until they are more familiar with the way the game is played. But it makes little sense from a public relations perspective to pump them up with all the psychobabble the academy uses to fill their heads, make them think they are conjoined clones of Rambo and Robocop,
and then turn them loose in a benign environment where men want only to be left alone for a few hours with their families. If the guards think I deserve it, then they can tear up my cell, feed me swill, deny me adequate health care, curse me, beat me, even kill me, but no way should they be permitted to bring that attitude into the visiting areas and subject innocent men and women to their law-and-order fantasies—fantasies cultivated and promoted by far too much exposure to television cop shows and the propaganda purveyed by the various departments of corrections.

Perhaps the most graphic example of this kind of attitude—and its limits—was recently observed on national television during the "Survivor" program. The premise of the show is to put eight people together in the Australian outback, provide them with only rudimentary amenities, and then have them interact. The group's members periodically vote to expel one of their numbers, the goal being to survive those votes and be the lone contestant at the episode's conclusion, thus winning the prize money. It is television at its absolute nadir, but it attracts a wide audience. (No surprise there.) One recent contestant was a female prison guard from here in New Hampshire. She immediately alienated the other contestants with her belligerent attitude and was the first contestant voted off the show—unanimously—so it is not only prisoners who recognize specific personality traits endemic to prison guards in general. Her experience should have served as a reality check, because she clearly had not learned that her authority inside prison was totally artificial and that any influence she might have stopped at the prison's gates. But human nature being what it is, she probably still does not understand why the other contestants expelled her.²

As a prisoner, I long ago surrendered any expectation of courteous treatment at the hands of my keepers; the current political climate prevents them from viewing me as anything more than an animal, and they have to denigrate me in their eyes if they are to perform their work effectively. I am accustomed to society's avenging angels, men and women with an agenda that includes making my time as difficult as possible. I made the choice to violate society's laws, and I expect to pay the price for that choice. That does not mean, however, that my family should suffer the same indignities, callous treatment, and flagrant disrespect simply because they have the misfortune to love me and want to visit. They deserve the respect accorded men and women who have no

² As an aside, each contestant could bring with her or him one personal item; our participant brought eyeliner. C'est plus qu'un crime, c'est une lâute.
connection to the criminal justice system at any level. Indeed, were it not for our families' salaries and the taxes paid on them, my keepers would still be looking for work in other unskilled positions, so I do not think it is too much to ask that visitors be treated respectfully.

What to do about the attitude? To begin with, pair the rookies with seasoned guards, men for whom enforcing rules is part of the job, not a quest for the Holy Grail, and certainly not a ticket for public ridicule on a television show. Guards immediately out of their academy lack the ability and the desire to discriminate between behaviours that violate the rules and those that might do so. More experienced guards can provide the guidance necessary and facilitate on-the-job growth that will make the prison a less stressful environment for everyone. The rookie who demanded that the grandmother put her hands in plain sight would have been wiser to observe the woman if he thought she were trying to pass something. If she had, that would be the time to take action; if not, leave her the hell alone instead of insulting her. As it turned out, he flexed his badge's muscles and created two enemies, the prisoner and his grandmother. Perhaps the rookie did not care (a deleterious attitude in itself), but if that kind of behaviour becomes systemic, it poisons the prison atmosphere and makes everyone's job more dangerous and confrontational.

The visiting room is the one isolated place where we can be with our families and loved ones. No one but a prisoner understands the importance of these few hours, but it should not take a quantum leap to extend fundamental decency to the men and women enduring the psychological trauma of metal detectors, suspicion, and pat searches for a few brief minutes with their loved ones. It is no less than they deserve, and who knows? It might subsequently keep prison guards in one of the upper levels of Hell, rather than having Minos\(^3\) consign them to the lower rings where the fires are hotter and the punishments more vigorous.

**Glass Houses**

No government is legitimate that does not show equal concern for the fate of all those citizens over whom it claims dominion.

– Ronald Dworkin\(^4\)

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\(^3\) *The Inferno*, supra note 1.

Despite the demise of the Evil Empire, or perhaps because of it, the United States maintains its sanctimonious posture as the world's moral arbiter, consistently pointing an accusing finger at regimes in China, Iraq, and North Korea, for example, for their disreputable practices in areas from religious and ethnic persecution to the mistreatment and summary execution of convicted felons. Indeed, the United States continues to embrace its role eagerly as the only surviving superpower, arrogating to itself the privilege—and the right—to lecture every other country on their moral disintegration. If we emerged victorious from the Cold War, then by definition our *zeitgeist* and vision must be superior to all others. And certainly this country's ten-trillion-dollar economy and nuclear arsenal should be potent enough firepower to command global fealty. Human rights, however, has become the weapon of choice, wielded when other forms of diplomatic intervention fail to achieve the desired goal of emulating America's putative treatment of its own citizens—including its prisoners. And, as the attempted impeachment of former President Bill Clinton graphically disclosed, members of Congress are hardly reticent about stepping into the pulpit to cast the first stone, either domestically or internationally. Often, as was the case with Senator Trent Lott (Republican-Mississippi), shunning any quarrel with biblical citations, from which the United States purports to gain its moral authority.

In the process of lecturing the rest of the world, the United States never fails to tout its own righteous superiority when criticizing those less-cooperative heads of state. One notes, however, that the criticism is preferential; it is directed only at those regimes with interests perceived as inimical to the United States, whereas authoritarian governments in Saudi Arabia and pre-Mandela South Africa provoke/d not a whisper of criticism inside the Beltway. This pontifical stance also deflects criticism from those whose moral and legal transgressions continue to make national headlines. Still, in a paradox that would make Zeno proud, the raised voices in Washington blithely offer themselves as ethical paradigms for lesser mortals.

So it was with no small sense of irony that the United States was recently voted off the United Nations Human Rights Commission, the fifty-three-member body that makes recommendations for the promotion and protection of human rights throughout the world. To better understand the nature of the vote and

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5 In a fit of pique, the U.S. House of Representatives immediately voted to withhold payment of dues that were already in arrears until the U.S. is restored to its place on the
the political climate that produced it, an examination of the history of this particular Commission is necessary, a history that is more than a fascinating study illuminating the United States' position on human rights, both before and after the recent elections; it bears directly on the question of how those rights fare in this country.6

Eleanor Roosevelt was a delegate to the first session of the UN General Assembly in London in January 1946. As might be expected, Mrs. Roosevelt was a champion of human rights in both developed and undeveloped countries, echoing the sentiments and declared purpose of the UN charter approved the previous year in San Francisco. Indeed, she was a motivating force behind both the UN charter and the Universal Declaration of Human Rights that followed in 1948.7 The question of implementation, however, the same question that has proven historically problematic in areas as culturally disparate as Rwanda and the former Yugoslavia, quickly arose in London.

At that session, the British strongly urged that any human rights conventions to come out of the assembly include a provision for binding implementation, coercive if necessary. Mrs. Roosevelt resisted this sort of compulsion, fearing – correctly, as it turned out – opposition by the United States. Having lived in the White House for Franklin Delano Roosevelt's three complete terms and part of his fourth, she knew very well how self-interest could overrule ethical imperatives, and it was already apparent that nation-states always act with their own interest as the paramount concern, whether dealing with external threats or internal opposition.

The language of the UN charter, specifically Article 2(7), supported this cynicism by precluding UN intervention “in matters which are essentially within the domestic jurisdiction of any state.”8 In other words, all any country had to do to avoid UN intervention was to claim “domestic jurisdiction” and accuse the General Assembly of meddling where it had no business, similar to the tactic China uses today when the subject of human rights is broached, whether

6 One would think, in literary terms, that the sheer embarrassment of the recent vote would rival that had the Reverend Arthur Dimmesdale been caught flagrante delicto with Hester Prynne and subsequently ridden out of town on a rail.
8 Ibid., p. 32.
in suppressing groups like the Falun Gong or harvesting and selling organs from executed criminals.

But China and other "rogue states" (in the current idiom) are not the only ones to adopt the shield of national sovereignty to defend internal oppression. The United States has also rejected criticism by groups such as Amnesty International and Human Rights Watch for the abuses committed on its own territory, specifically in the areas of capital punishment (including execution of minor and mentally incompetent defendants), systematic torture inside prisons, police brutality, and the use of stun weapons, under the rubric that such matters fall within the country's domestic jurisdiction and are therefore not subject to international scrutiny or intervention. This tactic follows a historical pattern of championing human rights abroad while conducting business as usual, including resorting to the recognized violations mentioned above, within our own borders.  

Returning to the recent UN election, four candidates were up for the three seats for the Western Europe and Others Group: France, Austria, Sweden, and the US Voting members, doubtlessly tired of the United States' hypocritical platitudes, clearly thought that it was time for a breath of fresh air, opting for a last-place finish for the United States when the votes were counted. Acting U.S. Ambassador James Cunningham observed, "We're very disappointed [but] this won't at all, of course, affect our commitment to human rights issues."  

Bureaucrats and politicians naturally adopt reassuring attitudes in the face of disappointing election results, but Cunningham's response begs a larger question: What of the human rights violations taking place in this country, those same violations that perhaps prompted the Human Rights Commission to exclude the United States from its deliberative body?  

The stock response of Washington apologists is, "What violations?" What violations indeed. Timothy McVeigh committed the worst act of domestic terrorism in this country's history in response to the government's siege of the Branch Davidian's compound in Waco, Texas.  

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9 The two conventions that followed the Universal Declaration of Human Rights dealt with 1) political and civil rights and 2) economic, social, and cultural rights. Both were finally concluded in 1966, but the former not ratified by the U.S. until 1992, while the latter is still pending in the U.S. Congress although ratified by China on February 28, 2001.


11 As I write on May 11, 2000, the FBI has just admitted to "misplacing" 3,200 pages of documents requested by McVeigh's attorney at trial.
and forth so many times that one fact tends to get lost in the shuffle, namely that the United States waged an illegal war against its own citizens. Prior to the catastrophe at Waco, the United States became a signatory to an international treaty banning the use of CS gas\footnote{CS, which stands for 0-chlorobenzalmalononitrile, is a white solid powder usually mixed with a dispersal agent, like methylene chloride, which carries the particles through the air. Physical effects of this tear gas are felt almost immediately. They are: severe burning in the eyes, involuntary closing of the eyes, copious tearing, extreme burning in the nose, tendency to breathe through the mouth, extreme burning in the throat, coughing, consciousness of pain, holding of breath, breathing and heart rate slows down, blood pressure rises, circulation on the periphery of the body shuts down. In some cases there can be mucus secretion, nausea, and vomiting, also burning sensations on the body in places touched by the hands. Recovery quickly follows after an affected person is immersed in fresh air.} on the battlefield. The United States was thus enjoined from using this particular weapon in any armed conflict during the exercise of its interests abroad or even against an invading army. Yet, the government used tanks as a delivery system for CS gas against a civilian population that its representatives knew included unarmed, non-combatant women and children, all of whom died in the assault. Yes, the government claims, the result was a tragedy, but certainly an isolated incident and not remotely similar to the institutionalized deprivation of human rights manifested by, say, China in Tiananmen Square.

Isolated incident? One is reminded of former President Clinton’s testimony before the grand jury during the Monica Lewinsky debacle: that depends on what your definition of "isolated" is. The country’s largest city (New York) sees four police officers fire forty-one shots at an innocent man who was attempting to produce identification.\footnote{This refers to the case of Amadou Diallo. See \textit{JPP}, Vol. 11, Huckelbury’s article “Life and Death in America: The Killing of Amadou Diallo.”} The country’s second-largest city (Los Angeles) has one entire division of its police force implicated in perjury, homicide, planting evidence, stealing evidence, and framing innocent people.\footnote{The Los Angeles Police Department Rampart Division was investigated in 2000 for up to 3,000 prosecuted cases that were alleged to have been tainted by police corruption involving stolen drugs and frame-ups. See http://citizensforjustice.org/LAPD/.} Entire cities in three states have reached consent decrees with the federal government after being sued for repeated violations of, yes, human rights by their police departments. The Governor of Illinois has issued a moratorium on capital punishment after thirteen men on death row were subsequently proven...
not guilty, the victims of police officers' perjury and prosecutorial misconduct.\(^{15}\) Riots were recently touched off in Cincinnati, Ohio, after a white police officer shot and killed a nineteen-year-old black youth who was wanted on a series of traffic warrants.\(^{16}\) More recently, a news helicopter captured the Philadelphia police (again) beating and kicking a suspect after a car chase.\(^{17}\) Apparently, the taping of the Rodney King incident in Los Angeles did not make a lasting impression on police anywhere. Isolated? The practices proceed uninterrupted from one coast to the other.

More disturbing is the imprimatur given to police by the judicial system. The United States Supreme Court, Justice Souter writing for the majority, this year approved the practice in Texas of arresting a woman for not wearing a safety belt.\(^{18}\) The woman was pulled from her car, handcuffed, and taken to jail. Her two children in the car with her were taken into protective custody until their mother could post bond and retrieve them— not for armed robbery, not for homicide, not for drug trafficking, but for not wearing a safety belt. This recent case illustrates the lamentable certainty that the original protections of the Constitution against unreasonable search and seizure have been so eviscerated by the Supreme Court, usually with Justice O'Connor leading the van, that the rights are now little more than hollow shells, crippled remnants of what the Founders intended, thus giving impetus to all those "isolated" incidents the government ostensibly regrets.

But what happens to defendants who are fortunate enough to survive arrest in the United States? Sadly, they are often victimized in the same type of "isolated" incidents that plague the world beyond prison walls. Frank Lee Smith spent fourteen years on Florida's death row for the rape and murder of an eight-year-old girl before he finally succumbed to cancer on January 30 of last year. Eleven months after he died, the DNA test he had requested exonerated

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\(^{15}\) See the Governor's press release on this issue at www.state.il.us/gov/press/00/Jan/ morat.htm.

\(^{16}\) This refers to the April 7, 2001 shooting of nineteen-year-old Timothy Thomas in Cincinnati, Ohio by a police officer in pursuit. Citizens rioted for three days before a state of emergency was declared. See www.thenewamerican.com/contact/alert.htm.

\(^{17}\) The video, filmed from an ABC NEWS affiliate's helicopter in July 2001, showed a group of Philadelphia police dragging thirty-year-old Thomas Jones from a car and then beating and kicking him.

him of the murder. Prosecutor Carolyn McCann’s only comment was that she was “very upset” by the test’s results.19

Mark Bailey fared even worse. He was a prisoner in the Escambia County (Florida) Jail when he was beaten to death by jail guards. Judge David Ackerman ruled that his death was a homicide caused by excessive force of the guards, but prosecutor Curtis Golden refused to bring charges. He claimed that his investigation could not determine who inflicted Bailey’s fatal injuries – or where or when.20

Finally, also in Florida, the Department of Corrections has implemented “maximum management” at the Florida State Prison in preparation for construction of its new supermax prison. This type of confinement involves depriving prisoners of all personal property, visits, and books, except for religious material. Men and women on maximum management status will be allowed out of their cells only once every thirty days for exercise in a dog run, with the time as yet to be determined. They will receive no commissary except stamps, but, in a truly Kafkaesque twist, they will not be permitted to purchase either paper or envelopes. Finally, there will be no human contact whatsoever, either with guards or other prisoners. Variations on this theme have been common practice at the prison’s Q-Wing for decades, procedures that human-rights groups have repeatedly described as cruel and unusual punishment.21

These examples in a single state are doubtless a few of those “isolated incidents,” the ones that stubbornly persist despite the disclaimers by public officials. They are also, according to the United States’ interpretation, within the purview of Article 2(7) of the UN charter, the section that permits member countries to ignore external criticism as a violation of “domestic jurisdiction.” At first blush, the comparison with what the United States says versus what it does appears to be nothing but the hypocrisy its citizens have come to expect from their elected representatives. But there is a very real danger at work, one that blinds the more fundamental and reactionary elements – the ones who now control the government – to the flaws of the criminal justice system in general and prison systems in particular. For them, it is as if America must be viewed in its prelapsarian22 form, flawless in both conception and operation,

20 Ibid., p. 7.
21 Ibid., p. 20.
22 Of or relating to the period before the fall of Adam and Eve (editor).
instead of a modern oligarchy run for and by self-interested individuals for whom human rights mean the accumulation of wealth and power at the expense of everyone else.

Perhaps the most graphic example of this cultural myopia is the statement by President George W. Bush following the revelation that the FBI had withheld over 3,000 pages of documented evidence in the case against Timothy McVeigh, convicted and sentenced to death for the bombing of the Murrah Building in Oklahoma City. After first applauding the revelation as evidence that the judicial system in the United States does work, Bush went on to say that Timothy McVeigh should be thankful to be living in America. Think about that for a moment. The President of the United States, an individual who oversaw the executions of 152 people during his term as Governor of Texas, and the elected head of the very government that killed the aforesaid Timothy McVeigh, had the temerity to lecture the death-row prisoner about how lucky he was to be living in the country that is doing its very best to execute him. And the patriots all nod in unison.

Make no mistake. McVeigh committed a horrendous crime, one that argues persuasively for capital punishment, and I suppose that he could have fared worse by committing murder in, say, Afghanistan or Zimbabwe, where his rights would have been given very short shrift, after which he would have been immediately executed, probably in some heinous fashion. Then again, he could have committed his murders in Canada, Britain, Australia, Italy, France, Germany, Sweden, Norway, Belgium – well, the list of countries where he would have fared more humanely is extensive. So it is a bit of a conundrum why Bush would extol America’s inept federal law enforcement and its disturbing propensity to kill convicted felons to the point where those undergoing execution should be grateful for the experience.

But of course America’s elected representatives tend to sound hopelessly naïve about the intrinsic decency of today’s Republic, irrespective of how corrupted government and its enforcement arm have become since the Founders first laid down their precepts. It is this Panglossian view that tends to aggravate our global partners, who can see that the emperor is wearing no clothes.

By way of comparison, in the view of many others in the international community, “[T]he United States is an unhappy and unsuccessful society,

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23 Blindly or naively optimistic (editor).
riddled with racial tensions, uncaring for its poor, incapable of sustaining stable families, and addicted to coping with its problems by incarceration and execution,” which, of course, precisely explains the recent vote. As long as the United States continues to address its social problems by using the twin tools of incarceration and execution, as long as it ignores the fundamental needs of its poor and undereducated, as long as it denies health care to the most needy, the more it must expect international outrage when Uncle Sam’s apologists step up to lecture on human rights.

For now, all the United States can do is “strut and fret its hour upon the stage” and threaten non-payment of accounts due, tactics that are already familiar to observers with experience in emerging or undeveloped countries – or with the more tawdry financial institutions. The sole surviving superpower should present a better example if it expects to lead the rest of the world into the 21st century, and a better example would begin by not only ceasing the petulant response to the recent vote but practicing what its representatives preach with respect to human rights. Only then will the United States deserve a seat on the Human Rights Committee, for as Thomas Jefferson observed in the Declaration, government has a responsibility to secure and protect the rights of every citizen, including those with no electoral power and those it holds in chains. Anything less is simply shameful and, to extend the Shakespeare, “a tale told by an idiot, full of sound and fury,” and signifying nothing but a stunning arrogance.

FROM EVERY MOUNTAIN TOP

I’d trade all my tomorrows for one single yesterday.
– Janis Joplin, “Me and Bobby McGee”

Freedom is a concept that resonates distinctly in every American’s ear. After all, the country was founded precisely because King George III abridged personal freedoms. Our national anthem is in part a salute to the “land of the free,” and one of our contemporary holidays celebrates independence from that specific

tyranny. Another, Memorial Day, reminds us of the extreme sacrifice often required to maintain the liberties to which we have grown accustomed and casually take for granted. The history of the United States is in fact a catalogue of the struggle for freedom, whether in brutal combat to abolish slavery or in, for example, the more current drive for universal suffrage and true equality under the law. The philosophy and dedication underpinning that struggle are a powerful testament to human ability to recognize and redress inequality, but at a more fundamental level, they are also an affirmation of freedom’s preeminence in American social structure.

So sacrosanct is freedom’s cachet that the country has not hesitated to go to war at home and abroad, either to secure or preserve it. The United States does not engage in warfare to prevent poverty and hunger. Neither does it commit its soldiers to combat the incidence of infant mortality or to extend reproductive choices to women in Third World nations. These issues are considered problems better addressed by local populations or through diplomatic channels at the United Nations. Instead, the country circumspectly goes to war to redress totalitarian excesses that circumscribe personal freedoms, at least in those countries hostile to America’s interests. Saddam Hussein’s attempted annexation of Kuwait and, more recently, the ethnic cleansing in Kosovo, prompted immediate responses because individual freedoms we are being trampled by avaricious dictators. The hypocritical treatment of the pre-Mandela South African government, of course, illustrates the selective nature of our geopolitical involvement. But this does not diminish the philosophical love affair the country has with the concept of personal freedom in general, an ideology whose European roots sprang to life with the Magna Carta and survived the tyranny of the British monarchy at its worst.

The influential British philosopher John Locke comes down to us as the undisputed champion of individual freedom, declaring that no man can be truly free until he secures the natural rights of life, liberty, and property.25 Extending Locke’s thesis, Thomas Jefferson’s prose in the Declaration of Independence states dramatically that all human beings are entitled to the natural rights of life, liberty, and the pursuit of happiness" (my emphasis). Continuing the treatment of personal autonomy, one of the seminal phrases in the

Declaration bestows on a population the right to abolish any form of government that fails to secure freedom's gifts. This is a powerful statement, one that the Framers did not make lightly. Its significance is codified in the Constitution within the framework of the Bill of Rights, wherein Madison specifically prohibits the government from depriving its citizens of life or liberty without due process of law. Such an apotheosis would be instinctive for eighteenth-century scholars. As Thomas Paine observed in The Crisis, No. 1, "[I]t would be a strange thing indeed if so celestial an article as freedom should not be so highly rated."26

It therefore comes as no small surprise that the loss of one's personal freedom is given such short shrift in American society today. I refer here to the singular custom of incarcerating men and women for decades under the most rudimentary conditions and then acting as if the removal from society alone were not an egregiously punitive act. I do not argue against incarceration as a social tool; sufficient proof exists to justify isolation of certain individuals for the safety of others. It is what happens within the context of incarceration that is disturbing and, more specifically, why the absolute loss of personal freedom fails in postmodern definitions of punishment.

For at least two decades, politicians and law enforcement personnel have waged a successful campaign to aggravate the conditions inside America's prisons, the rationale behind the move being that the prisons had previously become the functional equivalents of Club Med and did nothing to deter recidivism. Thus were born the concepts of supermax prisons, chain gangs, sensory deprivation chambers, passive and active restraints, and casual brutality. The focus shifted from the original Quaker concept of a penitentiary to a prison environment of unremitting physical and psychological discomfort. That is, the loss of one's freedom ceased to be seen as either sufficient or significant punishment, a historical reduction and philosophical digression that appear to have gone unnoticed.

The current correctional philosophy, if you will pardon the oxymoron, is one of strict punishment, not just in the removal of an individual from society but also in the nature of his or her treatment behind the walls. Rehabilitation is anathema, especially with Willie Horton as the poster boy for failed prison policies, and the raison d'être behind sending men and women to prison is not only to remove them from society but also to make their lives as miserable as

26 Can be found at http://libertyonline.hypermall.com/Paine/Crisis/Crisis-1.html.
possible during their stays. What the current punitive stance ignores is the debilitating and dehumanizing effects of being cast out of society and forbidden contact with family and friends, of having one’s choices prescriptively selected, of surrendering personal autonomy, all of which deny essentials that define us as human beings.

John Stuart Mill described the results of such an existence in his famous essay *On Liberty*: “He who lets the world, or his own portion of it, choose his plan of life for him has no need of any other faculty than the apelike one of imitation.” Prison philosophy, aided and abetted by a misinformed electorate, is therefore currently engaged in reducing human beings to the lowest common denominator without being aware of it—not through the treatment inside prisons, although that certainly plays a role, but rather in the removal of the humanizing and civilizing effects of society.

The obvious explanation for such a cavalier disregard of freedom’s value is, of course, that the men and women who vote for more restrictive measures in response to the political manoeuvring of their elected representatives have never had their own freedom abridged in such drastic fashion. They therefore have no idea of what the absence of choice in their lives would mean. A friend once asked me to describe what being in prison was like. Inwardly I smiled, because I could not possibly convey to him what the experience was. The best I could do was to suggest that on a Saturday morning of his choice he carry a mattress into his bathroom and stay there until Sunday evening. His wife could prepare any meal she wanted at any time, but my friend could not see his three daughters. The rule was that he could not leave the bathroom and could have no “visitors.” He was to eat there, perform all bodily functions there, and sleep there the best way he could for roughly forty-eight hours. My friend was intelligent enough to recognize that what was on the surface a deceptive proposition would not be one he cared to test. Even so, contrary to popular opinion, confinement is not the most difficult part, at least with respect to the physical conditions.

Human beings are marvellously adaptive creatures, and our spirits are resilient to the point of being nearly impervious to whatever conditions we happen to be facing at a particular time. If the Jewish population of Europe could survive

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Isabella's pogroms and Hitler's Holocaust, then prison conditions in general have nothing new to threaten hardened inner-city men and women or the sociopaths who prey on society's weakest members. With few exceptions, convicts endure, primarily because harsh conditions evoke atavistic survival instincts. No matter how brutal the treatment, men and women will adjust, so that Spartan conditions and institutionalized brutality quickly reach a saturation point and then proceed along a line of diminishing returns.

What never leaves the convicts' minds, however, no matter how persistent the effort to submerge it, is the awareness that he or she does not walk freely, that a physical barrier exists between them and everything they hold dear. They can ignore heat, cold, marginal medical care, substandard food and clothing, even physical abuse, but they can never overcome the fundamental sense of loss, the loss of the ability to live a free life, to choose the direction their lives will take.

This is the loss that society in general cannot comprehend. Driving home after work, for example, a woman hears a song on the radio that reminds her of a specific time or place, and a smile plays around her mouth. A man kisses his wife good-bye in the morning and eases into commuter traffic, tacitly aware that he will see her again in approximately eight hours. These are simple things, but the things that make life human and worthwhile and make the struggle to pay the bills worth the effort.

For the convict, something as trivial as that same song brings memories crashing back to a specific time and place, poignant memories when she was free, in love with or loved by someone special. And unlike casual good-byes in the free world, farewells that automatically anticipate reunion, departures in prison visiting areas elicit anguish that cannot be approached by the most barbaric conditions or treatment, especially if the family is separated by thick glass prohibiting even one touch. How does bland food, indifferent medical care, and twenty-three-hour confinement compare to the inability to hold one's child or pull one's spouse close when the night turns cold? This is punishment in its most pristine form, undiluted and without the anodyne of psychological retreat that accompanies physical abuse. It is this failure to acknowledge, or even recognize, the penetratingly coercive nature of losing one's freedom that infects current philosophies on imprisonment. And therein lies the shame.

Freedom is the *sine qua non* of human existence. Without it, as Mill observed, we are less than human and closer to our simian cousins. We revert

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28 An indispensable condition or necessity (editor).
to a state in which life is "solitary, poor, nasty, brutish, and short." For a society to ignore the destructive consequences of forcibly removing its members from the community is to disregard what it means to be human. We are, after all, social animals, as Aristotle observed. It is the loss of freedom, therefore, the torture of perpetual bereavement, that makes a prison sentence so terrible to comprehend and even more horrible to endure. It is not a vacation from a stressful life of overdue bills and recalcitrant children. Nor is it a laid-back existence punctuated by cable television and designer ice cream. It is the absolute denial of choice in an individual's life, the condemnation of men and women to perpetual servitude, and the consequent establishment of an entire industry erected upon human suffering.

In his second inaugural address, Abraham Lincoln said, "It may seem strange that any men should dare to ask a just God's assistance in wringing their bread from the sweat of other men's faces." In today's environment, not only do men earn their living as overseers, but they also strive to make prison conditions as harsh as possible under the assumption that imprisonment itself is not actually punishment. Society tacitly underwrites that philosophy and in so doing besmirches the honour of the men and women who have consistently fought to keep this country free.

As I contemplate Veteran's Day this year, I would urge the American public to rethink its policies of massive incarceration, not to the point of rescinding the laws that incarcerate men and women (that will not happen soon), but with the purpose of developing a finer appreciation for what it means for them to be free while others remain captives. Sadly, prisons remain an ugly necessity in a violent world, but that contingency should reinforce the realization that the very act of incarceration, of isolating someone from society, is indeed punishment of a form that valiant men and women have given their lives to keep from encroaching on this country's sovereignty. If freedom is worth dying for, then assuredly it is a gift whose loss is not to be simply shrugged off as inconsequential.

Charles Huckelbury is a regular contributor to the JPP and a newly welcomed member to the editorial board. He was recently awarded a 2002 PEN Prison

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Writing Award for first prize in fiction. Charles can be contacted where he is currently confined at New Hampshire State Penitentiary, P.O. Box 14, Concord, New Hampshire 03301, U.S.A.
Globalization: American Style
Karamoko Akpan-Patches

The United States and some of its allies have been expanding their sphere of influence more broadly than just corporate globalization; expansion encompasses civil and criminal laws, military and prison industrial complexes, and eventually a single global currency. All of these spheres are interconnected and the overall trend is similar to, perhaps an extension of, the expansionism that began in 1492: the conquest and trade in human flesh (slave labour) for the purpose of building economic, political, and military dominance worldwide. In other words, a one-world government or, in more modern terms, a “New World Order.” This article examines some of the doctrines and practices that have facilitated America’s ongoing process of military, prison, and corporate expansionism worldwide in the 20th century, and offers suggestions as to why this trend continues.

THE MILITARY INDUSTRIAL COMPLEX AND THE CORPORATE OLIGARCHY

Larry Berman, a professor of political science at the University of California in Davis, and Bruce A. Murphy, a professor of American history and politics at Pennsylvania State University, locate the rationale for recent U.S. expansionism in the National Security Council Report No. 68 (NSC 68) of April 14, 1950, also known as The United States Objectives and Programs for National Security. According to Berman and Murphy, the globalization of American domestic and foreign policy – both military and economic – is expansionism facilitated under the guise of the NSC 68, which is a “National Security Council paper outlining a sweeping mobilization of American economic and human resources in the struggle to contain Soviet communism” (1999:621).

NSC 68 was much more than a “struggle to contain Soviet communism.” It was also a “top secret” doctrine facilitating the expansion of U.S. economic and labour resources that actually began in 1947 with the “Truman Doctrine,” through which the Central Intelligence Agency (CIA) and the National Security Council (NSC) were established. Subsequently, pursuant to Truman’s directive in January 1950, the CIA investigated and compiled information on the socio-political, economic, and military status of countries throughout Eastern Europe, Asia, Latin America, and several African nations. This information was presented to the NSC, which then passed the NSC 68 Report to Truman in April 1950.
This report provided the groundwork for the 1949 formation of the North Atlantic Treaty Organization (NATO), a military alliance among the U.S., Belgium, Britain, Canada, Denmark, France, Iceland, Italy, Luxembourg, Netherlands, Norway, and Portugal. By 1955, Greece, Turkey, and West Germany had joined NATO, as did Poland, Hungary, Czechoslovakia, and other nations in 1999. This alliance ultimately led to the 1967 trans-global trade alliance called the General Agreement on Tariffs and Trades (GATT) among member nations. Subsequently, NSC 68 also paved the way for the 1993 regional economic alliance, called the North American Free Trade Agreement (NAFTA), among the U.S., Canada, and Mexico. Collectively, these alliances and agreements led to a trans-global corporate alliance called the World Trade Organization (WTO). Between 1986 and 1995, seven of these nations formed what was referred to as the “G-7,” re-named the “G-8” with the inclusion of Russia at the meetings of 1995 in Canada. The global military, political, and economic power of NATO, the WTO, and the G-8 respectively are self-evident. NATO serves as the enforcement arm for this collective oligarchy.

In the NSC 68 Report, the National Security Council set forth its so-called “fundamental purpose” of U.S. economic and military expansionism in the following words:

The Fundamental Purpose of the United States, is laid down in the Preamble of the Constitution: “... to form a more perfect Union, establish Justice, ensure domestic Tranquility, provide for the common defence, promote the general Welfare, and for the Blessings of Liberty to ourselves and our Prosperity.” In essence, the fundamental purpose is to assure the integrity and vitality of our free society, which is founded upon the dignity and worth of the individual.

Three realities emerge as a consequence of this purpose: Our determination to maintain the essential elements of individual freedom, as set forth in the Constitution and Bill of Rights; our determination to create conditions under which our free and democratic system can live and prosper; and our determination to fight if necessary to defend our way of life, for which as in the Declaration of Independence, “with a firm reliance on the protection of Divine Providence, we mutually pledge to each other our lives, our Fortunes, and our sacred Honor.” (NSC 68, 1950: II., p. 26)
Clearly, the NSC 68 plan was not just a defensive plan—it was an aggressive offensive plan delineating U.S. expansionism globally, a kind of rebirth of the doctrine of Manifest Destiny.1 Throughout U.S. history, the very same fundamental principles have been in place. Yet in practice people of African descent, Native Americans, women, and other economically and ethnically disadvantaged groups were excluded from the essential elements of individual freedom, justice, liberty, prosperity, and equality espoused in the language of the Declaration of Independence, the Constitution, and the Bill of Rights.

Indeed, NSC 68 led to an all-out political, economic, and military attack on actual and contrived Communist aggression domestically and worldwide against nations like North Korea, Vietnam, Cuba, China, Iran, and Iraq. This was rationalized by the specific purpose of “containing” and “isolating” the system of government of their primary target, the Union of Soviet Socialist Republics (NSC 68, IX D, pp. 71–76) comprised of 15 constituent republics. The current social, economic, and political instability of those communist/socialist republics are the end result of NSC 68, a consequence of the U.S. forcing its socio-economic, capitalist republicanism onto other nations.

It was believed by many that in practice, the communist and/or socialist doctrines were diametrically opposed to the U.S. doctrine of republicanism, which in reality was a racially oppressive, economically driven doctrine of invasive trade practices. In the process of promoting this particular form of republicanism, U.S. government officials, the corporate/military oligarchy, and their NATO allies redefined and demonized communism and socialism, as well as the people who chose to govern themselves according to elements of those doctrines. Key to these doctrines is a belief that privately owned property such as life-sustaining goods and other marketable products should be, to different degrees, owned in common by all the people and protected and distributed by the State to all as needed.

Indeed, the meaning of communism and socialism are the opposite of the meaning of U.S. republicanism, in which an elite few own and control the

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1 First coined in an 1845 editorial in the *United States Magazine and Democratic Review*, the doctrine of Manifest Destiny asserts that the “expansion of the U.S. is not only inevitable but divinely ordained” (Webster’s, 1988, p. 606). Readers may also refer to the 1823 Monroe Doctrine, declared by then-President James Monroe and the 1904 Roosevelt Corollary invoked by then-President Roosevelt as U.S. justifications of North American expansionism and corporate protectionism (editor).
means of producing and distributing marketable goods. The NSC claimed that the U.S. was a “free society [that] cherishes and protects as fundamental the rights of the minority against the will of a majority, because these rights are the inalienable right of each and every individual” (NSC 68, IV C, p. 31). In practice, this is an untruth. In reality, republicanism, communism, and socialism as practiced by the U.S., the former U.S.S.R., and other nations are/were not democratic forms of government.

Under NSC 68, agents of the U.S. government falsely labelled domestic social movements as communist – for example, the civil rights and labour movements from the 1950s through 1970s – and violently attacked them. With a large faction of the upper-class business-owning community and their followers fearing the mere mention of communism/socialism and espousing racism, it was not hard for the conservative media and politicians to win support for violent suppression of the these movements. Using NSC 68 counter-insurgency tactics, uniformed and plain-clothed government personnel (military, CIA, and FBI), local police, and others beat, criminalized, imprisoned, and even killed members of the social movements who were seeking their “inalienable rights.”

Any individual, group, or country that appeared to interfere with the economic, political, and military dominance of the U.S. government and the corporate elite, domestically and/or globally, were labelled “threats to national security” by the NSC. The “interfering” ones were subverted and criminalized by agents of the NSC – the CIA, FBI, and others. How can such violent suppression of individuals’ civil liberties and civil rights occur in a “democracy” or a “free society”? Such forceful acts amount to fascism – republicanism in survival mode. Social intolerance of minority groups based upon physical characteristics, religious or political beliefs in the name of “national security” is no excuse for violently suppressing civil rights and civil liberties.

As a result of this process of criminalization, many if not most of the oppressed end up being politically and economically deprived slave labourers for the capitalist oligarchy, the trans-global corporations’ military and prison industrial complexes. The elites’ objective is to maintain a cheap labour force via imprisonment (“containment”), political disfranchisement, and economic isolation, thus systematically subjugating the working classes domestically and globally. This is the elites’ concept of a “New World Order.”
The Military and Prison Industrial Complexes

Eve Goldberg and Linda Evans (1998) make the connection between the building and maintenance of weapons and armies (military industrial complex), and the building and maintenance of prisons (prison industrial complex). They poignantly state that these industrial complexes motivate people's fear of communism and crime in order to expand their sphere of influence. They also show that the military and prison industrial complexes ensure an instant and endless supply of cheap labour that fuels the world market economy. The authors clearly point out that the twofold primary goals of these institutions are profit and social control (p. 5). Moreover, in tandem with U.S. government policy, these industrial complexes are in many instances responsible for fanning people's fear of communism and for the rise in crime rates.

Cases in point are the U.S. military- and CIA-initiated Iran-Contra affair and the "War on Drugs" campaign against the Mexican, Panamanian, and Colombian drug cartels in the 1980s. These so-called wars not only helped to plunge these Latin American countries further into economic and unemployment crises, but also increased the crime rates and prison population in the U.S. During the Nicaraguan Civil War between its military regime (the Contras) and the Sandinista rebels, the U.S. government illegally and secretly supported the Contras by selling arms to Iran in exchange for the release of American hostages and giving the profits from the arms sales to the Contras. This expanded the conflict into the neighbouring countries of El Salvador, Guatemala, and Honduras, causing tremendous atrocities to be committed against the civilian populations. A significant portion of the "funds for arms" given to the Contras were used by them to purchase tons of cocaine from Columbia to be sold in major U.S. cities, while the U.S. government turned a blind eye. These events led to a rapid influx of over a million poor refugees into the U.S.

With the U.S. prison population already on the rise throughout the early 1980s, the rapid influx of refugees and cocaine from Latin America fuelled further imprisonment and a rise in drug-related crimes nationwide. The U.S. government responded by diverting federal and state tax dollars from inner-city schools, urban vocational and educational training programs (e.g., the Comprehensive Employment and Training Act [CETA] program, Job Corps, etc.) to expand the military and build industrial warehouse-style prison facilities. The market for an inner-city minimum-wage labour force dwindled in conjunction with the labour pool, because people were either incarcerated or
opting to enter the lucrative powder and crack cocaine business and related quick money schemes.

From the mid-1980s through the mid-1990s, large and small corporations began experiencing these entry-level labour shortages, especially with respect to African- and Latino-American males. Many corporations responded by laying off thousands of experienced domestic labourers and moving south to some of the aforementioned Latin American countries, where labour was cheap and the environmental health and safety standards lower (Goldberg & Evans, 1998:7). The result was many jobless Americans committing crimes for financial gain—robberies, burglaries, thefts, and drug dealing. Many of the jobless were first time offenders.

The U.S. government responded by declaring and escalating “war on crime” and “war on drugs” campaigns. Nationwide, governments expanded the military and police, built more prisons and jails, and hired more prison officers, paying them higher wages and equipping them with high-tech surveillance and military-style armament. Episcopal priest, independent researcher, and pamphleteer Frank Morales wrote a compelling discourse explaining how this power expanded in the late 1990s:

The Clinton administration extended the police/military connection by mandating that the Department of Defense and its associated private industries form a partnership with the Department of Justice to “engage the crime war with the same resolve they fought the Cold War.” The program, entitled, “Technology Transfer From Defense: Concealed Weapons Detection,” calls for the transfer of military technology to domestic police organizations to better fight “crime.” (Morales, 1999:46, emphasis added)

Indeed, the increasing number of prisoners and prisons opened up a new market of cheap labour for private corporations to exploit. Goldberg and Evans (1998) also note that defence industries—for example, Westinghouse—began “re-tooling and lobbying Washington for their share in the domestic law enforcement market.” The company created “night enforcement goggles,” “electric hot wire fences,” and other military equipment to paramilitarize the police and prison guards (p. 6).

Other private corporations (AT&T, Sprint, MCI, Smith Barney Investment Firm, American Express, and General Electric, for example)² are also earning
enormous profits from prisons. They are also partly responsible for the rapid growth of the private prison industry, such as the trans-global private prison Correctional Corporation of America, which owns 48 prisons in 11 states, Puerto Rico, the United Kingdom, and Australia (Goldberg & Evans, 1998:6).

Prison guards are also benefiting from this expansionism. According to the *Los Angeles Times*, an audit of the California prison system revealed that excessive use and abuse of overtime led to over 5,000 sergeants and lieutenants making more than $108,000 a year – double their base pay and more than the annual salary of the Director of California’s Department of Corrections (p. A-3). Lower ranking prison guards are similarly abusing the overtime system. Such funds could be used for rehabilitation programs, but that would lead to fewer released prisoners returning to prison and thus interfere with the expansionists’ agenda.

The current trend in prison expansion would not be possible without lawmakers doing their part by passing such laws as “two-strikes,” “three-strikes,” mandatory minimum sentences, and the Juvenile Crime Initiative (Proposition 21). The expansion requires laws that allow private corporations to invest in city and county jails, state and federal prisons, and laws granting government contracts to private corporations to build, staff, and operate prisons. Such laws guarantee an endless supply of raw material – prisoners, including child labourers. Indeed, the common goals of the prison and military industrial complexes and private corporations are to maintain social control while maintaining a cheap slave labour force and high profit margins. Their interconnected agendas drive the globalization of their practices under the guise of national security.

**The Corporate Oligarchy**

After interviewing corporate executives from several trans-global corporations, authors of one study illustrate the influence corporations and their political action committees (PACs) have on *domestic* policy making (Clawson et al., 1993). However, chief executive officers and PACs failed to mention the amount of influence they have on *U.S. foreign* policy making. As already stated, the

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goals of corporate globalism are high profit margins via the maintenance of a cheap labour force, both domestically and abroad, especially where unemployment is high. Many of the desperate unemployment situations were created by those affiliated with – and/or those who have an economic interest in – trans-global corporations.

An example of the effects of global corporatism is cited by Dr. Vandana Shiva, a physicist, ecofeminist, writer, and a leader in the international movements against corporate globalization (Gordon & Wing, 2000). Dr. Shiva explained that:

The Rockefeller Foundation financed the “Green Revolution” in the 1960s, which shifted agriculture worldwide from sustainable, organic bases to totally non-sustainable chemical farming. It did not produce more food; it displaced more peasants. It bonded Third World countries into permanent debt. (p. 31)

The high-tech agri-industry genetically engineers chemically dependent golden rice and “Roundup-ready” soy seeds en masse to withstand massive doses of pesticides. Industrial farmers are then able to sell genetically altered crops for less than their peasant counterparts, who are unable to sell their organic rice and soy seeds. Consequently, peasant farmers are forced to either borrow money to survive from day-to-day or sell their land to the Rockefeller Foundation or the World Bank or to trans-global corporations financed by these same entities, for example, RiceTec, the creator of chemically dependent rice and soy seeds (Gordon & Wing, 2000:31). The result is that agri-corporations displace and dispossess peasant farmers and dominate the food production industries in India and many other Third World countries. This increases the national debt of those countries and plunges the masses deeper into poverty and dependency on the corporate oligarchy, not to mention the potential for health problems from eating rice and soy contaminated with pesticides and other chemicals.

Another outcome of the new globalism and the effects of the NSC 68 plan is the collapse of the Russian economy in the early 1990s. The trans-global fast food giant McDonald’s was one of the first to construct restaurants in Russia that were five to ten times larger in size than those in the U.S. Russian workers, especially entry-level workers, were paid less than half of what their American counterparts were paid. Corporate PACs had lobbied for and seen
the passage of legislation allowing them to pay foreign workers less than U.S. minimum wages.

The expansion of these and other U.S.-based businesses is neither intended to help revive the Russian economy, nor revive the economy in Latin America and other Third World countries affected by NSC 68. The purpose of trans-global oligarchies is to extend U.S. military influence, and to increase the wealth of corporate executives. Large portions of the accumulated wealth was set aside for corporate PACs to donate to the re-election campaigns of politicians who are “willing and able to help” get legislation passed that is favourable to their parent corporations (Clawson et. al., 1993, pp. 11–13). Such methods of globalization disenfranchise the majority of people and deprive them of the means to establish small industries, especially those farmers who produce food for human consumption.

Someone once suggested that many people go through life wearing emotional blinders because they do not want to see the world as it truly is. Then there are those who make it their mission in life to uncover the facts and causes behind socio-economic injustices throughout the world. The search to uncover hidden agendas and causes is not always an easy task — nothing worthwhile ever is — but it is always better to know than not know. Knowledge is power. Globalization – American style — by the corporate, military, and prison oligarchy benefits only an elite few at the expense of the poor and the working classes.

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Karamoko Akpan-Patches is a pseudonym. The writer is currently incarcerated in California and can be contacted through Harry Simon, Public Defender’s Office, 321 East Second Street, Los Angeles, California 90012, U.S.A.
People of Colour and the Prison Industrial Complex

Robert E. Taliaferro, Jr.

This camp brings out the very best in brothers, or destroys them entirely. But none are unaffected ... I know that they will not be satisfied until they've pushed me out of this existence altogether. I've been the victim of so many racist attacks that I could never relax again.

— George Jackson, April 1970

In recent years there has been a concerted move by the conservative right in the United States to dissolve federal mandates that once promoted a higher standard of social equity. In addition, there is also a push to enhance and further define state-rights sovereignty over the rights of individuals, once the condition that allowed the existence of socialized slavery.

The central theme of any historical event is how that event shapes our lives. The institution of state-sanctioned slavery is a construct that sets the underlying doctrine in the political and economic atmosphere that exists in the United States. Nowhere is this more highly visible than in the country’s criminal justice system.

The purpose of this paper is to look at the concept of the “Black Dimension” from the perspective of a prisoner. Perspectives of prisoners are compelling in such studies because they are free from the inherent factors that tend to detract from such concrete observations made by the community-at-large. In essence, prisoners are not burdened with paying rent, taxes, food bills, or the physical rearing of families, and as such can spend time digesting the various incongruities that exist within a society beyond the fences and walls that surround their existence.

And yet, a prisoner’s existence is not far removed from the conceptualizations that define the world beyond the walls. In one of the many ironies of life, prisoners are often dismayed by the amount of freedom that is voluntarily divested by the community, especially in communities whose predominant

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1 In Jackson’s *Soledad Brother: The Prison Letters of George Jackson*. Foreword by Jonathan Jackson, Jr. (1994) Chicago: Lawrence Hill Books. Jackson’s younger brother Jonathan was shot to death during a hostage-taking in which he demanded the release of the Soledad brothers from San Quentin Prison in 1970. Almost a year later, George Jackson was shot to death by a tower guard inside San Quentin in a purported escape attempt.
population is people of colour. Often, as the fate of that community population goes, so goes the fate of their unfortunate peers within U.S. prisons.

This paper, then, serves as a warning. It is an observation that calls to task those who would espouse a philosophy of situational growth for black people and other people of colour within the United States. Divisive apathy is our greatest enemy.

**PROVING GROUNDS: CRIMINAL JUSTICE POLICIES**

The criminal justice system in the United States is the proving ground of social policies that exacerbate and extend social and cultural racism in the country. Through the incarceration of people of colour at disproportionately higher rates than that of their white peers, the black community-at-large is slowly being relegated to a third-class citizenship status well behind other minority groups within the U.S.

In the United States, people tend to be apathetic toward problems that lie on the fringe of their awareness. This is especially so when those problem areas are not directly perceived as ones that affect the individual person. As such, problems within the U.S. criminal justice system are simply “prisoner-related” and not worth the effort of thought in the conduct of everyday life. Because of this apathy, the black community in the United States is not far removed from the abuses suffered prior to the passage of legislation that was ultimately designed to incorporate blacks into the mainstream of American society, legislation that in a fundamental sense is currently being rethought.

The dialogue on race in the U.S., according to political pundits, is an essential factor for the growth and expansion of improved race relations within the country. Yet, the conversation has always been a convoluted and one-sided one, especially when it addresses the country’s criminal justice policies. Despite varied dialogues, Black Americans still live in a world divided that is governed by a dual “class-based” hierarchy even within its own ranks. Though men of colour have always been treated with this approach, women and children of colour have been targeted over the last decade in ever-increasing numbers.

Black American communities-at-large, as a result of these policies and an extensive shift to the right, have stalled their growth potentials. This is disconcerting in light of the political environment that revolves around another Bush presidency and his appointments. This is in spite of the “colour” that Bush has nominated to his current cabinet. Regardless of the current president’s
Robert E. Taliaferro, Jr.

seemingly good intentions, the fact still remains that the move right is far removed from the interests of black American communities.

Those who wish to halt the gallop to the right need to be able to envision a convincing political alternative if the cause of racial justice, and indeed of radical democracy, is ever to resume its advance (Winant, 1998). The advance, however, is stymied by the country’s inability to measure its maturity by the way it treats its citizens.

**INCARCERATION AS A RACIAL POLICY**

We as a society are witnessing the debasement of humanist respect toward fellow human beings with ever-increasing intensity. Sheldon, in his pamphlet *Voices from Within the Prison Walls*, speaks about the humiliation that occurs when a society attempts to re-image itself by trying to instil a sense of “colour-blindness” when involved in discussions aimed at social parity (1998).

Current criminal justice practices in the United States seem to be mandated to remove forms of individuality – both cultural and social – from prisoners. In the social strata of prisons, terms such as “offender” and “inmate” might be used to deconstruct the image that terms such as “prisoner” or “convict” might portray. In the same light, similar practices attempt to remove any reference to race by promulgating doctrines of “colour blindness,” appearing to be, on the surface, equally tough on criminal actions regardless of the perpetrator’s race. That point, however, is belied by the campaign that politicians and the mainstream media have propagated in the “race doesn’t matter” concept. In fact, many crime statistics released to the public infer that, “if not for black criminal conduct – especially from its males and youth – the U.S. would be a cultural Utopia.”

Disagreeing with that analogy, Angela Y. Davis writes, “When the structural character of racism is ignored in discussions about crime and the rising population of incarcerated people, the racial imbalance in jails and prisons is treated as a contingency, at best as a product of the culture of poverty, and at worst as proof of an assumed black monopoly on criminality.” Contrary to common perceptions, laws defining criminality based on race are not that

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uncommon in the United States, and are reminiscent of such race-oriented laws as the Fugitive Slave Act. Among those laws is legislation geared toward quality of life and community policing.

**Whose Quality of Life?**

In 1999 the U.S. Supreme Court decided to review a decision of the Illinois Supreme Court that deemed a Chicago ordinance unconstitutional. The ordinance made it a criminal offence for anyone to stand in public without an apparent reason. The ordinance was defined as a “quality of life” and “community policing” issue, with standards that specifically targeted gang members or any person perceived to be a gang associate.

One of the astounding things about such ordinances is that they never specify the criteria determining gang membership (or association) of a person who is standing in public, leaving it to law enforcement to decide. Consequently, such boilerplate laws create potential violators of people of colour based upon the suspect standard of “what one appears to be.” Though such laws do not specify colour in their language, the lack of specific criteria opens the interpretation to the enforcer’s bias, so that the word “gang” is synonymous with “black” or “people of colour,” thus criminalizing race.

What is even more astounding is that the authors of such generalized and highly controversial laws feel that the enactment of their legislation in black communities especially, offers those community citizens and their rights a better sense of protection. As author David Cole writes, “... they argue that criminal laws no longer must be clear in places where minority groups have a voice in the political process and can protect themselves.”

One of the most vehement and direct attacks on minorities under the quality of life standard was California’s “Proposition 21.” This law, like many similarly enacted laws, was not based on actual statistics but on “predictions of future

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5 Among Prop. 21’s components are mixing children with adults in prison, eliminating informal probation, eroding the confidentiality of juvenile records, providing for the filing of adult charges against children as young as fourteen without prior judicial consideration, expanding the list of three-strikes criteria, creating new crimes and penalties for youth only casually associated with groups labelled by police as street gangs, requiring youth registration with police after a conviction of gang related offences, and expanding the number of crimes punishable by death.
criminality.” In writing about the law, The Fortune Society’s Julian Liu noted, “supporters of Proposition 21 claim that a ‘crime wave’ threatens the state, pointing to the predicted increase of California’s youth population by one-third over the next 25 years.” It should be no surprise, then, that crime statistics show that juvenile crime, in particular, is decreasing. Crime rates, overall, were at least 25 percent lower in 1996 than in the late 1980s and early 1990s.

In prison, administrators implement their own forms of “quality of life” standards, especially in the proliferation of supermax prisons. As in the community, men and women are often locked in these prisons-within-prisons based on predictions of future criminality. As in the community, those who find themselves more likely to be housed in these units are people of colour.

In the community, the perception of “future criminal intent” has a dual effect on communities of colour. On one hand it is a move to ensure the safety of the community’s future, while ensuring that a significant number of black and Hispanic males will not be a part of that future. That concept further exacerbates the situation by guaranteeing that a label is placed on the individual that will be further acted upon by prison administrators upon the person’s entry into the criminal justice system.

Such racial policies are easily compared to South Africa’s former regime of apartheid, attempting to give the appearance of civility on one hand, while promulgating abusive conditions on the other. As one prisoner commented, in viewing the celebrations surrounding the release of Nelson Mandela, “Why should I concern myself with apartheid in South Africa, when I see it right here?” By ignoring race as an issue — especially in terms of community policing, quality of life, and ultimately incarceration at disproportionate rates — the concept of “colour blindness” in both white and black communities only compounds an already complex social problem.

Fraught with such a high degree of disparity in its management, the most consistent aspect of the criminal justice system in the U.S. is its controversial nature. “The least controversial observation that one can make about criminal justice today,” writes sociologist David J. Rothman, “is that it is remarkably ineffective, absurdly expensive, grossly inhumane, and riddled with discrimination” (Rothman, 1994). This is an argument that is supported by the system’s own statistics.

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CULTURAL GENOCIDE: THE "WAR ON DRUGS"

Contrary to popular belief, the remarkably high rates of incarceration in the United States and their spiralling growth have not been driven by an increase in violent crime. Rather, the burgeoning prison population is the result of changes in penal policies and practices, and of the soaring number of drug offenders given prison sentences. Human Rights Watch, in a June 2000 report, found that several states incarcerated black males at rates 27 to 57 times higher than white males arrested in drug cases. What makes these statistics even more compelling is that most drug offenders are white. The study also found that fifteen states have double-figure black-to-white rates of incarceration with the Midwestern states of Minnesota and Wisconsin ranking one and two respectively.

One of the ironies about race-discriminatory patterns leading to disproportionate numbers of imprisoned blacks is that state and federal constitutional laws do not apply. Such racial disparities in law enforcement are legal as long as they are not perceived to be undertaken with discriminatory intent or purpose (Fellner, 2000:3). The problem with intent and purpose, of course, is that these concepts are defined by the same federal and state legislators who enacted the laws causing the disparity in the first place. As a result, the integrity of the laws, the criteria for enactment, and their underlying purpose pose the issue of equal enforcement.

In essence, the current trend of disproportionate incarceration of blacks specifically and people of colour in general is indicative of the continued "plantation-oriented" mind-set within all levels of U.S. policy making. The effect on the black population in this country is stifling: unchecked growth of the prison industrial complex, continued racial profiling both in and out of prison, ill-conceived social reform programs, and other cultural-specific—and as such, divisive—policies. All are designed to lessen the impact of black Americans on the social, economic and political spheres of influence within American society.

Social psychologist Wade W. Nobles warned over a decade ago, "Substance abuse, in many ways, is becoming an American condition. However in relation

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8 Supra, n. 7.
9 According to Human Rights Watch, Minnesota incarcerates blacks at a rate of 26.8 blacks for every one white. Wisconsin is at 21.3 to 1.
to the African American community, substance abuse can be judged as an instrument of genocide."\(^\text{10}\) Also in 1989, another social activist, Jawanza Kunjufu, noted that obstacles placed in the path of the black community are conscious, aimed at black youth in particular, and economically based. Kunjufu further stated that drug policies are a means to an end, noting, "there is a conspiracy to destroy black males ... This country no longer has a need for black male labour. Why were we brought to this country? To work on plantations. That need does not exist today."\(^\text{11}\)

Wall Street, however, and international investors would probably beg to differ with Kunjufu’s statement. U.S. incarceration rates, like slavery, have become virtual bonanzas for their investment capital. Additionally, adding a new wrinkle to the equation is the proliferation of private for-profit prisons and related services which, though rife with controversy, occupy about 10 percent of the total number of prisoners incarcerated in the country.

**Privatization: The New Slave Trade**

Most people think of the most simplistic view of the prison industrial complex, the physical plant of a prison, its guards, and prisoners. But the prison industrial complex, like slavery, has a much wider impact on black communities, as well as other communities of colour. Like slave ships of old, second-hand buses and vans crisscross the country in the dead of night. On board are men and women destined for a cell in either a private, state, or federal facility. At one time the province of federal marshals, privatization has taken over even this aspect of incarceration.

For blacks in this country, such a concept should be alarming, as it is reminiscent of the Middle Passage.\(^\text{12}\) And like the slave trade, prisoners’ families might find their family members shipped across the country at a moment’s

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\(^\text{11}\) Supra, n. 10.

\(^\text{12}\) The Middle Passage is defined as that portion of the Atlantic Ocean between West Africa and the Americas where European vessels transported African people into slavery in the Americas between the fifteenth and nineteenth centuries. The Middle Passage is also defined as the actual journey from Africa to the Americas, being one of the legs of the infamous Triangular Trade Route that involved Europe, Africa, and the Americas. See www.middlepassage.org/detail.htm.
notice, kidnapped by modern-day slavers working in conjunction with government and private interests.

The universality of the prison industrial complex is frightening. It is the new colonist, populating economically depressed rural towns with black, brown, red, and yellow gold. And like its ancient counterpart, this new breed of colonialism ultimately breeds racism and the enslavement of people of colour on a universal level. Global privatization is a modern-day act of ethnocentric and economic contempt that does not simply affect the so-called “defined criminal element” in this country. Each new prison represents a monumental economic and political windfall for the receiving community, and another cog in the prison industrial machine that— with over six million people under some sort of judicial sanction— leaves very few Americans untouched.

Globalization also ensures that the U.S. prison industrial complex is not an encapsulated environment, for it involves much more than a police-state infrastructure of law enforcement. In the United States it has become a means to globalize trade at the expense of prisoners, their families, workers within the country, and workers in other lands. The prison industrial complex, especially on the private level, ensures its perpetual state by monopolizing all aspects of its existence. By doing so, it ensures that payments received for goods or services do not trickle down to people of colour, even though its main source of revenue is those same people.

Prisoners and their friends and families are required to purchase from certified vendors that make their money solely on that market. Health care and food services are provided by private prison-oriented concerns that need not worry about securing competitive bids, since most have some sort of stock or are owned by the prison consortium. And then there are the incidentals: linens from India; blankets and clothes made in Mexico and distributed by Bob Barker; cheap toothpaste, toothbrushes, soap, lotion, deodorant, and shoes made in Taiwan, Malaysia, China, and other impoverished Pacific Rim countries. This enslaves imprisoned American citizens economically, but also relegates the indigenous peoples of those trade countries to a form of economic slavery.

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13 A survey of all items sold or distributed by several private prisons revealed that at least 90 percent of those items are created in Pacific Rim countries and then distributed by companies in the U.S. This list also includes such items as lamps, hot pots, shower shoes, and even game items such as chess and checker sets.
One of the ironies of incarceration during the rehabilitative period of this country is that convict labour produced many of the products now purchased in the Third World, often making more in prison wages than their global counterparts are currently paid. The growing prison industrial complex, then, not only serves to provide a means of warehousing people of colour, but it also serves to expand economic colonialism at home and abroad, ensuring that any hope for the future is defined by the barred steel doors of this redefined form of industrialized slavery.

**Black Women and the Family**

Most black women in prison today are serving time for drug charges. Often these charges are simple possession. But like their male counterparts, this possession is usually in the form of crack cocaine, which often leads to much higher penalties than if one were in possession of powder cocaine. Most women who are in prison have also been abused in some way, and this abuse does not end upon their entry into the system. Prisons that are charged with the rehabilitation of its prisoners often promulgate further abuse.

One of the most viral and violent attacks upon the black dimension in this country comes from the destruction of the family-at-large. With the incarceration of black women, especially those who head a single-parent household, it is almost a guarantee that one or more of her children will eventually be incarcerated.

In 1998 half of the 84,000 women confined in local, state, and federal prisons were black. Today, there are more than 100,000 women in prisons across America. While nearly two-thirds of the women on probation and parole are white, nearly two-thirds of the women confined on all levels are minorities. With these numbers also comes the inevitable effect on their children. Over 156,000 children are directly affected by their mothers’ incarcerations, and more than half never visit their mothers during important times of their development. Substantial reasons for the severing of these family ties are economic and/or geographic which make the trip to the prison impossible. Mothers often lose custody and visitation rights with respect to their children, even after they get out.\(^\text{14}\)

\(^\text{14}\) *Supra*, n. 2, p. 27.
And the impact on those children is disturbing. According to the U.S. Department of Justice, the conviction and incarceration of women has a profound intergenerational impact.\textsuperscript{15} In fact, children often suffer the same traumas associated with incarceration that plague their parents. Experts say that when women are separated from their children, the toll is exacting. Children generally experience the most harm, and mothers sink into deep depression.

About three out of four women in prison are mothers. Fewer than one in four can rely upon the fathers of those children to provide care while they are incarcerated. Children whose parents are incarcerated often end up in the care of relatives or in foster care, and are five times as likely to commit crimes as adults than are children of mothers who have not done time (Bloomfield, 2000: 6, 13).

Although black women represent only 6.3 percent of the national adult population, they constitute 7 percent of all drug admissions to prisons.\textsuperscript{16} As with disproportionate numbers of black men in prisons, especially in drug related cases, black women were more than eight times as likely as whites to be in prison in 1997 (Fellner, 1998:22). Additionally, the rate of incarceration of women has grown nearly twice as fast as that of men over the last twenty years. With that growth comes an increase in the numbers of children confined, both as juveniles and later as adults.

**BLACK YOUTH: AN INTERGENERATIONAL WAR**

The current generation of youth is nearly 70 million strong, and many feel that it is prudent to head off the “predicted” problems with their numbers by fuelling discord in the community. Black youth and youth of colour are especially targeted as the war on drugs has ultimately become the war on black and brown youth. A direct result of the war on drugs is that urban youth of colour are seen as “super predatory, ultra violent, drug-infested gang bangers.”\textsuperscript{17}

\textsuperscript{15} According to Diana Block of the California Coalition for Women, the number of women prisoners in California has risen 600 percent. California has the highest number of women prisoners in the world. The impact of this phenomenon on the children of imprisoned women is rarely studied, except by groups like CCWP.

\textsuperscript{16} Fellner (2000:23) reports that between 1986 and 1996, the number of women incarcerated on drug charges had risen 888 percent, compared to 129 percent for non-drug charges. White women, in comparison to black women, only represent 5.4 percent of drug admissions.
Current estimates note that the median age of incarceration for 62 percent of the prison population is under 30 years of age. Other estimates state that over 100,000 youths under the age of 18 are incarcerated and with laws such as Proposition 21 on the books, we are liable to see the median age of incarceration skewed downward to the mid-twenties or lower. The catch-all justification for such initiatives lies within the single word. As Pintado-Vertner and Chang comment, "The War on Youth’s buildup began in the late 1980s, as jurisdictions increasingly fretted about rising juvenile crime rates and ‘out-of-control’ youths were labelled within a single racialized code word: ‘gangs’."¹⁸ Suspicion of gang affiliation, like suspicion of drug involvement, is stigma that youth will carry for life, affecting their ability to pursue education and employment because of their entry into gang reporting databases.

Databases indiscriminately criminalize youth, identifying suspects before any crime has been committed. Racial profiling, it seems, is most virulent when it comes to youth of colour.¹⁹ Unfortunately, there are those in both white communities and communities of colour who say, "We know who the real criminals are—let’s get them before they have a chance to act out their criminality."²⁰ This label comes at a price, which is more often than not the welfare of the black community and the impact that it has on the social, cultural, and economic strata of the United States.

**CAPITALIST FUNDAMENTALS: ECONOMIC AND REPRESENTATIVE RACISM**

What is the most compelling aspect of disproportionate black incarceration? Though many may labour the point, it is the opinion of this writer that representation would be the major point of contention. Though economics would run a close second, the lack of representation and the attendant disfranchisement that walks hand in hand with incarceration is perhaps the most damaging aspect that weakens the black dimension and its ability to grow.

Political representation is a cultural governor in the United States, and without proper states of their own, no social entity can survive. As we have found in

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¹⁸ Supra, n. 17, p. 11.

¹⁹ Supra, n. 17, p. 12.

²⁰ Supra, n. 3, p. 270.
election year 2000, not since slavery have a larger number of blacks in this
country been exempt from the political process. In numerical terms, 1.4 million
black men, or 13 percent of all black men in the country, have been
disfranchised at a rate of seven times the national average. It was only in 1865
after nearly 350 years of legal racial suppression that the United States enacted
the Voting Rights Act. However, the ink was barely dry on that document
when black males were being barred from the process again.

In barring such large numbers, either through enacted legislation or
incarceration, the prison industrial complex and society-at-large maintains a
status quo that is skewed toward white dominance of the political, and hence
economic, reins of control. The lack of representation in urban areas is a gain
for rural representation. Few prisons are located in urban areas, and even
though the overwhelming majority of black prisoners come from those areas,
their incarceration in rural areas (while strengthening those areas) has a negative
impact on the social, economic, and political integrity of the communities
from which they hail. Rural areas that house prisoners receive an estimated
fifty billion dollars each year. Such gains are realized via employment,
infrastucture development, education, and, most importantly, political
representation.

Criminologist Nils Christie (1993) describes prisoners as “captive
consumers,” prized commodities in economically depressed rural areas. Like
the slaves of old, prisoners place a high demand on the necessary services
required to run a prison, but place little strain on the infrastructure since they
do not use roads or other community resources that would diminish the benefits
of the arrangement. In turn, huge financial and political rewards are gained as
they relate to prison-oriented functions. One of the ironies of this arrangement
is that more often than not, when those same rural communities would frown
on black intrusions into their enclaves, they cheer the predominately black
prisons built in their backyards, often competing vehemently for the opportunity
to host one.

With the loss of people from urban locales, so go representation and attendant
funds needed to grow. Communities cannot develop without funding, support,
or political representation to plead their cause, especially with the liberal

21 In Randall Robinson’s “America’s Debt to Blacks,” The Nation 270(10), March 13,
2000, 5.
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Democratic retreat from support of black issues. Even in the best of times, racial issues tended to exacerbate divisions in the liberal coalition upon which Democratic electoral victories depended. As the policy swung to the right, liberals in the Democratic Party came under mounting pressure to downplay or sidestep racial issues. In fact, both Democratic and Republican parties are moving quickly to gain ground with the Hispanic community, empowering them with concessions that were, until recently, the province of the black community.

The Democratic Party's shift to the right can be linked to the disproportionate loss of such a large voting bloc of blacks in an already challenged arena. The ravaging effect of the war on drugs, then, can be seen as a turning point in black community development, disfranchising three decades of hard-won gains.

CONCLUSION

In writing this paper, the term "black" rather than "African American" was used. This was not an accident. The term was used to define a sense of universality with black struggles everywhere. As much as racial bias plays a part in the problems facing the black dimension in the United States, it is necessary that black struggle is recognized as a universal premise that is not bound by national origins, or internal, cultural, or geographic divisions. It is important that all aspects of the black dimension play a role regardless of their condition, for only then can we reverse the trend toward third-class existence, revisiting the precepts that once defined chattel slavery in this country.

The lack of viable and aggressive black leadership both at home and abroad is a transient cause of black downward trends. These leaders must be willing to address black problems in a more assertive manner, beginning, of course, with learning to work together for a common goal. It is easier to dominate a section of society if that element is already alienated, depersonalized, and subjected to deculturalization from within.

When Representative Maxine Waters first called attention to the influx of


crack cocaine into her district, prisoners were disheartened to find that other black leaders chose to be less than supportive, even though similar trends were also occurring in their communities. There are no quick-fix solutions to problems facing the black dimension, and yet no fix will be forthcoming if black leadership cannot define a consistent and unified response to problems that face the black community-at-large. Additionally, any response must take into account all members of the community, regardless of social standing and national origin. When Amadou Diallo was killed by New York City police officers, they were not concerned that he was an “African American.” Rather, they saw his black skin without regard to his country of origin. In defining the trials and needs of the black dimension, we must take care to not use terms or concepts that distract us from focusing on and pursuing the much larger and more pertinent issues at hand.

Those who feel that prison issues and community issues are separate should look at the fulcrum upon which the uprisings of Attica, California, New Mexico, Oklahoma, Ohio, and Georgia rested. Compare them to the community uprisings in Los Angeles, Miami, and Cincinnati and the causal factors will be the same: underrepresentation, frustration, class, and economic discrimination, summed up in one word – racism. When a community becomes self-deprecating, it gives carte blanche to the bourgeoisie to attack that weakness and find ways to criminalize its members. Community self-deprecation is a precursor to the conditions necessary for totalitarian government, giving the agents of over-control a lasting foothold in the community from which there is no viable escape.

REFERENCES

Robert Taliaferro is an alumnus of the University of Minnesota and Metropolitan State University (Minnesota). He is an established artist and currently is a columnist for the Chicago-based newspaper *News and Letters*. Taliaferro was the editor of *The Prison Mirror* from 1985–1989, during which time the publication won various community and national journalism honours including the 1985, 1986, and 1988 Best Newspaper awards, and the 1987 Charles C. Clayton Award from the School of Journalism at Southern Illinois University. His work has also been published in several anthologies and collections. He is currently in his nineteenth year of a life sentence, and can be reached at: 7108-WI, CCA/PCF, P.O. Box 500, DB-205, Appleton, MN 56208-0500, U.S.A.
People who come out of prison can build up the country. Misfortune is a test of people's fidelity. Those who protest at injustice are people of true merit.

– Ho Chi Minh

Some seemingly respectable people enjoy sensational skulduggery of tragic love triangles and detective crime statistics; they find invidious pleasure in revulsion. Executions are used as a burnt offerings, and the condemned are stigmatized as visible targets of hatred and public scorn. The relation between crime and social factors is indisputable. People in free society are intensely angered by downsizing, factory automation, and technologies that have eliminated hundreds of thousands of jobs, leaving only work servicing the rich. They are able to direct some of their resentment and pent-up frustrations at the executed prisoner. Thus, capital punishment fulfills its role in a vicious cycle.

Most of the people on death rows are social prisoners, who were neither politically conscious, nor politically active prior to their arrest and conviction. Social prisoners are held up as throwaway people and, as such, are ruthlessly fed into the grinding jaws of an inflated, overtaxed, depressed political economy. So the withholding of evidence, or illegally suppressing favourable evidence from people on trial for their lives is no big deal.

Every time you open your mouth to speak and the truth comes out, a growing number of people will despise you. Those in positions of public trust, such as haughty politicians, corrupt police, corporation heads, and the conveyers of licentious influences in government harbour unrelenting disdain for those who throw light on their questionable dealings. The multi-billion-dollar, action-packed movie and broadcast industries are fuelled by extreme ravishment. Whether it is comedy, cartoon, drama, or mystery, orchestrated violence attracts the huge crowds. It is good when bundles of money are raked in as profit. The production and distribution of carnal degradation is justified by the return of vast revenue. Money makes it right. If money cannot be made, then it is bad. Build more prisons, but please leave the corruption alone.

What sense does it make for politicians to spend millions of dollars campaigning for public office, work that only pays a salary of about $95,000 per year? Political science has become an art form, and professional politicians
have made it into a lucrative business. More millionaire candidates are spending whatever it takes to win a seat in political office. And those who are obsessed with state-sanctioned murder, every one of them by the shameless measure of endeavour for direct power to increase their personal treasure, is reflective of the economic class characteristics of this particular form of political government. Their exaggerated promises of prosperity for all — glibly arranged by speechwriters — will predictably fail every time because they are based upon deception and prestige.

Children in particular want to learn the truth, to be good, and do good, but they do not have a choice about what they hear and see. Children grow and develop at the contours of their social reality. Wars are necessary sometimes. It is necessary to cut down some types of trees here and there. Be that as it may, some things that are done in the name of profit and progress are uncalled for. We may like some things that are bad for us, and hate that which is good for us. The bottom line is that human beings worldwide are interrelated and interconnected with one another, and with the earth and universe. There is not one thing that we can do to the community or to the environment that we do not also do to ourselves.

Childhood is such a brief period of time. Children need stability. Their lives have been disrupted by no fault of their own. Children do not have a choice of when or if they will be conceived and born into this world. Children do not have a choice of who their parents will be. Children do not have a choice if they are sexually and psychologically abused. Negligent infliction of emotional harm has lingering adverse effects on a child’s impressionable mind. Prisons and juvenile delinquent centres are bursting at the seams with children and adults who were reared in abusive homes and corrupt environments. The profound irony in this is that the dehumanizing prison and jail environment compounds the malaise.

The atrophy of our youth is ubiquitous. The malaise is not confined to any single ethnic milieu. The problem of crime and economic underdevelopment encompasses every region in the country. Children sometimes steal when they’re emotionally distressed, as do adults. But children are not the problem. Our children are the future. If our beloved children are destroyed, there will be no future. With the removal of the Berlin Wall in Germany, the breakup of the former Soviet Union, with the end of the ill-fated East-West Cold War, as well as the phoney war on drugs, the youth of our nation have become targeted for a type of war. Devout proponents of capital punishment and private prisons
routinely mention the expectations of children in the same breath as future crime trends. Criminal behaviour is not a genetic trait associated with any particular people, but it is wrongfully attributed to the youth of ethnic minority groups. This supposition is not a legitimate point of view, and the pro-status quo analysts know it.

When the economic picture is bleak and jobs scarce, crime, more often than not, becomes a twisted option to many. The violence associated with unemployment and crime is, indeed, a public health problem. I think that jobs and income should always be a central topic of discussion in society until the problem of unemployment and poverty is resolved. Gainful employment and self-esteem are interrelated. Public health problems are often perceived as crime issues and law enforcement concerns. People who are mentally or emotionally depressed sometimes act out their depression by constantly doing risky things that threaten their lives, such as injecting drugs into their veins for pleasure, or driving recklessly. The repeated dangerous risks in the quest for perilous excitement are actually symptoms of a deeper psychological psychosis, bordering on the verge of suicide in a rush to blot out their painful feelings.

Depression is the debilitating emotions of anger or sadness turned inward. Relief from severe depression does not come through the vehicle of false beliefs and deviant social trends. The right and proper way is not always the most tried and popular way. More often than not, the straight way is rugged and narrow. The good does not always come easy, while the bad usually does. No matter how many afflictions you may have suffered, taking your frustrations out on others will never solve the problem. A particular difficulty is not unique to you only. Other people similarly situated, or worse, have experienced difficulties handling various personal problems. The voluntary intoxication of your mind will never cause your family problems or personal predicaments to go away. Whenever you come back to your senses, these same problems, and more, will be waiting for you.

The drug culture causes people to be fearful, unduly suspicious, and mistrustful of one another. I have a younger brother who flipped out on illicit drugs and alcohol and is now incarcerated. Similarly, I also have a younger sister who is strung out on mind-altering substances. I have not heard from her in years. I am not sure if she is alive or dead. Nonetheless, if I were not imprisoned, I would get her into a detox hospital. Her moral self-esteem would be restored. Her distress in body and mind is not atypical. I do not use dope, smoke dope, or sell dope. And I am not alone with this personal pain.
The social ills of the collective human family are the mirror image of a people’s wretched socio-economic conditions. We have to, and we shall without failure, clean house and disinfect our own community for renewed community development. I do not make any apology for advocating self-reliance. There is a better way. A change is going come. Something momentous is occurring when a people begin to wake up, pick up their lost dignity, and cleanse themselves from the inside out. Freedom is a struggle every step of the way. No matter how difficult the struggle may be, we must continue to push and pull upward and forward.

New Afrikan is my nationality. This is who I am. Al-Islam is my way of life. My so-called radical political and religious beliefs, which I refuse to renounce, scared the throwback conservatives in the city of Gary. Knowledge gives one responsibility. This I had, but the simple fact that I might be able to turn young, misguided people’s lives from self-destruction to self-construction was even more frightening to the city of Gary’s conservative power system. It is diametrically opposed to any political activity that does not coincide with its political agenda, for to do so would inevitably unsettle the status quo. Thus, the promotion of the crime epidemic is being used on every level of this society as a tool to justify our oppression. What has happened to me could easily happen to you or your loved ones. Do not think it cannot, because that is when it will probably happen.

Zolo Agona Azania is incarcerated as prisoner #4969 in Indiana State Prison, P.O. Box 41, Michigan City, Indiana 46361-0041, U.S.A. His spirit is strong and resolute for human rights and dignity.
Quiet Solitude and the Telling of One’s Own Story

Richard Fox

Why I like to have my quiet time is that it gives me time to get inside myself and to reflect.

– D.T., prisoner at a minimum-security prison

It is 4:30 a.m. I am sitting in the game room of a minimum-security prison enjoying two things that are rare here: solitude and quiet. Another prisoner is upstairs in the poolroom. He also gets up early to be quiet and write in his journal. We carefully avoid getting into each other’s space.

A guard comes by. People are getting up too early, he informs me. We are not to get up before 5:00 a.m. I protest. This is the only time I have each day when I am able to be up without the television on – the only time to be alone in a quiet place. Five o’clock a.m. is exactly when the television comes on. I have organized my entire schedule around the one hour of quiet and solitude I find here. I bother no one. I really need this.

My arguments are to no avail. This is getting out of hand, he says. I am astonished at his conception of “out of hand”: two and sometimes three people getting up early to find a quiet place to meditate and write. He lets me know that this disruptive practice must stop, and he walks off.

“You are taking everything from me,” I yell at him. I pick up a plastic chair and throw it into a pile of other chairs. I am gratified at the loud noise it makes. This is just what I want to say. I kick another chair across the room. I do not care at this moment what they do to me.

About fifteen minutes later I am called into the office. Two more guards have arrived, making a total of four. I realize that they think they may have to physically overpower me. That is a little gratifying as I am 60 years old and not especially athletic. I explain that I am not a violent person, and that even though I may occasionally lose it and kick a chair, I would never attack a person. Then I try to tell them why taking my moment of quiet from me is such a big issue in my mind. But my needs are irrelevant. I must not throw chairs. Rules are rules. I must not get up before 5:00 a.m.

“But that’s exactly when the TV comes on,” I protest.

They do not understand or care why that is important to me. “So why is it so important?” I ask myself. The best way I know to answer this question is to digress to philosophy. Philosophy is abstract, but the principles that I will speak of are hardly remote from what is vital in my lived experience. Indeed,
these principles have everything to do with why I exploded when I was told I
could not get up before 5:00, before the television comes on.

Experientially, we exist in two modes: temporal and atemporal. The essence
of our temporal mode of being is creativity. We act and create in both the past
and the future. We give meaning and coherence to the events of our lives by
organizing them into stories we tell about ourselves. Research has demonstrated
that remembering is not a simple and passive recording of things that happen.
Memory is creative, active, narrative. And as we project ourselves into the
future, we visualize how we want our stories to end. The essence of our
temporal experience is disclosed in the stories we tell others and ourselves.

The essence of our atemporal mode of existence, if we are to trust the
testimony of those who have pursued the matter with the most energy, is
“Sachidananda”: being/consciousness/bliss, in stillness beyond duality. Most
of us have tasted this state, at least to some limited extent, in moments of quiet
or meditation. Nothing happens in this mode of existence. There is no other
with whom to interact. Hence there is no story to be told – no tension or
drama that seeks resolution, no narration.

I am not suggesting that either the temporal or the atemporal mode is superior,
or in some way more in harmony with the ultimate nature of reality – only that
these two modes lie open for our exploration. My best guess is that mental,
emotional, and interpersonal growth and wellbeing is best served by a balanced
participation in both modes of existence.

An extensive literature demonstrates that the capacity to find a quiet centre
within oneself is psychologically beneficial. This much can perhaps be accepted
as established. The ability to find solitary and quiet times in places around
oneself obviously makes it easier to find a place of solitude and quiet within
oneself. It would seem, therefore, that no further argument is required regarding
the fact that places of solitude and quiet are needed if we are to live in harmony
with our essential nature in the atemporal mode of existence. The importance
of quiet and solitude to our wellbeing in the temporal and narrative mode of
existence is perhaps less self-evident, so I will focus on this point in more
deepth.

Except when prevented by external events, the average person will spend a
significant amount of time dwelling on the story of his or her life. We write
letters in which we try to tell our story or clarify some aspect of it. We write
journals with the same intent. We read stories in books and magazines for the
light they shed on our own stories. At times, these stories told about others
may even provide us with the fundamental form and meaning around which we structure our own story. We tell our stories to others and listen as they tell us theirs. When we are alone we reflect on the events of the day and wonder about the meaning of what is happening in our lives. At night we dream. Dreams are generally narrative in nature; they help us assimilate the experiences of our immediate past and provide us some anticipatory exploration of our fears or hopes for the future. The aim of these various forms of storytelling is, if I may coin a new term, narrative wellbeing. By narrative wellbeing I mean the state that is reached when we are able to assimilate the events of our lives—past, present, and anticipated—into a story that is coherent, true to our experience, informed by our aspirations, and meaningful.

The activities that facilitate narrative wellbeing require a reasonable degree of quiet and solitude. We cannot write a letter or a journal entry that accurately reflects the nature of our current experience if the television is blaring and we are interrupted at random intervals. It is difficult to reflect on the day’s events while we are in the midst of a chaos of discontented shouting, arguing, and laughing. We require a quiet environment if we are to connect both mentally and emotionally with a significant novel or short story. And two people need some insulation from the hubbub around them if they are to share their stories with each other in any depth. Maybe it is stretching a point to call this latter situation “solitude.” On the other hand, there is a card game called “double solitaire”; perhaps we can speak of “solitude for two.”

I was incarcerated over a year ago on charges of “gross sexual assault.” I doubt that anybody in the prison system has a vague idea what these words denote in terms of what actually happened in my life. The reality, I think, is both less extensive and less horrifying than almost anyone would suppose. But this article is not about the specifics of that story. Rather it is about the hostility of the system to my being able to know or to tell my story at all.

For long periods of time during my incarceration I have experienced name-calling, threats of physical violence, ridicule, humiliation, and ostracism on a daily basis. I am presently in a minimum-security facility where the harassment has been brought under partial control. Still, it is a hostile environment in which it is very difficult to become clear on the nature of my own story, much less share it with other people. In the absence of a reasonable degree of quiet and solitude, narrative wellbeing has been extremely difficult to attain.

Based on my experience of being incarcerated, I would suggest that the environment created for inmates by the criminal justice system undermines
our need for quiet and solitude in at least six ways: television, psychotropic drugs, cognitive/behavioural therapies, schedules and programming, overcrowding, and disregard of personal boundaries.

**TELEVISION**

My daily round is dominated by a desire to escape the ubiquitous, disorienting, and soul-numbing presence of the television. The first issue with regard to television has to do with the mental and emotional states that are either created or prevented by the simple exposure to television on a continuous basis, regardless of the specific content. Television inundates the viewer with a continuous bombardment of vivid, brief images. By not allowing time for any active response to the images, television enforces a passive receptivity on the part of the viewer. It allows no time for reflection. Over time, the events, people, and images seen on television usurp the events, people, and images of the person’s actual environment as the primary focus of significant experience. When the television is off, habitual viewers often feel threatened with a frightening void—the void of actual life.

As long as my roommate is in the unit (even if he is not in the room), he will not allow me to turn his television off or even turn the sound down. A part of this is an assertion of power and status on his part. He claims his territory (the whole room) with sound in much the same way as a wolf might mark its territory by urinating. But another aspect of it, I believe, is that he fears silence. Having lost his capacity for meaningful personal experience, a quiet place is a void for him. Even brief spells of quiet remind him of his emptiness. Either the television or a video game is on from the time he wakes up until 11:30 at night, at which time a prison regulation requires that he turn it off. He then turns on the radio and fills the threatening void with the drone of country music through the entire night. I find that this inability to tolerate silence even at night time, and the use of an all-night country music station as a solution to the problem, is a common pattern in prison.

The content of television is not totally irrelevant. It is not only that television fills our minds with noise, making it difficult to reflect on our own stories. Television forces into our minds its own repertoire of stories. The primary purpose of television is not to provide programs but to sell products. The programs are the bait. The ads are the hook. The most important story on television is therefore the one conveyed in the ads, and it is always the same
story: “I was never really happy until I bought brand A.” The programs themselves inundate us with stories that prevent us from serious reflection on our own. These are always safe and familiar stories -- the same ones over and over. No matter how violent, absurd, or obscene the stories are, they are still safe and familiar because they never challenge us with radically new possibilities for understanding our own selves and our lives.

**DRUGS**

When I moved into a cell for two men in the protective custody unit, the first information that my roommate gave me after his name was that he suffered from both bipolar and schizo-affective disorders. He may have known about my background in mental health work and thought that these credentials would be especially informative to me. I did not tell him that I felt it was both scientifically and politically improper to treat the majority of the entries in the *DSM-III* as discreet disease entities that could be treated with disease-specific medication. Nor did I say I saw the labels as social constructs created to justify tinkering with the human brain with a variety of chemicals, the primary purpose of which in this setting, if not in most situations, is social control.

During the next few days I was amazed to see how much he slept. After observing him I calculated that he slept about fifteen out of every 24 hours. The drugs were apparently putting him in a state that approached suspended animation. They were, one must concede, effective in controlling any tendency he had toward becoming agitated.

My roommate, whom I will call Simon, was a gentle and, insofar as the drugs permitted it, reflective soul. As we came to know each other during the next few weeks he shared a great deal about himself. His strongest sexual feelings were clearly directed toward men and boys. Yet he had a girlfriend who seemed important to him. I subscribe to the belief that each person’s “love map” is unique and may involve a variety of attractions. There was no reason, in principle, to doubt that he might have a significant interest in women.

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1 The *Diagnostic and Statistical Manual of Mental Disorders (DSM)* is produced by the American Psychiatric Association for the uses implied by its title. DSM-III was published in 1980.

along with his other feelings. But after coming to know him better I became persuaded that women occupy, at best, a weak and secondary place on his love map. Why, then, this commitment to a girlfriend and no mention of any boyfriend? By this time he knew me well enough to know that, although I had no strong attraction to adult men myself, I would accept him, whatever inclinations he had.

Simon kept his reading material in two paper bags on the floor. In one he had his bible study materials. He was taking correspondence courses from a conservative Christian academy of some sort. He worked on this course religiously every night before going to sleep. Only after he knew me pretty well did he risk letting me know what was in the other paper bag. With some trepidation, he showed me a magazine with articles and erotic photos for gay men. A few days later I asked Simon how he reconciled the contents of the two paper bags. I was confident that the religious groups that prepared this course he was taking would see his homosexual leanings as profoundly sinful. He acknowledged that this was true.

The two most important things in his life were in these two paper bags—his almost exclusively same-sex sexual orientation and his evangelical religious beliefs. I suggested that the opposition between these two forces in his life must be very painful to him. He conceded that this was so. I raised the possibility that this conflict, rather than some inborn error in his brain chemistry, might be the primary source of the psychic distress for which he was being medicated. Surprisingly, this was a new idea to him.

During the niches of time when we were locked in our cells and he was awake, we discussed how he might understand his need for obviously disabling quantities of psychotropic drugs. What emerged from these discussions is that there were three very different ways of framing his story. Simon told me two stories about himself. The first was a story about a victim of a chemical imbalance in his brain who was struggling to overcome his disability with the help of a medical community that was using its arcane knowledge for his benefit. The second story was about a Christian man who was struggling (with varying degrees of success) to overcome sinful and obscene impulses that were perhaps placed in his soul as a test. I was persuaded neither by the medical story nor the spiritual one, and offered him an alternative story. In my story he was a man who was incarcerated spiritually as well as physically—and his jailers were exactly those people he had gone to for help in working out his salvation.
He had been taught by his spiritual teachers to condemn and suppress the mainspring of his love - to hate one of the most fundamental aspects of his inner nature. By internalizing the judgments of his teachers he then became one of his own jailers. It stands to reason that a man who has declared war on his inner nature will suffer from overwhelming psychic distress. In my story he was a political prisoner - not a criminal. His inner nature was no crime.

So he turned to medicine for help with his distress. There he was told he had a “disease” or a “disability,” something akin to diabetes. But his chemical deficiency, he was told, affected his brain rather than his pancreas. When psychiatrists listen to people talk they are trained to listen for symptoms that will enable them to diagnose the person as having one or more of the socially constructed hypothetical disease entities listed in their *Diagnostic and Statistical Manual*, so that people can become patients who can be treated by chemical means. Whatever capacity psychiatrists may have once had to actually listen to the person’s story or to offer other and possibly more helpful narratives has been almost totally lost.

I was able to offer Simon an alternative story – one that reversed the gestalt within which he lived, as radically as a finished print reverses the negative from which it is made. In my story those he saw as liberators – the religious teachers and the doctors who were medicating him became his oppressors, and the most despised and repressed aspect of his soul became the Christ child pursued by Herod the carrier of new possibilities for love and life.

Whether Simon will accept the story I offered him or cling to his old ways of seeing his life remains to be seen. Even if it were within my capacity to force my story on him I would not do so, for then I would become another of his oppressors. It is his life and his choice.

This is a participant-observer study. It is theoretically grounded in the conviction that in narration – in the stories we tell about ourselves and each other – we discover and clarify the meaning of our experience. My own story must therefore be included in the data. I share with you, then, a few snippets from my personal history, the relevance of which, I hope, will soon become evident.

I am sitting in a classroom in elementary school. I do not know what the teacher is trying to teach, as I am not paying attention. I am staring at the clock on the wall, trying to anticipate the exact moment that the big hand will jump forward with a little click, bringing me closer, by a tiny increment, to my liberation or at least to a brief reprieve from this daily hell. My current experience
of being incarcerated reminds me of nothing more than the daily experience of being forced to attend school when I was a child. Why, then, did I not protest more actively—raise hell, refuse to remain in class? I was afraid of my parents, of course, and of the teachers, and of authority in general. But also I knew that the principal kept a paddle in his office. I had heard stories about this paddle from some of the more aggressive and bolder boys who were able to speak from first-hand experience. The principal is your “pal” we were taught in spelling, so as to distinguish between “principal” and “principle.” I did not believe it.

When I was growing up the problem of forcing students to be where they did not want to be, and performing tedious tasks that they did not want to do, was solved by the paddle. When physical punishment was ruled out, something had to take its place. There were, after all, still a large number of students who did not want to be there—some of who had the gumption to “act out.” It was to fill this gap that psychiatry stepped forward with its theory of “attention deficit disorder.” If children could not be beaten into submission, perhaps it would be possible (and more humane) to medicate them into submission. That schools themselves needed to change—that they needed to become places where children’s natural interests and desires might be taken seriously, where the slower ones would not be humiliated and the faster ones bored, where students would have input into what they learned and how they studied, and where they would feel cared for regardless of how successful they might be—in short, that schools needed to become places where children wanted to be, never seemed to enter the minds of those who made the decisions.

For a general discussion of the misuse of medications to solve problems in living, see Peter Breggin (1994), *Toxic Psychiatry*, New York: St. Martin’s Press. Breggin also examines how this issue pertains to children in school, in *The War against Children* (1994), New York: St. Martin’s Press. For discussions of how problems in living become defined as medical illnesses to be treated by doctors, see Thomas Szaaz, *The Myth of Mental Illness* (1961), New York: Hoeber-Harper, and *The Myth of Psychotherapy* (1978), Garden City, NY: Anchor Books. Also, the magazine *Dendron*, which is written by people who have been labelled as mentally ill, is highly instructive with regard to some of these issues.

For a radical critique of the public school system, see the work of John Holt (1964) in *Why Children Fail*, New York: Pitman. Also, *The Courage to Care in Public Schools* by Nell Noddings (1992), New York: Teachers College Press, offers a useful critique of the school system, and gives some positive suggestions on conceptualizing the kinds of changes that are needed.
The story of my first eight years of school is the story of my first imprisonment.

The medicalization of a political problem occurs when society replaces an authentic political narration with a spurious medical one. The medicalization of political problems serves the interests of the ruling group by defusing potentially explosive or disruptive situations. It does this in three ways. First, it reframes the story one must tell about his or her suffering, transforming it from a "socio/political" one to a "bio/technical" one. In this way it obfuscates any economic or social inequities that may be the actual sources of the individual's distress. Second, it disqualifies the one in distress as his or her own storyteller. The core issue becomes a (pseudo) scientific/technical one that only an expert (the mental health worker) can accurately narrate. Third, it opens the door to medical and legal procedures that make the disenfranchised person incapable of political action. The primary techniques used by the medical profession for incapacitating potentially troublesome people are labelling, surgery, incarceration, and medication.

I am not suggesting that the story one tells about his or her own suffering is always the most accurate one. But neither is the one the expert tells. In fact, those with the most money hire the experts. They therefore tend to identify with the interests and worldviews of the power elite and are motivated to misrepresent the stories of the disenfranchised people with whom they work. Common sense therefore suggests that we approach the stories told by experts with a degree of suspicion.

**THERAPY**

The difference between offering a narrative alternative and forcing one on a person is an important one for professional practice. It marks the distinction between a valid therapy grounded in cognitive and narrative principles and brainwashing.

About a month ago I was eating lunch at a table with a prisoner who had been friendly with me, but with whom I had actually talked very little. For a few minutes we were the only ones at the table.

"The thing is, they won't believe that a boy might actually like sex," he said.

The comment startled me with its boldness and its lack of any apparent context. But without his needing to spell it out for me in more detail, I immediately
knew that he was in prison because of engaging in sexual activity with a boy, that it was a consensual relationship, and that my interlocutor had participated, probably against his will, in a sex offender “therapy” group.

“That’s right,” I said. “They will only allow the story to be told in one way.” With this encouragement he went on to tell me that when he was a boy, a man had introduced him to sex.

“At first it seemed strange,” he said. “But then I liked it a lot.”

“Don’t share anything with them that they don’t already know,” I said, “or they will use it against you – and anybody else they can.”

He nodded. “I know that,” he said.

Sex offender programs, as they are currently structured, are generally described as “cognitive/behavioural” and claim the scientific authority that cognitive and behavioural therapies have established for themselves. The behavioural principle that is employed in these groups is that if you punish people enough, they will generally stop doing what you do not want them to do. It does not require a great deal of insight to understand why such a model might be popular in prisons. This principle can, with some degree of effectiveness, be applied to any set of behaviours that an authority wants to extinguish in a subject over whom he or she has sufficient power. A variety of punitive techniques are employed that intrude even into the fantasy and dream lives of the participants. But the central punitive methods are forced confessions and shaming by the group.

My friend at the lunch table was trying to deal with the fact that his own experience – his story as he knew it and would tell it if he were truthful – simply did not fit the only story it was permissible to tell. This permissible story had to conform to a number of clear guidelines. No boys below the legal age of consent enjoyed or wanted sex with men, whether they did or not. Sexual activity between a boy and a man could not be a part of a loving relationship, whether it was or not. A man who allowed this to happen could not be gentle and empathic, whether he was or not. A boy could not consent to such an activity, whether he did or not. Certainly a boy could not seek out a loving relationship with a man that was based in part on sexual feelings, whether he did or not. Such an event was always damaging to a boy, whether it was or not.

In fact, many different kinds of relationships exist between men and boys in which some degree of sexual activity has taken place. Some are exploitative and damaging. Others are gentle and consensual. Actual research – anecdotal,
statistical, and cross-cultural — suggests that a sexual experience with a man may have any of a variety of consequences for a boy, some harmful, some neutral, and some beneficial — depending on the circumstances.

One participant in a sex offender group told me that he came to a point where he felt he needed to control the content even of his dreams. Dreams and fantasies are the most intimate stories we tell ourselves, and they take place in the most private and solitary place in our souls. To force a person to share his fantasies, and try to replace them with others, and to make him feel guilty even about his dreams are profound invasions of a person’s solitude. Only the forced administration of psychotropic drugs constitutes a comparable invasion of the innermost core of a person.

Traditional law enforcement was concerned with behaviour. A person was free to have whatever thoughts, feelings, and fantasies he wanted, as long as he or she did not break the law. Society is now claiming the right to go far beyond this. It claims the right to control a person’s feelings and thoughts as well. It claims the right to dictate how a person will tell his or her own story. For this reason the places where these stories are created — where they emerge as the primary interpretive structures in our lives — are suspect. These places of quiet and solitude where one might dream and meditate with freedom must be sought out and destroyed.

The mandated participation in processes by which society now tries to force its stories on people, and to destroy the places of quiet and solitude in which alternative stories might emerge, is called “treatment” or “therapy.” But it is not therapy. It is law enforcement, and it is not even good law enforcement. It is brainwashing.

**PROGRAMMING**

By programming I refer to the planning and decision-making done by prison administrators, guards, and crew bosses regarding the organization of time and space in the facility. Programming decisions are motivated by the desire to punish prisoners, maintain control, save money, and maximize the convenience and status of the staff. Most staff members probably give little or no thought to the impact their decisions might have on a prisoner’s desire for solitude or quiet. Yet it is curious that no provision is made for such obvious needs as a little privacy and some peace and quiet. One wonders whether there might not be some instinctive suspicion and fear that autonomy, self-respect, insight, or...
even rebellion might fester in any silent and solitary niches that were made available to prisoners. And perhaps it would be so.

Yesterday morning I planned to work on this section of the article. My work schedule allowed me a couple of hours free in the morning. Both of my roommates were scheduled to work. That meant I would have the room to myself—without the television blaring. I could close the door, be by myself, and think my own thoughts until it was time to go work the lunch shift—a blissful prospect. One roommate had already left. I was anxious for my second roommate to leave. The clock crept forward ever so slowly, as it did when I waited for a class to end in grade school. The men, dressed for work, sat downstairs watching television, or milled around in the recreation room where I sat. A couple of them took their coats off. It was like waiting for Godot. When would the crew boss arrive? It was like waiting for Jesus. You knew not the hour.

I had seen this before. When a crew boss was not coming to pick up his workers, he did not bother to call or let them know. He simply did not arrive. When I finally realized that I was not to have the room to myself this morning, I began to berate myself for allowing myself to hope in a situation where one could depend on nothing.

The program decisions with regard to space are as inimical to the needs of the prisoners for quiet and solitude as are the practices regarding the scheduling of time. A couple of months ago they instituted a no-smoking policy in the prison. Up until then the prison had smoking rooms, which worked fine for everybody. If you wanted to smoke, you could. If you did not smoke, you did not have to breathe other people’s smoke. The former smoking rooms are no longer used for anything.

A possible bright side to an otherwise repressive policy began to glimmer. A number of people asked that these rooms be converted to quiet areas. I am not the only one who craves a quiet place to read a book, write a letter, or just think his own thoughts. All that was required was a couple of chairs and a small table. But quiet rooms turned out to be an idle dream. A few days ago I learned that they are to be used as additional dormitory rooms so that the overcrowding can be increased.

**OVERCROWDING**

My room is about ten by eleven feet. Three of us are crowded into that space. Even under the best circumstances this affords little opportunity for privacy.
or quiet. The rooms were created for two people, and the present overcrowding is in violation of state regulations. But nobody is much bothered by that. It serves the purposes of the prison in a variety of ways. It keeps prisoners at each other’s throats and therefore disempowered in relationship to the prison. It lowers the per capita cost. It adds to the punishment of prisoners. For me, the biggest problem with the overcrowding is that it makes it much more difficult to find a quiet or private time or space.

**PERSONAL BOUNDARIES**

In the absence of the physical privacy that might afford them the solitude they crave, some prisoners attempt – usually unsuccessfully – to create a niche in which social boundaries will be respected. I think of the man who woke up at 4:00 a.m. every morning and took possession of the checkers table in order to write in his journal. Although the journal writer had everything but a sign around his neck saying he wished to be left alone, repeatedly another prisoner would sit down at the table with him and begin chatting. Amazingly, they would even persist when the journal writer blatantly ignored them. Or I think of the surprisingly gentle and reflective member of Hell’s Angels who created a little niche in the dish room where he worked – a place where he sat on a couple of milk crates and day dreamed and dozed. Everybody who came into the dish room had to intrude into the fragile solitude of the Hell’s Angel. Even if his eyes were closed they would tell him a joke, make a noise to wake him, or even pull his beard. They were like religious evangelists at your door. Short of being extremely rude, there was no way of getting rid of them.

Social boundaries are that last bastion of men who are seeking solitude in prison. Often it is not possible to defend these boundaries without offending people or making enemies. If a person chooses to keep the peace between him and the men with whom he must live, he may find himself without any place where he can find a modicum of solitude. It is a difficult choice.

**CONCLUSION**

As human beings we seek our essential reality in two modes of existence – temporal and atemporal. Our temporal essence centres on our capacity to tell our own stories in a creative, truthful, and value-affirming manner. In this way we are able to understand our past, ground the present in purposes that
energize us, and project ourselves into a future that is shaped by new and more adequate narratives of who we might become. Narrative wellbeing requires a reasonable degree of quiet and solitude. Our atemporal essence is discovered in an inner place of stillness that is outside of time and duality. To become aware of this important dimension of our being also requires a degree of quiet and solitude. I think the degree to which the absence of solitude and quiet constitutes a serious problem for a prisoner is not regularly recognized. It is not a mere inconvenience or unpleasant circumstance. It is a serious obstacle to our existing as fully functional and viable human beings.

Richard Fox is a pseudonym. Richard is incarcerated in the U.S. and can be contacted through the JPP.
Have you ever looked in the mirror in the early morning and said, “There has to be a better way?” I am sure you have. I say that to myself every morning when I open my eyes inside this 2x4 two-person prison cell and I do not see or hear my young sons Yrwil Jesus (7) and Jeswil Jose (6).

There has to be a better way, but I do not know how to serve this federal sentence and maintain a mother-child bond. I truly believe the role of female nurturing is to be guarded above all others. A mother’s love is the most pure and unselfish love on earth, comparable with God’s love, and cannot be broken regardless of the mother’s status as a federal prisoner.

In March of 1996, I was a poor working mother enjoying the priceless motherhood of my 22- and 11-month-old sons after 7 years of fertilization treatment and artificial insemination. I was in the seventh year as a general manager of a 19-year-old private mail business. My major responsibility was to handle and/or supervise the customers’ mail and/or shipments, parcels that could be as small as a letter and as big as an airplane.

A customer of four years requested that I verify his incoming shipment and to help him retrieve the parcels, due to his lack of fluency in English – a normal business transaction in Hispanic culture. The customer’s parcels contained drugs and at the end of the day I was named on a one-count, one-person (me) indictment charge with conspiracy (with myself) and aiding and abetting (myself). The customer was out of the country at the end of the day.

I exercised my constitutional right to go to trial, not knowing that it took power and money to win a federal criminal proceeding. After my arrest, during which I was threatened with never seeing my young sons again, I was forced to write a post-arrest statement that later was brought against me in the trial. I never denied my involvement and the government agreed with me that the drugs were not mine. The only issue taken to trial was “knowledge” – the government asserted that I knew what was inside the customer’s incoming overseas parcels.

I lost my trial and that day my journal as an incarcerated mother began. That day, desperate, with my soul tearing apart, I humbly asked my trial judge to allow me to go to pick up my sons at the daycare to say goodbye and to
explain to them that their mother would be gone for a long, long time. The request was denied. I tried a second time and explained to the judge that I had left my sons in the morning in the daycare and told them that I would come to pick them up and take them home early in the afternoon. Once again, the request was denied. I cannot express with words how I felt at that moment. I was immediately handcuffed and shackled and placed inside a cold, white holding-cell. The only kindness from the marshals was that they let me cry as much as I would. I did hear one tell the other, “She looks too bad. Let’s leave her alone for a while.” I was later sent to the detention centre.

During my sentencing hearing I had but one request: to do my sentence in an institution close to my young sons, specifically in or near Miami. The request was partially granted by a recommendation (not an order) to the Bureau of Prisons (BOP), but I was later transferred to an institution hundreds of miles from my sons.

When I arrived at the Federal Correctional Institution (FCI) in Tallahassee, I was lost, disoriented, lonely, sad, and in tears. I felt as if I was taken from Earth and sent to Pluto. I thought about my sons and wondered what they were doing, or if they were suffering because there are times when nothing but a mother’s touch will do. At that moment I immediately said to myself, “There are no walls or wires that a mother-child love cannot scale,” and I added, “I may have to do this sentence but not without my sons.” That was the beginning of my campaign for mothers in prisons.

I began writing to non-profit prisoner organizations, and a few of them answered me. But I later realized those organizations were not able to help me in my desire to be a mother while incarcerated.

At the beginning of my second year, I began writing to politicians. What I received was not much different than that from the non-profit organizations—not help, just a few responses and the same answer from all of them. At the same time I was writing the Bureau of Prisons Administrative Remedies section, requesting that I be allowed to maintain a mother-child bond by being incarcerated close to my young sons. But I was not aware that the Bureau of Prisons and prison authorities do not like prisoners raising their voices, and the well-known prison retaliation began. At that time, I was working in UNICOR,

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1 Federal Prison Industries, Inc. (commonly known as UNICOR) manufactures finished goods at 105 factories nationwide using prisoner labour, and sells these goods at competitive prices to federal agencies.
the giant prison-slave industries. The manager, assistant manager, and some staff tried to scare me and silence my voice. They tried to place a "computer note" in my file. A computer note is placed only in files of prisoners who have committed computer crime, and is usually placed by a prosecutor and/or the probation officer. I knew that part, so I went to my case manager and found out that no computer note was on my file. But a computer note was posted for the internal operations of the factory, and I was moved from my position as inventory clerk to administrator clerk, where I did not have access to the computer.

Immediately, the UNICOR staff came up with a second strategy. I was called to the assistant manager's office and told that the staff had received information that some prisoners wanted to "smash my head," and that they just wanted to protect me. By that time I had already received some documentation about UNICOR. I had an article by Dr. Gary D. Martin\(^2\) and another analysis by Lee B. Philips, a former prisoner. I wrote to both of them, and Dr. Martin advised me of the risks. This time I knew the game, and I filed another administrative remedy to have the information about the threats documented on file. I kept it for future litigation.

I continued with my campaign for mothers in prison, and I received a warm letter of support from former Senator Paul Simon from Illinois. His support has continued. My home district Congressman Lincoln Diaz-Balart and the local Congressman Bill McCollum have also answered and written letters on my behalf.

I continued with my campaign and the retaliation continued. My bed was wet (a customary prison threat). I was called a "s***" in the middle of the camp-out, which is very dangerous inside prison. Staff mistreated me. I was getting scared and I chose to leave UNICOR. I requested another job and began working in the recreation department as an orderly, a cleaning job. In that job I had a lot of free time to read and write, and I continued my letter-writing campaign, briefs, administrative remedies, and motions. I filed motions to my trial judge, asking him to issue an order to the Bureau of Prisons allowing me to serve my sentence in Miami. I asked for an escorted trip, a furlough. The motions were denied and the retaliation increased. They pushed and pushed me – I knew the game, but I was still becoming more frightened.

\(^2\) "Federal Prison Industries: Occupational Training or Slave Labor?" by Gary D. Martin. This article can be found at www.zolatimes.com/v2.13/conartist.html.
I was being retaliated against by everyone, everywhere. It was difficult to understand this reaction for expressing my maternal desires. I trusted no one. I do not usually tell my family about prison life or my problems. But one day I was so frightened that I asked my sister to go through my business card Rolodex and call an FBI agent who had once served a subpoena at my work. My sister did not find the card. I asked her to call anybody in the FBI. She did, and the answer was that if I had any problems I should talk to my superiors. What a joke.

With courage from who-knows-where, I continue. I tell myself that I am fighting for the love of my sons. No matter what, I will never stop until I can hug them and be close to them. I cannot do this sentence without my sons.

One Friday evening, the lieutenant in charge called me to the front office and told me that he would have to take me out of the camp because my life was at risk. I knew about the "security reasons" transfer and refused it. He said that he received a "cop-out," saying that if I were not out of the camp by midnight I would be a dead body the next day. I asked him some questions and knew immediately that he was lying to me, and for the second time I refused to leave the camp. I requested that the cop-out be taken to the FBI for fingerprint analysis at my expense (I am still waiting for this). I was forced to sign a document protecting the Bureau of Prisons from liability if anything happened to me. I was scared. I did not, and do not, want to die in prison. I did not trust my roommate, and I did not know what to do or who to talk to. Nights were anxious for me. It was difficult to sleep when the lights were turned off. I used to place two chairs across the cell and tie a string to each chair and to the bed, so that if someone tried to hurt me while I was sleeping I would be able to wake up. I also left bottles and cups around the floor next to my bed. It was frightening and my heart beat faster all the time. I went through a crisis of depression, but I did not stop. I kept writing and writing, getting better with my pen and discovering its power.

The retaliation continued. Suddenly one day the Special Investigative Supervisor's (SIS) staff came to my workplace and conducted a huge shakedown—of course, they did not find anything. I learned early in prison by reading legal cases that if you are a fighter you must keep yourself clean and follow the rules, because you might be sent to the hole for something trivial like taking three packages of sugar out of the food services area. I was again removed from my job, which compromised my physical preparation for my
first hunger strike. I was given one week to find another job, but at the same time each staff member in the camp-out was instructed not to hire me because the administration did not want me there. I was placed at work in the food service warehouse to lift 90 pound-plus boxes. On the first day, after lifting the third box, I was already bleeding and in unbearable pain due to a kidney stone and a cyst on my ovary. After numerous trips to the outside hospital and much pain and crying, a medical restriction was given to me.

The administration then changed my job, completely out of the camp inside the powerhouse located outside the men’s prison at the other facility. This job was better; I had the time for meditation and my writing campaign. I was away from the camp, but it did not matter to me. I could do what I wanted to do: fight for the love of my sons.

On November 29, 1999, I began my hunger strike. It was difficult; I almost died. On the fifth day I notified the authorities. After a medical test was performed as per the prison rules, the administrator was notified that I was half dehydrated and that there were high levels of ketones in my urine. Instead of being sent to the community hospital I was given a staff order to report to work the next day, which I did to avoid an incident report. My job was to fix something on the roof of the UNICOR building. I climbed the ladder and when I reached the top I was feeling dizzy. I was lucky to have an understanding job supervisor and he allowed me to go back to the powerhouse and relax. By noon I was handcuffed and taken by car to Tallahassee, a four-hour trip without water. I was crying for a cup of water, but of course they could not stop on the road with a criminal in the car. I begged for water until I lost my voice two hours later.

When we arrived in Tallahassee I was placed inside an observation cell in the isolation unit. With no water or fresh air, I felt as if I was thrown in there just to die. On the tenth day I was losing my life. I knew that I was going to die. I could not walk anymore; I did not feel my legs. I was in terrible pain. I begged for water but did not receive any. I prayed and asked God to forgive my sins and I pulled myself into a foetal position on that piece of metal the authorities call a bed. I could only hear my youngest son’s voice calling me, “Mommy, come! Mommy, come!” In my hallucination I saw his little hands trying to hold me, but he could not reach me. I did not see his face, I only

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3 This preparation included playing racquetball from 5:30 to 6:30 a.m., then yoga and meditation from 8:30 to 10:00 a.m.
heard his voice and saw his beautiful hands. It was the last thing I remembered. It was about 2:00 p.m. on a Saturday. The next thing I remembered was being in the hospital with an IV in my arm and my entire body shaking. It was 2:00 a.m. on Sunday.

I had said on paper and verbally that I did not want to be fed by a tube and that I would drink anything. I was in the hospital for three days and sent back to the Security Housing Unit (SHU), to the same ugly observation cell because I continued my hunger strike.

On the seventeenth day of my hunger strike my condition was weak. My kidneys were not functioning properly and I could not handle the pain anymore. I did not know what to do. I went into meditation and prayer and asked God for ideas; suddenly, one came – the prosecutor. He was my last resource, even though I knew he was not on my side because I did not plead guilty or cooperate with the government. But I still called him and was surprised to hear him say in a soft voice, "Mrs. Guanipa, what do you want me to do for you?" I was not expecting that positive response, but I said I wanted a letter stating that he had no objection against me serving my sentence close to my sons in Miami. He told me that the letter would be out before noon that day and he would mail me a copy. When I received the copy of the letter, I thought, "This is it! This is the end of my hunger strike, because prosecutors in our judicial system have more power and a greater voice." The day I received the letter, I began to eat again.

Unfortunately, the prosecutor’s letter did not work and I am still hundreds of miles away from my two precious and loved sons. I have not seen them since last year. I am inside a high-security facility even though I have camp status, and my responsibility rate was lowered to poor because I did not eat.

Nothing has stopped me. I am still fighting. In my sixth grim year of incarceration I have filed *habeas corpus* motions, taking the denials all the way to the Supreme Court of the United States without results. The U.S. Supreme and Federal Court judges do not want to hear about an imprisoned mother crying for her sons. I have filed more than ten Bureau of Prisons administrative remedies and all were denied. I have filed three motions to my trial judge and all were denied, including a writ of *certiorari* to the Supreme Court. I have contacted the United States Senate in full – only Edward Kennedy, Orrin Hatch, Strom Thurmond, Jesse Helm, Mike DeWine, George Voinovich, John Warner, and Carl Levin answered. I have contacted half of the U.S. House of Representatives – only Bill McCollum, Karen Thurman, Carrie Meek, Lincoln Diaz-Balart, Maxine Water, Michael Bilirakis, and Allen Boyd answered. The
media does not want to deal with prisoners. *Time* magazine responded, “Your request is not something that we as a newsmagazine are able to do for our readers,” and Bob Graham of the *Washington Post* stated “I only wish that I could contribute more constructively.” Throughout my campaign only one person and one organization have supported me for the last three years: former senator Paul Simon and the November Coalition. As I write, the *American Prospect* magazine kindly published an article on the plight of imprisoned mothers and their children written by Thomas Lowenstein.

I do not know the future of my campaign or the date of my next hunger strike. But there is something that I am sure of— that I will never give up. Time has become a faithful friend and a necessary means to improvement, because beyond time lies eternity.

I have accepted this outrageous, long, unconscionable, inhuman, draconian sentence of thirteen years, but I cannot accept this long separation from my sons and the broken mother-child bond.

I did not know the rules or the punishment, but in our system ignorance does not count. A prosecutor’s motto is “your ignorance is our bliss.” In our system a regular citizen without education is supposed to know all matters of law as if a lawyer who spends years in universities. My ignorance may be my fault, but beyond ignorance and above everything is the most sacred unconditional love of a mother for her child, which cannot be impeded even by incarceration.

I am less than a layman in matters of law, and I am also not an experienced writer. But there is something that I know more than anyone else in this world, and it is how much I love and miss my sons Yrwil Jesus and Jeswil Jose, and how much I suffer when I see them grow only through photographs and when they tell me on the telephone of their dreams, their accomplishments, their wishes. They make my heart bleed when they ask, “Mommy, when will you come home?”

If you want to alleviate the pain of our children, write a letter to the United States Senate at: U.S. Senate, Washington, D.C. 20510, U.S.A. or to the U.S. House of Representatives at: U.S. House of Representatives, Washington, D.C. 20515, U.S.A. Please mail a copy to me.

**Yraida Guanipa** (federal prisoner #44865-004) is incarcerated at the Federal Correctional Institution, 501 Capital Circle N.E., Tallahassee, Florida 32301, U.S.A.
No Internet Access for LCF Prisoners

James Ray Howard

Colorado Department of Corrections (DOC) Limon Correctional Facility (LCF) has begun implementing a rule against prisoners having access to members of the public via publication on the Internet. This rule infringes on prisoners’ rights to free speech. Under the U.S. Constitution, prisoners maintain the First Amendment right to communicate with members of the public. There is also the right of free citizens to communicate with prisoners to consider.

With Internet services catering to prisoners’ needs to communicate with news media, legal services, and members of the public, many prisoners are now using the Internet to secure public support. Most notable are the Pen-Pal services dedicated to connecting prisoners with non-prisoners for sustainable social relationships. Prison administrations receive an influx of correspondence for prisoners. This is one reason for the “No Internet Access” rule. LCF’s administration claims that the rule is being implemented because prisoners have placed factually inaccurate information on the Internet — factually unflattering information is probably more accurate.

Many prisoners are receiving notices informing them that they must write the service provider publishing their information on the Internet; that they must tell such providers to remove the prisoner’s information or they will face DOC charges under the Code of Penal Discipline. One issue here is that some of the prisoners in question never received any correspondence through their Internet postings, nor did they receive rejected mail receipts. Prison administration would have had no other way to know about the Internet information except by intercepting correspondence. Under such circumstances it is obvious that the objective is to violate the free speech rights of prisoners and non-prisoners alike, through haphazard, illegitimate censorship.

“The test to determine whether a rule infringing on a prisoner’s First Amendment rights” is constitutionally sound “is whether the rule is reasonably related to legitimate penological objectives and neutral government interests” (U.S. Supreme Court Justice Blackmun in Thornburg v. Abbott, 109 S. CT 1874). Censorship may be permitted, however, to ensure “the preservation of internal order and discipline, the maintenance of institutional security against escape or unauthorized entry and the rehabilitation of the prisoner” (U.S. Supreme Court Justice Powell in Procunier v. Martinez, 94 S.CT. 1800).

The “No Internet Access” rule is not constitutionally sound since it does not pertain to neutral government interests concerning “internal order” (i.e.,
riots), "security" (i.e., escape), or "rehabilitation" (i.e., criminal activity). In fact, the only justification LCF administrators have offered for the rule is that prisoners have placed untruthful information on the Internet. United States Supreme Court Justice Powell stressed that "prison officials may not censor inmate correspondence simply to eliminate unflattering or unwelcome opinions or factually inaccurate statements" (Procunier v. Martinez, 94 S. Ct. 1800).

LCF’s “No Internet Access” rule infringes on the First Amendment rights of prisoners and members of the public, depriving prisoners of the ability to utilize Internet services in order to reach out to those non-prisoners who seek the views and correspondence of those in prison.

If you feel that Colorado DOC and/or LCF prisoners should be allowed to exercise their right to free speech by using the Internet to publish letters, articles, or personal information, and you wish to protest the “No Internet Access” rule, please write to:

Governor Bill Owens
State Capitol, Room 136
200 E. Colfax Ave.
Denver, Co. 80203
John W. Suthers
Executive Director
Dept. of Corrections
2862 S. Circle Dr.
Colorado Springs, CO 80906
Telephone: (719) 574-9580
Fax: (719) 226-4755

To write the author to support or critique, send to:

James Ray Howard #65679
LCF/DOC
Box 10,000
Limon, CO 80828

For Evolution
For Revolution
For Change!
RESPONSE

A Tribute to Gayle Horii
Kim Pate

Editor's Note: Gayle Horii filed a complaint sixteen years ago with the Canadian Human Rights Commission about the discriminatory treatment of women prisoners in the Kingston Prison for Women (P4W). In the interim, several regional prisons for women were opened across the country in the 1990s and the first federal Prison for Women was closed in 2000. Her case was finally heard in British Columbia in April, 2002.

Gayle is a former contributor and member of the Editorial Board of the Journal of Prisoners on Prisons. She was the co-editor of the JPP's special issue on women in prison (Volume 5, Number 2), and has contributed funds to provide free copies of the JPP to incarcerated women.

There really are no words sufficient to describe the impact Gayle Horii has had on women with whom she was imprisoned, the prison administration in this country, or my own personal awareness, training, and development. She has consistently supported many of us throughout times of human frailty, while also clearly challenging us if we appeared to be lapsing into complacency. But I am getting ahead of myself. Let me start at what is the beginning for Gayle and me. Here are a few of my memory snapshots.

I met Gayle during my first month as the naïve new Executive Director of the Canadian Association of Elizabeth Fry Societies (CAEFS). Since my predecessor had moved on to a busy government agenda and the organization's President had left the country for an executive training program, I had to hit the road running without a map or clear signposts. Accordingly, during my first few days I focused on reading through the files in the CAEFS office.

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1 CAEFS is a federation of autonomous societies in Canada that works with, and on behalf of, women involved with the justice system, particularly women in conflict with the law. Elizabeth Fry Societies are community-based agencies dedicated to offering services and programs for marginalized women, advocating for legislative and administrative reform, and offering a forum within which the public may be informed about, and participate in, aspects of the justice system which affect women. The homepage can be found at: http://www.elizabethfry.ca/.
One of the files I discovered was on co-corrections and included some correspondence that was critical of CAEFS' involvement in the decision to build more prisons for women, as opposed to allowing women to move closer to home by moving into units in men's prisons. The correspondence, which appeared to have gone unanswered, was approximately three years old. Having worked previously with men in prison, I recognized the return address as that of one of the men's prisons – Matsqui Institution in British Columbia. The author of the letter was Gayle Horii.

Up until that moment I had no idea that any federally sentenced women, other than Carol Daniels, was serving her sentence in a men's prison. As a result of a pre-CAEFS commitment to present at a victims' conference, I was to be in British Columbia later that month. I decided to try to contact Gayle and arrange a visit. After the predictable prison run-around, I eventually spoke to Gayle's case management officer. Her case manager at that time advised me that Gayle would be willing to meet with me, but that I should perhaps be aware that the Elizabeth Fry Society had had nothing to do with Gayle since she had transferred to British Columbia from the Federal Prison for Women (P4W) in Kingston.

Several weeks later I had the privilege of meeting her. I was really impressed by Gayle, the writer and impartor of knowledge and wisdom of women's issues, imprisonment, and the intersection of the two. I was pleased to meet an incredibly kind and gentle soul, whose calm, self-assured, and confident manner spoke volumes.

Gayle not only nourished my mind, she also fed my body in her "cage" that late January day and early evening. She had retained eggs, lettuce, and other salad ingredients that she offered me in the form of a delicious and incredibly nutritious meal. Since then, Gayle has left me many more times in awe of her amazing ability to whip up spectacular feasts with seemingly minimal effort. This reality notwithstanding, that first meal with her will never be matched. In addition to the food, that meeting provided me with a number of important directions and seminal moments. Gayle brought me up to date on the status of her case, the results of her attempts to obtain assistance from the Elizabeth Fry Society, and her predictions and fears about the new women's prisons envisioned as a result of the recommendations of the Task Force on Federally Sentenced Women. Suffice it to say that every one of Gayle's concerns and challenges have ultimately proven to be prophetic.
When I was leaving Matsqui after our first meeting, I remember wondering whether Gayle would ever agree to meet with me again. Given the lack of support she had obviously felt from our organization, I presumed that my first visit might also be the last. I could not have been more wrong.

Gayle and I continued to keep in touch. After six months, I asked her if she would be willing to present at the upcoming Women and the Law conference in Vancouver. Another hangover from my pre-CAEFS time was that as the chair and member of the Calgary Association of Women and the Law, I had agreed to pull together a panel on women in prison. Gayle agreed to have her name put forward, but cautioned me not to be too enthusiastic, reminding me that up until then my efforts to get other women to participate – particularly women lifers or those serving long-term sentences – had been spectacularly unsuccessful.

In the end, and despite some inane wrangling, Gayle did attend the conference, in addition to bringing an overflow crowd to our session because of the mere reality of her presence. In her twenty minutes of presenting, Gayle ensured that the national women's groups would all eventually support CAEFS and issues pertaining to our work with and on behalf of women in prison. Her moving, graphic, and clear description of the incidents, issues, and needs of federally sentenced women brought the women in the room to their feet, inspired national policy development, and confirmed her important place in the initiation of national support for all women in prison.

Within weeks of that presentation, Gayle was granted day parole and was sent to a men's halfway house that had offered her support throughout her time at Matsqui. Several months later, she attended our Annual General Meeting in Kelowna, British Columbia. So powerful was the impact of Gayle's presentation that it was at that annual general meeting that the CAEFS's membership unanimously passed a resolution making CAEFS the first Canadian national women's and justice group to declare organizational support for penal abolition.

Moreover, by accepting our invitation to attend the post-meeting banquet, Gayle and her husband challenged the unspoken, but implied, notions and beliefs about the appropriateness of involving women who have been

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criminalized in our work, much less our organizations. Again, so profound and powerful was her presence that soon thereafter CAEFS was encouraging our membership to review any organizational policies or practices that prohibited the involvement of women with criminal records, as well as those who were in or from prison.

Later that year I had the privilege of attending the wedding of Gayle’s son, Arie. It was an honour to be invited and it signalled for me a vitally important and extremely significant deepening of our friendship. It was an incredible experience to share Gayle’s day as the proud and beaming mother of the groom. I remember thinking, while I was watching the photo session after the wedding, that these images of women as mothers, daughters, and sisters were the ones that we had to inspire in people’s minds and imaginations if we really hoped to challenge the myths and stereotypes about the women who go to prison. This reinforced my views that wherever possible, we must strive to have women in or from prison presenting on their own life experiences and thus fundamentally changed my approaches to our public education efforts at CAEFS.

Then, in 1995, Gayle had a phenomenal impact on the work and findings of Madam Justice Louise Arbour’s Commission of Inquiry into Certain Events at the Prison for Women in Kingston. She eloquently presented her own story and the stories of her sisters who lived and died behind the walls. Her mere presence at the table for the P4W inquiry inspired the women who were also present from the Prisoners’ Committee and the Native Sisterhood to assert their cases more boldly and confidently.

When women saw Gayle re-enter the P4W through the front door with Louise Arbour, many were overcome with emotion. Many of her friends inside had feared the worst for Gayle when she was transferred, nearly dead, following a hunger strike to allow her to return to the Pacific Region to be near her husband following his near-fatal heart attacks. Yet here she was, an equal and valued witness before the Commission of Inquiry. As I watched her move around the prison, it was moving to see the impact of her return. Many women still talk about the hope and inspiration that Gayle’s visit that day lit in the souls, hearts, and imaginations of so many women. I count it as one of the greatest privileges that I have enjoyed, as well as one of the most profoundly

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3 This report was published by Public Works and Government Services Canada (1996), and is available through Canada Communication Group – Publishing, Ottawa, Canada K1A 0S9.
poignant visits to the P4W. I recall images of the smiles and laughter of several
dozen women and Gayle, punctuated by the starkness of her visit with a woman
in segregation. Getting that woman out of “seg” became the focus of Gayle’s
remaining time in Kingston, and for a time her efforts were successful.

When the pre-eminent prisoners’ rights activist Claire Culhane died, Gayle
was a key organizer of the large memorial tribute to Claire’s life and work. She
repeated this effort when Jo-Ann Mayhew, one of her closest friends and
freedom warriors from the P4W, succumbed to amyotrophic lateral sclerosis
(ALS) – mere months after they had celebrated the commutation of Jo’s life
sentence to time served. Whenever she is called upon to assist women inside
or out, she somehow squeezes it into an already impossible schedule. On top
of this, she does the same for her family and friends. Over the years, despite
many personal challenges and family upheavals, Gayle has not only remained
the constantly devoted, loving, supportive wife, mother, sister, daughter, and
grandmother, she has assumed primary care for her convalescing lover and
life partner.

Simon Fraser University professor Karlene Faith met Gayle in 1991 when
she visited Matsqui Institution, and they became friends. Working with Kris
Lyons and others, in 1994 they organized Strength in Sisterhood (SIS), the
one and only Canadian formation of women in and from prisons. Over the
past eight years and undoubtedly into the future, she has and will continue to
assist many individual women, often by personally advocating and even using
her own limited resources. Gayle also continues to ensure that SIS presents
briefs and substantive advice to governmental and non-governmental bodies.
By continuing to recruit and involve women with direct prison experience, as
well as some allies, Gayle and the other SIS members have ensured that SIS
has established a solid foundation and future which history will credit as one
of the most important and significant formations of women prisoners.

Reflecting on their friendship, and working with Gayle in SIS, Karlene
says:

Gayle is an inspiration and a good friend, with a beautiful spirit. I
learned about her from her sister Donnie, and from a series of 1980s
articles in Nicole Parton’s column in the Vancouver Sun. At P4W she
showed such courage in standing up for the women’s rights, at cost

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4 Jo-Ann Mayhew was also a previous contributor to the Journal of Prisoners on Prisons.
to herself. And she is still doing it. With Kris, Sylvie, Jo-Ann (before she died), and so many others, she is building solidarity among women who are ex-prisoners. These women, who are transforming the stigma of imprisonment into a collective voice of authority, are key to public education about state punishment.

Whether fighting for a woman who is drugged and caged in a segregation cell somewhere in Canada, or speaking at a hearing, conference or university class, Gayle always comes prepared. She pores over mounds of documents and students are spellbound by her knowledge, analysis and stories. Above all Gayle is an artist. I have one of her sculptures – a strong, graceful woman holding the obstacles of life at bay. And that is what she is to a lot of us, a wise woman with a nurturing soul who is a foe of injustice.

Gayle will also be forever renowned for her refusal to let the Correctional Service of Canada trample on her Charter and human rights. For women inside and out, the significance of Gayle’s ongoing actions inspire us all to stay active and engaged in the work, whether we are using internal grievance mechanisms inside or external briefs and presentations to the public, bureaucrats, or politicians. Susan Boyd, a professor at the University of Victoria in British Columbia reflects on Gayle’s influence:

I have only had the opportunity to meet Gayle a couple of times and those were impressionable moments. It is Gayle’s work that I am most familiar with, both her artwork and her writing. The first time I read something written by Gayle I was completely taken aback because finally I was reading about women and prison in Canada from a perspective that is far too often missing. Gayle’s words express her experience but she does more than that – she painstakingly connects her own personal experience to other women imprisoned in Canada and links them to broader social oppression, and crazy-making policy by the Correctional Service of Canada.

But Gayle’s and other women’s voices always remain central in her work. In her writing and artwork, Gayle reminds us of our common humanity and how our liberation is intrinsically tied together. I have had it with abstractions when speaking about oppression and resistance. Gayle’s work speaks to my experience, my sense of
resistance, and the movement towards social justice. Words fail to express how thankful I am that Gayle continues to write and create art that challenges the abuse in prisons and the uses of prisons.

Gayle’s tenacity, principled integrity and forthrightness, brilliant and sound logical arguments, unconditional caring and love, combined with the most gentle and generous of spirits, make her one of the women most of us aspire to emulate. It is an honour and my privilege that Gayle is my mentor, ally, and friend. I think it only fitting that the words she introduced me to during my first meeting end this tribute to a courageous, brilliant, and beautiful woman. These words from Lilla Watson epitomize Gayle’s life, her legendary struggles, and her inspirational successes:

If you have come here to help me,  
you are wasting your time,  
If you have come here because  
your liberation is bound up with mine,  
then let us work together.

Kim Pate is the Executive Director of the Canadian Association of Elizabeth Fry Societies. She can be contacted at: Suite 701, 151 Slater Street, Ottawa, Ontario, Canada K1P 5H3.
All valid philosophical systems generally involve a trade-off, something exchanged for something else, whether enlightenment, salvation, advantage, or some other teleological goal. Most infamous perhaps is Nietzsche’s existentialism, in which the individual spirit strives relentlessly to increase its own power at the expense of everything—and everyone—else. That is, existence is a perpetual search for opportunities and the means to win in a perceived competition for superiority. This description summarizes the dominant critical tone in an eclectic collection of essays that offer both an illumination of the problem and a scathing indictment of the causes of the current “race to incarcerate” in Western democracies, the solution to which is nothing less than the abolition of prisons and the underlying philosophies that have produced them.

As background, Ruth Morris and Viviane Saleh-Hanna provide insightful histories of the International Conference on Penal Abolition (ICOPA) and early efforts to address and redress the abuses of wholesale incarceration, but their descriptions acknowledge the difficulty in presenting a united front against so intimidating a force. The glaring truth that emerges from ICOPA conferences and the book’s essays is that societies that use incarceration as a means of social control will resist every effort to alter the status quo. One has only to examine the current state of affairs in the United States to face the most obvious example.

That something is dreadfully wrong with the criminal justice system in America, the acknowledged leader in imprisonment, is hardly news. As many of the book’s contributors point out, the country’s phenomenal arrest and incarceration rates are a source of wonder and alarm for most of the world. International criticism (Amnesty International’s, for example) and financial constraints have had no effect on the prison-industrial juggernaut, even in the face of eight consecutive years of declining crime rates. As the contributors point out, state budgets now spend more on prisons and penal-related projects than they do on education, which may help explain America’s perennial abysmal
performance in math and science competitions when primary and secondary school students are pitted against their peers in other countries. Compounding the harm, America now conflates its superpower status with the role of moral arbiter to the world and is exporting its theories and practices to unsuspecting countries in Europe and beyond. Even Canada has not remained immune. Penal abolition is therefore timely for more than the obvious reasons; something must alter the destructive course of massive imprisonment and prevent universal contamination, and the book provides a baffle plan within the framework of social and political criticism.

In his essay, W. Gordon West begins by presenting a classic Marxist criticism. Marxist critiques of capitalism’s excesses and failures are a logical starting point and must include a section on the law as a tool for social repression. By its nature, capitalism creates social classes and remains as coldly indifferent to the inequality produced as Nature is during natural selection processes. Whereas Nature can be forgiven for its obedience to biological necessity, the capitalist pursuit of profit at the cost of human misery is inexcusable. Oddly, at least for this reviewer, West neglects Marx’s observation that, “It is not the consciousness of men that determines their existence, but their social existence that determines their consciousness.”¹ This idea is the key to understanding and confronting the repressively racist and elitist system now in place and thriving in the United States and elsewhere, expanding as I write.

Many of the book’s essays capture this metastasis, especially in the gross disparity in penalties for corporate versus individual homicide (see Section III, “New Issues,” regarding penalties for “suite crime”). One man kills another in Texas and forfeits his life; Union Carbide kills 7,000 in Bhopal, India, and pays a fine (p. 237). America celebrates this corporate power, not necessarily to kill but to expand the profit margin, and if “accidents” occur then fines become a cost of doing business. Individual or street crime, by comparison, adversely affects businesses and can concomitantly be used as an excuse for the Malthusian solution of eliminating socially undesirable or obstructionist elements that might victimize consumers or, worse, deter them from shopping at night.

But returning to Marx, if it is indeed one’s social existence that determines consciousness in capitalist economies, then a change of social position for the powerful elite — a change that is highly improbable — is the only means by

which a change of consciousness can be achieved. Thus, many of the essays in the book, especially the ones advocating a more holistic means of persuasion, are certainly visionary but insufficient by themselves to address an entrenched adversary with unlimited resources, a reactionary elite that crushes opponents without hesitation or qualm. Section IV, for example, argues for a move away from obedience as a paradigm and toward empathy in prison, since obedience is no indicator of actual reformation philosophy (Pepinsky, p. 275). Jim Consedine posits a “theology of transformative justice” echoing Ruth Morris’s “Reconciled with Whom,” in which she speaks passionately against revenge as a motivator in law.

As philosophically sound as these arguments are, one still hears Marx’s timpani over the more lyrical strings of transformation and reconciliation. Gone are the days when Victor Hugo’s audiences celebrated Jean Valjean’s escape from the galleys. Pip’s convict and subsequent benefactor in the Dickens classic is also vanished. Few in power, and none who will publicly admit it, think we in prison are worth saving or even capable of redemption. The only ones who care about us are those governing and those working in the privatized prison industry whose stock is now being traded on the New York Stock Exchange, and they see us in utilitarian terms. And, most notably, the electorate remains silent in its collusion, affirming that Blake’s “mind-forg’d manacles” are securely in place for the majority of the great middle class, whose participation has been co-opted by campaigns of misinformation on everything from crime rates to punishment inflicted. The situation exists because the dominant men (and few women) in this country have the same unrestricted and unexamined power over their prisoners as, say, Louis XVI had over the sans-culottes prior to the events of 1789. The king, for example, when discussing the enactment of a new, more burdensome law, said simply, “it is legal because I wish it.”

The ruling class, in Marxist terms, knows precisely what it is doing. It intentionally marginalizes then victimizes the powerless among them. We in prison do not matter. Indeed, no individual matters except as cannon fodder in a specious war or as an asset when calculating the bottom line. That is why efforts at raising the consciousness of the oppressor (see Friere, for example)\(^2\)

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without a social revolution, as Marx clearly recognized, must fail: the oppressor in this case is fully aware of both actions and consequences and is resolute about maintaining what is socially beneficial and financially profitable.

Two possibilities therefore exist to stop and reverse the current trend and lead eventually to penal abolition. The first, as Pearce and Tombs argue (p. 191), is to couple the welfare of those inside prison with those on the outside. This will prove enormously difficult because of the antagonism developed and sustained by politicians and the prison and law enforcement industries. When a candidate for President of the United States can preside over the execution of a genuinely repentant and rehabilitated woman, then publicly ridicule her request for clemency, the chances for politicizing the struggle are slim.

The other alternative, explored by David B. Moore, is to take a page from capitalism’s playbook and focus on the supply side of the equation. Without human “units” of raw material, the jails and prisons would atrophy and die. If Marx is correct, this will require a change of social position necessary to raise the consciousness of those most in danger of being dismembered by the current system. Of course, the state can simply respond by passing more laws, similar to the Bourbon reaction in 1789, and the logically anticipated response would be continued resistance to social mobility via arrest and imprisonment.

Abolitionists thus face a daunting challenge. But this book offers eloquent testimony that a new response to crime is conceptually sound as well as extraordinarily necessary. As the contributors make clear, the solutions will obviously require a more heuristic, as opposed to traditionally doctrinaire, approach to put human faces on those behind the walls and improve their status from mere chattels. The Case for Penal Abolition derives its strength from the integrity of the contributors, their powerful prose, and the diversity of the essays, all uniting to bring a new challenge to the decision-makers in an uncompromising manner that dares political and business leaders to ignore the consequences at their own risk. With dedicated men and women like these making their presence felt, one cannot help being optimistic that their efforts will eventually succeed. After all, the Greeks misguidedly sacrificed their youth to the Minotaur on Crete until Theseus solved the mystery of the labyrinth and


5 The case referred to is that of Karla Faye Tucker, executed in Texas on February 3, 1998. Then Texas Governor George W. Bush would become the President of the U.S. in 2000.
slew the beast. Perhaps the abolitionists are the contemporary incarnation of Ariadne, providing the thread to guide us in and safely out of the monster’s lair.

The current system of mass imprisonment in the United States has not seen its bicentennial, so perhaps it is too early to expect Western democracies at the beginning of a new millennium to receive back into the fold those it still holds in chains. It nevertheless is worth the effort, and the attempt must begin with the elimination of monolithic prisons and the philosophy that produced them that, like slavery, do far more harm in personal and social terms than is now evident to those who make the laws and chair the corporations.

Charles Huckelbury is a regular contributor to the JPP and a newly appointed member of the editorial board. He was recently awarded a 2002 PEN Prison Writing Award for first prize in fiction. He can be contacted at New Hampshire State Penitentiary, P.O. Box 14, Concord, New Hampshire 03301, U.S.A.
In the last year of the 1960s, a decade of anomie, the U.S. experienced two events that would symbolize different aspects of its culture into the next millennium. These events took place at opposite sides of the country, although they occurred less than a week apart. One event, a cultural festival of music and arts, has remained in time as an example of the possibilities of peaceful coexistence in adverse circumstances of large numbers of people. From August 15th to the 17th the Woodstock Music and Arts Festival’s patrons endured rain and mud – and all of the other inconveniences that would reasonably accrue in a situation where unexpected large numbers of people converged in one location – to see some of the decade’s masters of rock and roll and folk music perform in the state of New York. Almost half a million people, many of whom were experiencing the event under the influence of various illicit drugs, attended Woodstock and lived together peacefully for one weekend.¹

Across the continent a few days earlier, the world heard the news of two terrible sets of murders in California that shook the sense of security that until then was enjoyed by Americans. We were soon to learn that these bizarre, seemingly ritualistic killings were the bidding of a charismatic but crazy man who was state-raised² and resourceful. In this case the drugs were used to weaken the already fragile resolve of young idealistic people who were searching for themselves and open to new ways of seeing the world. Charles Manson seemed to them like a prophet, and his will a divine intervention. Among his followers, Manson saw the young women as especially vulnerable. In an interview with two contributing editors to the Rolling Stone magazine in 1970, Manson stated:

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¹ For a brief history and overview of Woodstock specifics, see http://www.geocities.com/beatlefreak1/
² This term was used by Jack Henry Abbott to describe himself and certain fellow prisoners, as people who grew up under the “care” of social workers in foster and group homes and later punitive detention facilities. See In the Belly of the Beast (1982), New York: Vintage Books.
In the end, the girls would be just dying to do something for me. I’d ask one of them to make a shirt for me, and she’d be just thrilled because she could do something for me. They’ll work twenty-four hours a day if you give them something to do.

I can get along with girls, they give up easier. I can make love to them. Man has this ego thing. I can’t make love to that. Girls break down easier.³

The ingredients were assembled; the recipe for disaster was complete. Manson had managed to turn the same focus of peace and music into a call for murder. His disciples were set to carry out the deeds that were to change the lives of many people forever.

Karlene Faith was to later encounter the young women of Manson’s “family” in the California Institution for Women, when she was asked to tutor them by the prison’s warden in 1972. Thirty years later, she has remained in contact with the women who were segregated in the Special Security Unit in those early days. *The Long Prison Journey of Leslie Van Houten* is Faith’s account of one of these women’s lives.

Leslie Van Houten has been incarcerated for 33 years. Faith unfolds the story of a life that began in circumstances much different than that of Manson’s, but which was to ultimately share his fate. Her account is informed by her own relationship with Leslie, and by the words of Leslie’s family, friends, prison staff, lawyers, and the sentiments of those she harmed by her participation in the killings of Rosemary and Leno LaBianca. Despite Leslie’s reputation as a person who has taken responsibility for her role in the crime and as a prisoner who makes herself useful to others during her incarceration, attempts for parole have been unsuccessful.

The crime at the center of Leslie’s life, however, is not sidestepped in this biography. Part of the subject’s journey is a venture through the California court system, and the three trials over 10 years that would establish the legal careers of prosecutors Vincent Bugliosi and Stephen Kay. Ambivalence over Leslie’s role in the sensationalized killings ordered by Manson was expressed

in the hung jury at the second trial. Yet we are not shielded from the horror of the crime itself. In her account of these trials, Faith has carefully woven her obvious affection and concern for Van Houten, the friend, with the evidence demonstrating her role in the crime. Faith’s focus, as the book’s subtitle would suggest, is on the brainwashing of Manson’s followers and how this control plays into Leslie’s own perception of her actions as she gradually reclaims her personhood over the three trials.

The Long Prison Journey of Leslie Van Houten is a meticulous account of one aspect of the Manson killings that has not been publicly considered. In the context of a tenaciously retributive justice system, Van Houten continues to willingly atone for her role in the actual killing of the LaBiancas. Faith uses court transcripts and evidence to clarify the depth of that role (Van Houten was a relatively minor player), while detailing the specifics of the cult life that made it possible for several young idealistic people to commit terrible acts that were to later horrify even them. The book offers a different perspective on the Manson case by telling the story of one person’s life, a woman who has spent her adult years in prison for her participation in a crime committed at nineteen years of age, having “given up” to the manipulations of a madman.

Faith is careful not to diminish the pain and horror of the victims and their families in her account. She does not attempt to downplay the crimes, or the lasting impact they have had on the surviving families. But Faith does call us to question the very nature of punishment itself as a reflexive response to any crime. How much time could possibly be served in order to compensate for the loss of a life? The question almost seems obscene, for any number suggested might seem to set a limit on the value of the person lost. The reader gets the sense that the healing of the victims of Manson and his disciples is a problem that is separate from the practice of punishing the culprits. Leslie Van Houten does not pose a risk to public safety, has accepted responsibility for her role in the crime since the beginning of this saga, has demonstrated to everyone who knows her in prison and on the street that she is a caring and responsible person, and has devoted her life in service of others. What more can she do—without the powers to turn back the clock—to make things right?

Van Houten’s story, in the author’s perspective, could be anyone’s story. Parents and teachers of youth and young adults might see their own in the pages of this book. But in a larger sense, this story can also be seen as a symbol of American culture over the past 30 years. The lessons of peace invoked by the Woodstock experience have long since faded, having been
replaced by a commercialization and commodification of the festival that once symbolized the hope of the sixties. Likewise, the important lessons of the Manson killings have also been missed; where American culture could have been elevated by the hope of redemption and forgiveness, it remains mired in the blackness of anger and unrelenting retribution.

In April of this year San Bernardino Superior Court Judge Bob Krug admonished the California parole board for its routine refusals of Van Houten’s release over the years based only on the crime, noting that the board had not considered her accomplishments while in prison. However, in her most recent appearance before the parole board in late June, 2002 – her fourteenth appearance in 33 years of incarceration – Van Houten was again denied parole.

Liz Elliott is an assistant professor at Simon Fraser University and the Co-Editor of the Journal of Prisoners on Prisons. She can be contacted at the School of Criminology, Simon Fraser University, 8888 University Drive, Burnaby, British Columbia, Canada V5A 1S6.
The artwork on the cover of this issue of JPP is titled *In the Limelight*, by James V. Allridge III. 11” x 14”. Coloured pencil. 2001.

James V. Allridge III was born in Colorado Springs, Colorado, on November 14, 1962. He attended school in Forth Worth, Texas. With his brother, Ronald, he was found guilty of a robbery slaying and sentenced to death in 1987. This is his first and only criminal charge and conviction. On death row, he became a self-taught artist, working in pen, ink, and crayon. As a consequence of the conditions of his confinement, he relies upon photographs, cards, and magazines as a source of inspiration.

James’ work has been exhibited in outside art galleries and in numerous forms, including art books, newsletters, and magazines. A regular contributor to JPP, his award-winning *Piano Wave* was featured in Volume 6:1 (1995), and *Wolf Woman* was featured on the cover of Volume 8 (1997). James has produced his own line of greeting cards and note cards since 1993.

James is also an accomplished writer; his publications include *Daily Executioner* (1996), a book of poetry and prose. He has also published four articles in the JPP.

Ronald K. Allridge, the artist’s brother, was executed by the state of Texas in 1995. In 1996, James was granted a stay of execution and now awaits his final appeal for clemency. Support is urgently needed and may be provided through: Fund for Life, P.O. Box 4002, Basel, Switzerland.

The artist’s greeting cards, note cards, and reproductions can be purchased through: Light Expressions, P.O. Box 1242, Roseville, CA 95678 (www.lightexpressions.net).